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## Appeal Decision

Site visit made on 3 December 2019

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2019**

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**Appeal Ref: APP/J1915/W/19/3236495**

**Warren Park, Green Tye, Much Hadham SG10 6JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Warren Classics against the decision of East Herts Council.
  - The application Ref 3/19/0778/FUL, dated 5 April 2019, was refused by notice dated 3 July 2019.
  - The development proposed is erection of new commercial unit for the storage of classic cars and associated parts .
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

### Main Issues

3. The appeal site is located within the Green Belt and so the main issues are:
  - whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and development plan policy; and
  - if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

### Reasons

*Whether inappropriate development in the Green Belt*

4. Policy GBR1 of the East Herts District Plan 2018 (DP) states that planning applications in the Green Belt will be considered in line with the Framework. Under paragraph 145 of the Framework, the construction of new buildings is defined as inappropriate development in the Green Belt. However, exceptions

are set out that include the limited infilling or the redevelopment of previously developed land, provided such schemes do not have a greater impact on the openness of the Green Belt than existing development.

5. The appeal site contains no buildings. Also, whilst near to the Warren Park units, the site is fenced off and does not appear to form part of the curtilage of any building. As such, the site does not represent previously developed land as defined under Annex 2 of the Framework.
6. Moreover, by reason of its height and volume, the proposed building would lead to a spatial loss of openness of the site. Furthermore, it would impact on the visual openness of the area as boundary vegetation would only partially screen the proposal from the road and surrounding land. The proposed building would be markedly higher than the existing external storage and therefore would have a greater impact on the openness of the site.
7. The site is near to buildings and is different in character and appearance to the surrounding fields. However, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with no distinction made between fields and other types of land. For the above reasons, the proposal would have a greater impact on the openness of the Green Belt than existing development and therefore would not comply with paragraph 145 g) of the Framework. As it would impact on openness, the proposal would not help prevent urban sprawl and would not assist in safeguarding the countryside from encroachment, thereby undermining the purposes of Green Belt policy.
8. The proposal fails to comply with any of the other exceptions set out under paragraph 145 of the Framework. Consequently, it would represent inappropriate development in the Green Belt.

#### *Other considerations*

9. The proposal would cause no harm to trees and would be acceptable in terms of parking provision, highway safety and effects upon living conditions of occupiers of any properties. Also, the development would be in keeping with the character and appearance of nearby buildings. However, acceptability in these regards is a neutral factor that does not weigh in support of the proposal.
10. I note the Council has supported the development at Warren Park and previously allowed other buildings at the site. The full details of the circumstances that led to permissions being granted are not before me. However, it would appear that the referred to developments are different to the current proposal in that they involve the re-use of, or extensions to, existing buildings. In any case, I am required to assess the appeal against current policies and on its own merits.
11. The appellant suggests that their unit would be vacated and left empty if permission is refused. However, dismissing this appeal would not necessarily mean that an alternative scheme would be unacceptable. Also, there are no obvious obstacles to the appellant's unit being occupied by another business should it be vacated. As such, I attach limited weight to this point.
12. The proposed building would allow the appellant to securely store cars at the site, thereby addressing a capacity issue and allowing the company to offer a storage facility in line with competitors. The building would enable the growth of a small business without the need to relocate and may lead to additional

employment. By remaining at the site, the company would continue to support the local economy and help ensure adjacent businesses remain viable. The proposed development would add to the appeal of Warren Park and the proposal is supported by the landlord as well as occupiers of neighbouring units. In accordance with paragraph 80 of the Framework, I attach positive weight to these benefits.

### *Green Belt balance*

13. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These would only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In carrying out the balancing exercise, substantial weight is to be given to any harm caused to the Green Belt.
14. As well as harm by reason of inappropriateness, the proposal would cause a loss of openness, thereby adversely impacting on one of the essential characteristics of the Green Belt. This harm attracts substantial weight.
15. On considering all the relevant matters, I conclude that the benefits of the appeal scheme and all other considerations would not clearly outweigh the totality of harm the development would cause to the Green Belt and its openness. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the development would conflict with the Framework and DP policy GBR1 which, amongst other things, seek to resist inappropriate development in the Green Belt unless very special circumstances exist and to preserve its openness.

