



---

## Appeal Decisions

Site visit made on 10 November 2020

**by M Chalk BSc (Hons) MSc MRTPI**

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

**Decision date: 27 November 2020**

---

### **Appeal A Ref: APP/J1915/W/20/3246744 Grasslands, Pye Corner, Gilston CM20 2RB**

- 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 A May and Mrs C Reilly against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2241/FUL, dated 1 November 2019, was refused by notice dated 2 January 2020.
  - The development proposed is described as improvement to existing access to Grasslands.
- 

### **Appeal B Ref: APP/J1915/W/19/3240379 Grasslands, Pye Corner, Gilston CM20 2RB**

- 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 A May and Mrs C Reilly against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/0849/FUL, dated 24 April 2019, was refused by notice dated 3 July 2019.
  - The development proposed is described as improvement to existing access to Grasslands.
- 

## Decisions

1. Appeal A is allowed and planning permission is granted for improvement to existing access to Grasslands at Grasslands, Pye Corner, Gilston, CM20 2RB in accordance with the terms of the application, Ref 3/19/2241/FUL, dated 1 November 2019 subject to the conditions set out in Schedule 1.
2. Appeal B is allowed and planning permission is granted for improvement to existing access to Grasslands at Grasslands, Pye Corner, Gilston, CM20 2RB in accordance with the terms of the application, Ref 3/19/0849/FUL, dated 24 April 2019 subject to the conditions set out in Schedule 2.

## Application for costs

3. An application for costs was made by Ms A May and Mrs C Reilly against East Hertfordshire District Council. This application is the subject of a separate Decision.

## **Procedural Matters**

4. As set out above there are two appeals on this site. I have considered each on its individual merits but, as they only differ in the proposed width of the access, I have dealt with the two proposals together to avoid duplication.
5. At the time of my site visit the boundary wall to The Bungalow had already been reduced in length as indicated on the submitted plans. The appeals have been determined accordingly.

## **Main Issues**

6. The main issues in both cases are:
  - Whether the proposals would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework and any relevant development plan policies; and,
  - The effect of the proposals on the character and appearance of the surrounding area.

## **Reasons**

### *Whether inappropriate development*

7. The appeal site lies in the Green Belt. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt. The Framework identifies certain developments as not inappropriate provided that they preserve Green Belt openness and do not conflict with the purposes of including land within it. Engineering operations are identified as one of those exceptions. Policy GBR1 of the East Herts District Plan 2018 (the DP) states that applications in the Green Belt will be considered in line with the provisions of the Framework.
8. The Council have drawn to my attention an appeal finding that creation of a hardstanding amounted to building works rather than engineering operations. However, in that case the appeal related to a large expanse of hardstanding within the grounds of a farm, so is significantly different to the appeal proposals which relate to the widening of an existing highway access. The Town and Country Planning Act 1990 states that engineering operations include the formation or laying out of means of access to highways. The appeal proposals therefore constitute engineering operations.
9. Either appeal proposal would result in some loss of greenery at the site and an increase in the area of tarmac surface. However, the scale of development in either instance would be relatively modest given the existing access. In addition, there is an improvement to the spatial openness from the reduction of the boundary wall at the highway edge. Overall, neither development would be harmful to the purposes of including land within the Green Belt.
10. The Council have further referred to decisions relating to houses in the grounds of Pinewood School in Ware, where two vehicular accesses were found to be harmful to the openness of the Green Belt. However, those proposals differ in that there were no existing accesses to those houses. Only limited weight can therefore be accorded to these decisions in determining these appeals.
11. The appeal proposals would be engineering operations that would preserve Green Belt openness and would not conflict with the purposes of including land

within the Green Belt. They would therefore not be inappropriate development, in accordance with Policy GBR1 of the DP and the provisions of the Framework.

#### *Character and Appearance*

12. The increased hard surface would cause some loss of rural character from the site. However, this must be considered in the wider context of the street scene, which comprises a mix of dwellings and the nearby village hall. This side of the road has a more suburban character due to the relatively small plots and close siting of the houses to the road. Within this context the increased hard surfacing, whether that proposed under Appeal A or Appeal B, would not appear unduly out of keeping in the area.
13. The developments proposed would therefore not be harmful to the character and appearance of the surrounding area. They would accord with policies DES3 and DES4 of the DP which seek to ensure, amongst other criteria, that development proposals respect the character of the site and the surrounding area.

#### *Other Considerations*

14. Third parties have questioned the need for a wider access to the property. However, as there would be no harm by reason of inappropriateness or harm to the character or appearance of the area, it is not necessary to consider whether the appeal proposals are necessary.
15. In addition, concerns have been raised regarding the potential for future development at the site. However, any such future development would be subject to control by the Council and does not fall to be considered as a part of these appeals.

#### **Conditions**

16. I have imposed the standard conditions relating to commencement of development and confirming the approved plans for both appeals.
17. Given the rural character of the wider area and the proposed increase in hard surfacing of the site, a condition requiring landscaping of the appeal site is necessary in each case to ensure that the development would not appear harmful in the street scene.
18. I have also imposed conditions to secure the provision of the proposed visibility splays. This is to ensure that the development would result in a safer access for users of the highway.