### **Conclusion**

16. For the reasons given above, I conclude the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR



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## Appeal Decision

Site visit made on 2 December 2019

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2019**

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**Appeal Ref: APP/J1915/W/19/3235824**

**Paynter's House, 2 Bury Lane, Datchworth SG3 6ST**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Charles Houston against the decision of East Herts Council.
  - The application Ref 3/19/0808/FUL, dated 29 March 2019, was refused by notice dated 14 June 2019.
  - The development proposed is the erection of one, two storey, four bedroom dwelling, with attached double garage, on land adjacent to 2 Bury Lane, Datchworth.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of one, two storey, four bedroom dwelling, with attached double garage on land adjacent to Paynter's House, 2 Bury Lane, Datchworth SG3 6ST in accordance with the terms of the application, Ref 3/19/0808/FUL, dated 29 March 2019, subject to the conditions set out in the Schedule at the end of this decision.

### Main Issues

2. The appeal site is located within the Green Belt and so the main issues are:
  - whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and development plan policy; and
  - the effect on the character and appearance of the area; and
  - the effect on the living conditions of the occupiers of 8 Bury Lane (No 8) by reason of noise.

### Reasons

*Whether inappropriate development in the Green Belt*

3. Policy GBR1 of the East Herts District Plan 2018 (DP) states that planning applications in the Green Belt will be considered in line with the Framework. The construction of new buildings is inappropriate development in the Green Belt, although the list of exceptions at paragraph 145 (e) of the Framework includes limited infilling in villages.
4. The proposal for a single dwelling would be limited development. As well as 2 Bury Lane (No 2) the site adjoins No 8 and 10 Bury Lane (No 10). It also lies within Datchworth's settlement boundary where under DP policy VILL2, limited infill development would be acceptable subject to criteria. The appeal site forms

part of a residential property and is separated by a hedge from the field to the rear. For these reasons, I consider the proposed house would lie in, rather than beyond the extent of, the village.

5. The term 'infilling' is not defined in the Framework or the DP. Whilst the proposed house would lie behind No 8, I have been referred to no policy that would preclude backland development from constituting infill.
6. Furthermore, whilst properties elsewhere along Bury Lane tend to directly face the highway, the layout of housing by the appeal site is less regimented with No 2, No 10 and 14 Bury Lane (No 14) forming an arc of development around Paynter's Green. The proposed house would be in the space between No 2's and No 10's side elevations and would fill a space in the arc of development. Given this context and the lack of any policy that suggests otherwise, I find the proposal would represent infill development.
7. The concerns in respect of the loss of openness are noted. However, there is no requirement to consider the effect upon openness when assessing a proposal against paragraph 145 (e) of the Framework.
8. For the reasons set out above, I conclude the proposal would represent limited infilling in a village. Consequently, it would not be inappropriate development in the Green Belt and would therefore accord with DP policy GBR1 and the Framework. These aim, amongst other things, to resist inappropriate development in the Green Belt unless very special circumstances exist.

#### *Character and appearance*

9. The appeal site is part of No 2's garden to the rear of No 8. It is mainly lawn with mature trees and bushes along the boundaries. The proposed house would be set centrally in the site and would be part single and part 2 storey.
10. Whilst an attractive landscaped garden, the site is positioned away from the road and hidden from public view by No 8 and boundary vegetation. As such, it is not a significant open space that makes an important contribution to the form or setting of the village. Also, the proposal would retain a significant area of garden and most of the existing planting. By virtue of its unobtrusive position and the retention of vegetation, the proposed dwelling would not block important views or have a marked visual impact on the road, on the public footpath through the fields or on the general area.
11. As a house in a large plot, the proposal would be harmonious to the general character of development in the locality and would not appear cramped. As it would lie between properties, the dwelling would not extend a line of ribbon development and would be in keeping with the layout of houses around Paynter's Green. Its modern design and materials would be at odds with some of the more traditional housing in the area, but there is a variety of property styles nearby. The proposed house would have 2 storeys in keeping with most other dwellings in the area. Given its context and limited visual impact, the proposal would not be harmful to the character and appearance of the area by reason of its modern style. Also, the proposed hardstanding would not be widely visible and therefore would cause no visual harm.
12. For these reasons, I conclude that the proposed development would not be harmful to the character and appearance of the area. Consequently, and in this regard, it would accord with DP policies VILL2 and DES4, as well as the

Framework which aim, amongst other things, to protect or enhance the character and appearance of an area and to provide attractive environments.

*Living conditions of occupiers of No 8*

13. The proposal includes the alteration and extension of the existing driveway to No 2 to provide vehicular access to the proposed house. The driveway would run close to the proposed boundary to No 8, which would be slightly nearer to the neighbouring house than the existing boundary. No 8's conservatory would be the closest part of the house to the drive.
14. The proposed driveway would be in a similar position to the existing that serves No 2. At its closest point to the conservatory, the driveway would only serve the proposed house. The increase in traffic generated by a single additional dwelling would be modest and there is no evidence to demonstrate that vehicles using the proposed drive would be significantly more disruptive to the occupiers of No 8 compared to the existing situation. Furthermore, the proximity of No 8 to the drive would be typical of a residential area and so would be unlikely to cause unacceptable noise effects.
15. For these reasons, I conclude that the proposed development would not be harmful by reason of noise to the living conditions of the occupiers of No 8. Consequently, and in this regard, it would accord with DP policies VILL2 and DES4, as well as the Framework which aim, amongst other things, to create attractive places with a high standard of amenity for occupiers of property.

**Other Matters**

16. I have had regard to all the representations made on the proposal. Concern is raised that the proposed works to the driveway would threaten the well-being of trees on the boundary with No 8. However, the appellant's arboricultural consultants advise such harm could be avoided through careful construction methods and protective fencing. Such measures would also address concerns over the removal of trees shown to be retained and could be secured through the imposition of planning conditions.
17. By reason of its position away from the site boundaries and significant vegetation screening, the proposal would not cause unacceptable over-shadowing, visual intrusion or overlooking onto No 2, No 8 or No 10. It is unlikely that any new planting would cause unacceptable loss of light to, or outlook from, neighbouring properties in addition to the existing vegetation.
18. Concern is raised that the proposed dwelling would not meet the needs of local families and would be unaffordable. However, I have seen no policy that requires the house to be provided as an affordable unit for local people.
19. No 14 is a grade II Listed Building, significant due to its age and retention of interesting architectural features. No 10 would lie between the proposed dwelling and No 14 and so there would be no significant inter-visibility between the proposal and the Listed Building. Therefore, the proposal would cause no harm to the setting or significance of No 14.
20. A comment has been made that the proposed development would encroach onto land outside the appellant's ownership. However, this is a private matter between the parties involved and does not affect my assessment of the appeal.

21. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds or complaints, the concerns raised do not override or affect my conclusions on the main issues.

### **Conditions**

22. I have considered the planning conditions put forward by the Council having regard to the tests set out in the Framework. Where appropriate, I have amended the wording of the suggested conditions for reasons of precision and to avoid unnecessary pre-commencement requirements.
23. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and for the avoidance of doubt. Conditions relating to the materials, landscaping and waste storage are necessary to ensure the satisfactory appearance of the development. A condition relating to the provision and retention of an access and parking area, is required in the interests of highway safety and to avoid indiscriminate parking on the road. For the same reason, a condition is required in respect of on-site construction workers' parking and storage of materials.
24. A condition is required to control the hours of construction works so as to protect the living conditions of occupiers of neighbouring properties. Also, in order to protect existing vegetation, conditions are imposed relating to protective fencing and the approval of excavation works insofar as they may affect trees and hedgerows. In light of the Hertfordshire County Council Historic Environment Advisor's comment, it is necessary to impose a condition requiring archaeological works to be carried out to ensure the protection and recording of assets of historic interest.
25. Conditions have been suggested that would remove permitted development rights relating to alterations of the proposed dwelling, construction of buildings within its curtilage and the formation of new accesses. However, paragraph 53 of the Framework states that such conditions should not be used unless there is clear justification. The Council's reasons fail to clearly justify the removal of permitted development rights on amenity or highway safety grounds or to retain control over future development. Therefore, I have not imposed such conditions.
26. Furthermore, a condition restricting the use of the garage would be unnecessary. The proposal is for a dwelling with no reference to any commercial usage and as a hardstanding area is proposed the development would not be reliant on the garage to provide sufficient parking space.

### **Conclusion**

27. For these reasons, I allow the appeal as set out in the formal decision above.

*Jonathan Edwards*

INSPECTOR

### **Schedule of Planning Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1803-01 rev 00, 1803-02 revision 02, 1803-03 revision 00, 1803-04, 1803-05, 1803-06 revision 01, 1803-07 revision 01, 1803-08, 1803-09, 1803-10, 1803-11.
- 3) Prior to any above ground construction works being commenced, details of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved materials.
- 4) Prior to the first occupation of the development hereby permitted, details of both hard and soft landscape shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - i) earthworks showing existing and proposed finished levels or contours;
  - ii) boundary treatments;
  - iii) hard surfacing materials;
  - iv) retained landscape features;
  - v) planting plans, schedules of plants, details of species, planting sizes and density of planting.