#### **Conclusion**

19. For the reasons set out above, the appeals succeed.

*M Chalk*

INSPECTOR

**Schedule 1: Conditions for Appeal A Ref: APP/J1915/W/20/3246744,  
Council Ref: 3/19/2241/FUL**

- 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: Plan 01, 2019/4713/001 Rev. E, 2019/4713/007 Rev. A and 2019/4713/009.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping for the site, including a timetable for implementation. The scheme shall thereafter be carried out in accordance with the approved details.
- 4) The visibility splays shown on 2019/4713/001 Rev. E shall be provided in accordance with that drawing concurrently with the widening of the access and shall be retained thereafter.

**Schedule 2: Conditions for Appeal B Ref: APP/J1915/W/19/3240379,  
Council Ref: 3/19/0849/FUL**

- 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: Plan 01 Rev. A, 2019/4713/001 and 2019/4713/007.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping for the site, including a timetable for implementation. The scheme shall thereafter be carried out in accordance with the approved details.
- 4) The visibility splays shown on 2019/4713/001 shall be provided in accordance with that drawing concurrently with the widening of the access and shall be retained thereafter.



## Costs Decision

Site visit made on 10 November 2020

**by M Chalk BSc (Hons) MSc MRTPI**

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

**Decision date: 27 November 2020**

---

### **Costs application in relation to Appeal Ref: APP/J1915/W/20/3246744 Grasslands, Pye Corner, Gilston CM20 2RB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs A May and Mrs C Reilly for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for improvement to existing access to Grasslands.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. National Planning Practice Guidance (the PPG) advises that costs may be awarded against a party that has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or unreasonably refusing planning applications, failure to produce evidence to substantiate each reason for refusal on appeal or preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicants claim that the Council has mistakenly identified the proposal as a building operation rather than engineering operations. The Council relied on prior appeal decisions to inform its view, where the circumstances and nature of those proposals were not comparable to this appeal proposal. The Council failed to give appropriate weight to the applicants' fallback position of widening the existing driveway through their property's Permitted Development allowances. As the appeal proposal was the second submission for similar development at the site, and as an appeal had been lodged against the earlier refusal, the applicants had made submissions addressing the Council's similar concerns.
5. The Council responds that it was justified in regarding the appeal proposal as inappropriate development in the Green Belt for which very special circumstances did not exist that would clearly outweigh the harm by inappropriateness and any other harm. They consider that the applicants'

fallback position may be limited, as the Grasslands site comprises both a dwellinghouse and a commercial unit. The position regarding the Permitted Development allowance for the formation of hardstandings within the site is therefore unclear.

6. The applicants contend that the access and adjoining lands are within the residential curtilage of Grasslands so benefit from domestic Permitted Development rights.
7. I found in my decision that in this instance the appeal proposals would amount to engineering operations and would not be inappropriate development in the Green Belt. However, this was a matter of planning judgment and I do not consider that the Council acted unreasonably in finding otherwise.
8. Furthermore, whether the Grasslands site benefits from domestic Permitted Development rights or not is unclear. The full details of the planning permission relating to the B1 use of one of the outbuildings at the site are not before me, but a mixed-use site would not have the same Permitted Development rights as a dwellinghouse, and the access serves the entire site, passing the dwellinghouse to reach the outbuildings. In the absence of clear evidence on this point, I do not consider that the Council acted unreasonably in giving limited weight to this as a fallback position.

### **Conclusion**

9. Having considered the submissions made by both parties, together with the evidence submitted with the appeal, I find that there was not unreasonable behaviour on the part of the Council, as described in the PPG, that has directly resulted in unnecessary or wasted expense on the part of the applicants. The application therefore fails, and no award of costs is made.

*M Chalk*

INSPECTOR



## Appeal Decisions

Hearing Held on 3 November 2020

Site visit made on 4 November 2020

**by H Butcher BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 November 2020**

---

### **Appeal A: APP/J1915/W/20/3245571**

#### **The White Horse Inn, High Road, High Cross SG11 1AA**

- 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 Sean Coleman against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1148/FUL, dated 30 May 2019, was refused by notice dated 26 July 2019.
  - The development proposed is refurbishment and change of use of The White Horse public house (Listed Building) to create 3 no. two bedroom dwellings together with the construction of 4 no. three bedroom dwellings (revised application to LPA Refs. 3/17/1258/FUL & 3/17/1259/LBC).
- 

### **Appeal B: APP/J1915/Y/20/3245561**

#### **The White Horse Inn, High Road, High Cross SG11 1AA**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Sean Coleman against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1149/LBC, dated 30 May 2019, was refused by notice dated 26 July 2019.
  - The works proposed are refurbishment and change of use of The White Horse public house (Listed Building) to create 3 no. two bedroom dwellings together with the construction of 4 no. three bedroom dwellings (revised application to LPA Refs. 3/17/1258/FUL & 3/17/1259/LBC).
- 

### **Decision**

1. The appeals are dismissed.

### **Preliminary Matters**

2. The description of works on the application form is the same for both appeals. However, s.7 of the Planning (Listed Buildings and Conservation Areas) Act 1990, sets out that listed building consent is only required for any works for the demolition of a listed building, or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. On that basis, listed building consent would not be required for the change of use of The White Horse Inn to residential use, or the construction of 4 no. three bedroom dwellings as proposed. However, listed building consent would be required for the works of alteration required to



provide 3 no. two bedroom dwellings in the listed building. I have therefore dealt with the s.20 appeal on that basis.

3. The White Horse Inn lies within the setting of a number of other listed buildings which include The Old Waggon (Grade II\*) immediately adjoining the site to the south. As such