The landscaping works shall be carried out in accordance with the approved details before the development is first occupied. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective shall be replaced as soon as reasonably practicable with other species, size and number as approved.

- 5) Prior to the first occupation of the development hereby approved, details of facilities for the storage and removal of refuse from the site shall be submitted to and approved in writing by the local planning authority. Facilities in accordance with the approved details shall be provided prior to the first occupation of the development hereby approved and shall thereafter be maintained.
- 6) Prior to the first occupation of the development hereby approved, construction details of the access and vehicular parking area to serve the development, including details of surfacing and drainage, shall be submitted to and approved in writing by the local planning authority. An access and parking area in accordance with the approved details shall be provided prior to the first occupation of the development hereby approved and shall thereafter be maintained.
- 7) Before the commencement of any construction works on the development hereby approved, plans indicating the provision of space within the site to provide for the parking of construction workers' vehicles and for the delivery and storage of materials shall be submitted to and approved in writing by the local planning authority. Such space shall be maintained for the duration of construction works in accordance with the approved plans.



- 8) Construction works shall take place only between 0730 and 1830 on Mondays to Fridays, only between 0730 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) Before the commencement of any construction works on the development hereby approved, position and elevation details of a metal fence to be provided to protect trees and hedges to be retained on the site during construction works shall be submitted to and approved in writing by the local planning authority. Fencing in accordance with the approved details shall be provided prior to the commencement of any construction works on site and shall be maintained during the course of construction works. No placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.
- 10) Before the commencement of any construction works on the development hereby approved, details of the design of the approved building foundations and the layout, with positions, dimensions and levels of (a) services trenches (b) ditches (c) drainage and (d) other excavations on the site insofar as they may affect trees and hedges shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details.
- 11) Before the commencement of any construction works on the development hereby approved, a written scheme of archaeological investigation shall be submitted to, and approved in writing by, the local planning authority. The approved scheme of archaeological investigation shall be carried out and an archaeological report of all the required archaeological works shall be submitted to the local planning authority before the commencement of any construction works on the development hereby permitted.

END OF DECISION



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# Appeal Decision

Site visit made on 3 December 2019

**by D Peppitt BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> December 2019**

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**Appeal Ref: APP/J1915/D/19/3237024**

**77 Warwick Road, Bishops Stortford CM23 5NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Rachel Edwards against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/0870/HH, dated 13 April 2019, was refused by notice dated 21 June 2019.
  - The development proposed is described as “conservatory at the side of the property, fencing to secure the front of the property with timber gates for access and privacy, hedges to be grown in front of the proposed fencing. Shed as there is no garage or any other out buildings suitable for storage”.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, including its effect on trees.

## Reasons

### *Character and appearance*

3. The site is a large detached dwelling on Warwick Road, which is predominately residential in nature. The dwelling is set back from the road with a large garden area consisting of mature trees and landscaped features. The mature trees along the road are a key part of the character of the area. The boundary frontage to the properties are varied, some being low walls, fences, hedges and trees. The site contains a number of large mature trees, including some which are covered by a group Tree Preservation Order<sup>1</sup> (TPO) and includes 2 Wellingtonia and one Yew, named as T5, T6 and T4 respectively in the Arboricultural Report<sup>2</sup>, which was submitted as part of the proposal. Overall the area is characterised by its open and verdant character.
4. The proposal is for a single storey side extension, outbuilding and timber gates and fencing to the southern site boundary. The Council has stated that the proposal is very similar to a previously refused application<sup>3</sup>, with the only

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<sup>1</sup> TPO reference 437 G-2

<sup>2</sup> Arboricultural Report 77 Warwick Road Bishops Stortford – Andrew Day Arboricultural Consultancy (January 2019)

<sup>3</sup> Planning application reference 3/18/1798/HH

changes being the height of the proposed gates increasing and an arboricultural report<sup>4</sup> being supplied. However, I have assessed the proposal as submitted and on its own merits.

5. The proposed single storey extension would be a conservatory with uPVC frame with infill glazing. Whilst it would not match the materials of the existing dwelling, the size and shape of the extension would not be an unexpected feature in the residential environment of the area. It would have an acceptable effect on the character and appearance of the area, as such I find no harm in this regard.
6. The proposed outbuilding would be made from timber boarding with a frosted glass window and door. Due to the size and style of the building, it would not be an unexpected feature within a garden landscape of a residential property. The size of the building would be relatively small and of a scale that would not cause significant harm to the character and appearance of the area. As such I find that the effect on the character and appearance of the area would be acceptable in this regard.
7. The proposed gates and fence would be positioned on the boundary of the site towards Warwick Road and would be made of timber. The gates would replace the existing greenery on the site and would be approximately 1.8 metres in height and 4.3 metres in width. On my site visit I noted that there were other dwellings along the road which had boundary gates. However, due to their size and area of coverage, the proposed gates would be a prominent feature within the street scene. They would cause a hard boundary to the property and would harm the existing open and verdant nature of the site. I note the appellant has suggested that the aim is to replace the greenery with sympathetic fencing with planting on the exterior side. However, no specific details of planting have been included within the submitted plans.
8. Consequently, the proposed fencing and gates would harm the character and appearance of the area. Therefore, the proposal would be contrary to Policies DES3 and DES4 of the East Herts District Plan (EHDP) (2018). These policies, amongst other things, seek development to respect or improve the character of the site and the surrounding area and retain, protect and enhance existing landscape features which are of amenity value or provide compensatory planting where losses are unavoidable.

### *Trees*

9. The proposal includes an Arboricultural Report which provides advice on how the trees on the site could be detrimentally impacted by construction activities. The proposed gates, fencing and outbuilding are within the root protection area (RPA) of a number of the protected trees. The proposed gates and fencing would require the removal of trees located on the boundary of the site, namely (G1-C2) as set out in the application form. However, I note that the Arboricultural Report states that no trees will need to be removed to implement the development.
10. The Council has stated that the Arboricultural Report is not clear how the fence and gate posts would be constructed without potentially harming the trees. The proposed gates would permit vehicular access to the site. However, no parking

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<sup>4</sup> Arboricultural Report 77 Warwick Road Bishops Stortford – Andrew Day Arboricultural Consultancy (January 2019)

area or driveway have been shown on the plans, although the application form states that gravel would be used for the hardstanding and new vehicular access created. The Arboricultural Report only assess the effects during construction rather than a long-term use of the area for parking. Whilst it suggests possible solutions, it does not state which would be most suitable or appropriate. As such, I must take a precautionary approach to the protection of the trees in the area, and the potential harm which may result from vehicle movements and the construction of the proposed development.

11. I note the appellant has stated that the proposed vehicular access is not a drive, but an area where it would be possible to park a car in case of need. However, there is no evidence to suggest how often it would be used and what level of mitigation may be appropriate for that use.
12. Whilst I acknowledge the issues raised by the appellant including: that there have been issues with the parking restrictions on Warwick Road; the site is currently open and insecure; getting deliveries and that the property does not currently have a vehicular access in this location like other properties. The appellant has also stated that the proposed fencing would enable pedestrians to pass along the path. However, although Warwick Road is a private road, I noted on my site visit that pedestrians can already walk on the footpath without significant obstruction. I also acknowledge that the appellant likes the TPO trees and would prefer not to remove them. However, these do not outweigh the harm that I have identified above.
13. I also note that the appellant states that the large trees will be removed and replaced with smaller species, which will improve the immediate biodiversity. However, this is not evidenced in the accompanying plans or the arboricultural report. Furthermore, whilst there may be the same tree species elsewhere within the locality, this does not mean that their loss would have no harm.
14. For the reasons above, the proposed development would be likely to harm the protected trees within the site and the character and appearance of the area. Therefore, it would be contrary to policies DES3 and NE3 of the EHDP. These policies, amongst other things, seek to retain, protect and enhance existing landscape features and to refuse applications where development would result in the loss or significant damage to trees.

### **Conclusion**

15. For the reasons set out above, I conclude that the appeal should be dismissed.

*D Peppitt*

INSPECTOR



## Appeal Decision

Site visit made on 3 December 2019

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 December 2019**

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**Appeal Ref: APP/J1915/W/19/3236599**

**Greens Farm, East End, Furneux Pelham SG9 0JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by G Watson & Son against the decision of East Herts Council.
  - The application Ref 3/19/0932/OUT, dated 2 May 2019, was refused by notice dated 5 July 2019.
  - The development proposed is the erection of a detached one and a half storey dwelling for a farm worker.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Outline planning permission is sought with the matter of access to be determined at this stage and I have had regard to the access details provided. I have assessed all other submitted information on the basis it is illustrative.

### Main Issues

3. The main issues are (i) whether the proposal would be in a suitable location having regard to national and local planning policies and accessibility, and (ii) the effect on the character and appearance of the area.

### Reasons

#### *Suitability of the location*

4. The appeal site is in a Rural Area Beyond the Green Belt as defined in the East Herts District Plan 2018 (DP). In such areas, DP policy GBR2 allows limited infilling or the redevelopment of previously developed sites in sustainable locations and where appropriate to the character of the site. Whilst the proposal would represent a form of infilling, the main parties offer different views on whether the appeal site represents previously developed land. Notwithstanding this issue, the appeal proposal would only comply with DP policy GBR2 if in a sustainable location.
5. The site is outside the Furneux Pelham boundary as defined in the development plan. It is also approximately 1.4 miles from the village centre where there are a few facilities and bus stops for services to Bishop's Stortford and surrounding settlements. An unlit, narrow rural lane with no pavements lies between the site and the village facilities. The nature of the road and the separation distance would not be conducive to walking from the proposed dwelling to the

village centre. Consequently, it is unlikely that future occupiers would walk to local services, but instead would rely upon car travel.

6. The appellants state that the proposed house would be occupied by a person that would work on the site, thereby removing the need to commute. However, there is no evidence to show that the dwelling would be essential to meet the needs of the farm as required under DP policy HOU5. As such, it would be unreasonable to impose a condition that limits occupancy to farm workers. Given its location away from significant employment centres, it is likely that occupiers would travel by car to access workplaces away from the site.
7. The proposal would not be an isolated dwelling in the countryside as referred to in the National Planning Policy Framework (the Framework). However, being away from the village centre, the house would not be located where it will enhance or maintain rural services. Rather than visit the facilities in the village, it is more likely that occupiers of the proposed dwelling would drive to the broader range of services in larger settlements. As such, the proposal would not be located to minimise the need to travel or to promote walking, cycling and public transport use.
8. The appellants refer to 2 appeal decisions<sup>1</sup>. The Albury Road decision was issued before the adoption of the DP when a five year supply of housing land could not be demonstrated. Therefore, the planning policy context and the weight to be attributed to the supply of housing is now different. The Acremore Street scheme differs to this appeal proposal as it is for a house that would replace a commercial building that already generates traffic. Consequently, these decisions do not affect my conclusions on this main issue.
9. For the reasons outlined above, I conclude that the proposed development would not provide a suitable location for housing having regard to local and national policies and accessibility to services. Consequently, and in this regard, it would be contrary to policies DPS2, GBR2 and HOU5 of the DP and the Framework. These aim to locate rural housing development where it would support existing communities and would limit the need to travel, unless to meet the essential needs of rural workers.

#### *Character and appearance*

10. The appeal site is largely open with some trees and a few small buildings behind a roadside hedge. Greens Farm house and agricultural buildings as well as another dwelling adjoin the site. Notwithstanding these buildings and the lack of any special designation, the site's openness and front hedge positively contributes to the area's attractive rural character.
11. A vehicular access is proposed through a new gap in the hedge. Most of the existing vegetation would be retained and added to, but the new access would be seen from the road and the gap would provide views of the proposed development from the highway. Whilst its visual effects would be localised, the house and associated features would erode the site's contribution towards the rural character and appearance of the area.
12. The proposed house would be next to other buildings and would be of limited height. Also, it would not represent an incursion into a field and would not

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<sup>1</sup> Appeals ref nos. APP/J1915/W/16/3147738 and APP/J1915/W/3205669

obstruct important views. Even so, the proposal would lead to a more obvious residential appearance to the site, to the detriment of the area's character.

13. For the reasons outlined above, I conclude the development would cause significant harm to the character and appearance of the area. Consequently, and in this regard, it would not accord with policies GBR2 and DES3 of the DP and the Framework which aim, amongst other things, to protect or enhance features that add to the character and appearance of an area.

### **Other Matters**

14. The proposed development would be adjacent to the house at Greens Farm, a Grade II Listed Building. The significance of the house lies in part to its traditional rural features such as small windows and thatched roof. Whilst the proposed house would be harmful to the character of the area, it would not cause harm to the setting and significance of the listed building if positioned towards the rear of the site and off the common boundary. However, lack of harm in this respect does not weigh in favour of allowing the appeal.
15. The proposal would be acceptable in terms of highway safety, parking provision, flood risk and land contamination. Also, it would not impact on features of ecological or archaeological interest. However, acceptability in these regards is a neutral factor in my assessment.
16. The proposed development would add to the supply of housing and would have economic benefits in terms of creating construction jobs. The appellants also suggest the proposal represents the more efficient use of previously developed land. Even if I was to accept this point, the benefits in all these regards are modest as the proposal is for a single house.
17. The appellants suggest that the presumption in favour of sustainable development as set out under paragraph 11 of the Framework applies. However, the proposal fails to accord with the DP which has been recently adopted and is therefore up-to-date. Also, there is no evidence to show the Council is unable to demonstrate a five year housing land supply. As such paragraphs 11 c) and d) of the Framework do not apply in this case.
18. Overall, the benefits of the proposal are modest. They are insufficient to outweigh the significant harm to the character and appearance of the area and the unsuitable location for the proposal when having regard to relevant policies and accessibility to services.

### **Conclusion**

19. For the reasons given above, I conclude the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR



## Appeal Decision

Site visit made on 3 December 2019

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 December 2019**

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**Appeal Ref: APP/J1915/W/19/3235453**

**Land at 13 The Old Coach Road, Cole Green SG14 2NP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Hay against the decision of East Herts Council.
  - The application Ref 3/19/1147/FUL, dated 31 May 2019, was refused by notice dated 26 July 2019.
  - The development proposed is demolition of detached garage and erection of new four bedroom detached dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Rather than a copy of the 'updated SPD Vehicle Parking Provision 2015' document referred to in the Council's refusal reasons, I have been provided with a copy of the 'District Plan Appendix – Vehicle Parking Standards' (DPAVPS). It is apparent from the submissions that the 2 documents provide the same advice in respect of parking standards for the proposed development. As such, I am satisfied no party would be prejudiced or caused injustice by the consideration of the DPAVPS in my assessment.

### Main Issues

3. As the appeal site is located within the Green Belt, the main issues are;
  - whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy; and
  - whether the proposed development would be located in a suitable location having regard to the Framework, development plan policy and accessibility; and
  - the effect on highway safety and obstruction to traffic due to parking; and
  - if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.



## Reasons

### *Whether inappropriate development in the Green Belt*

4. Policy GBR1 of the East Herts District Plan 2018 (DP) states that planning applications in the Green Belt will be considered in line with the Framework. Paragraph 145 of the Framework defines the construction of new buildings as inappropriate development in the Green Belt but sets out exceptions.
5. One of these exceptions is a replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The proposed house would not be in the same use of the garage it would replace. Furthermore, the appellant has not sought to challenge the Council's figures that the proposed house would be approximately 81.7% greater in terms of footprint, 262% greater in terms of floor space and 116% greater in terms of height compared to the garage. These increases demonstrate the house would be materially larger than the garage and so the proposal would not accord with the exception at paragraph 145 d) of the Framework.
6. The appeal property is one of a pair of semi-detached dwellings located away from the main road running through Cole Green. Whilst it would be seen from other properties, the extensive open field in between and separation distance to the main built up area means the proposed dwelling would not be in a village. Also, rather than a form of infilling, the house would be an addition at the end of a short line of development with a large field to the side and rear. As such, the proposal would not be limited infilling in a village and would not accord with the exception set out under paragraph 145 e) of the Framework.
7. The appeal site forms part of the curtilage of a house outside a built-up area and so is previously developed land. However, the proposed building would be significantly higher and larger than the existing garage and so would have a greater impact on the spatial openness of the site. Also, by reason of being higher and bulkier, the proposed house would be more visible than the garage from the road and when viewed across the field. Therefore, despite new landscaping and being next to the existing house, the proposal would have a greater impact on the visual openness of the area. As such, the proposal would not be an exception as defined under paragraph 145 g) of the Framework.
8. The proposed development would not encroach onto the adjacent fields. However, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with no distinction made between fields and other types of land. As it would impact on openness, the proposal would not prevent urban sprawl and so undermine the purposes of Green Belt policy.
9. The proposal fails to comply with any of the other exceptions set out under paragraph 145 of the Framework. As such, it would be inappropriate development in the Green Belt.

### *Suitability of location*

10. Cole Green is defined as a Group 3 village in the DP. As there is no Neighbourhood Plan that allows it, limited infill is not permitted in the village under DP policy VILL3.
11. The village has no school or shops and only limited facilities would be within walking distance of the proposed house. Bus stops are nearby, however public

transport services are limited. Given the distance, the wider range of facilities at Birch Green would not be easily accessible on foot from the appeal development. Therefore, the occupiers of the proposed dwelling would be largely dependent upon the private car to access services.

12. Paragraph 78 of the Framework looks to ensure housing is located where it will enhance or maintain the vitality of rural communities. It also recognises that development in one settlement may support services in a nearby village. However, the appeal site is located close to the A414 that provides reasonable access by car to larger towns. Therefore, it is more likely that occupiers of the proposed dwelling would drive to the broader range of services in larger settlements rather than use the limited facilities in a nearby village. As such, the proposal would not be located where it significantly promotes the vitality of rural communities or minimises the need to travel.
13. For the reasons outlined above, I conclude that the proposed development would not be in a suitable location having regard to local and national policies and accessibility to services. Consequently, and in this regard, it would be contrary to policies VILL3 and DPS2 of the DP and the Framework. These aim to locate rural housing where it would support existing communities and would limit the need to travel. DP policy INT1 referred to in the refusal reason is not relevant in respect of this main issue.

#### *Parking*

14. The Old Coach Road is of a single vehicle width and therefore cannot safely accommodate roadside parking. A lay-by lies in front of the appeal site and the neighbouring properties where vehicles can park without obstructing the road.
15. Whilst referring to standards, DP policy TRA3 states that parking provision with development will be assessed on a site-specific basis. The proposal includes the provision of 2 parking spaces to serve the house, 1 less than the 3 spaces required under the DPAVPS. Also, only 2 spaces are shown to be provided to the appeal property resulting in a total shortfall of 2 spaces.
16. Given the limited number of properties on the road, it is likely that the occupiers of the proposed dwelling and appeal property could depend upon the lay-by at most times for parking. The lay-by has 3 separate entry points, thereby helping to avoid obstruction to vehicles accessing or egressing the proposed dwelling, appeal property and its neighbour. In this context, it is unlikely that the shortfall of spaces as part of the proposal would lead to obstructive parking on the road or elsewhere. Also, the site is of a size to safely accommodate construction vehicles associated with the proposed development.
17. For these reasons, I conclude the proposal would not have a harmful effect on highway safety or cause an unacceptable obstruction to traffic by reason of parking. Consequently, and in this regard, it would accord with DP policy TRA3 and the Framework, which seek, amongst other things, to ensure development does not have an unacceptable impact on highway safety. The proposal would not fully accord with the DPAVPS, but the other considerations set out above are of sufficient strength to outweigh that non-compliance.

#### *Other considerations*

18. The proposed development would be in keeping with the character of the area and would not cause harm to the living conditions of the occupiers of any

property. The proposal would incorporate sufficient garden space and would not result in the loss of any significant trees. However, acceptability in all of these regards is a neutral factor that fails to add support to the appeal. As it is for a single dwelling, the proposal's contribution to the housing stock would be a modest benefit of the scheme.

### *Green Belt balance*

19. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These would only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In carrying out the balancing exercise, substantial weight is to be given to any harm caused to the Green Belt.
20. As well as harm by reason of inappropriateness, the proposal would cause a loss of openness, thereby adversely impacting on one of the essential characteristics of the Green Belt. This harm attracts substantial weight. In addition, I attach significant weight to the harm caused as the proposed development would not be in a suitable location having regard to planning policies and accessibility. The proposal causes no harm by reason of parking, but this is a neutral factor that does not add in support of the scheme.
21. On considering all the relevant matters, I conclude that the modest benefits of the appeal scheme and all other considerations would not clearly outweigh the totality of harm the development would cause to the Green Belt and the other harm identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the development would conflict with the Framework and DP policy GBR1 which, amongst other things, seek to resist inappropriate development in the Green Belt unless very special circumstances exist and to preserve its openness.

### **Other Matter**

22. Whilst the Council can demonstrate a housing land supply in excess of five years, the appellant suggests housing delivery is only 76% of the target figure. As such, it is unclear whether housing delivery figures indicate that development plan policies should be regarded as being not up-to-date under the provisions of paragraph 11 and footnote 7 of the Framework. However, even if this is the case, the proposal would be contrary to the Framework's Green Belt policy which seeks to protect areas of particular importance. This provides clear reason for refusing the development proposed as set out at subparagraph 11 d)(i) with reference to footnote 6 of the Framework. As such, the policy to grant planning permission if development plan policies are out-of-date as set out under paragraph 11 d) of the Framework does not apply.

### **Conclusion**

23. For the reasons given above, I conclude the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR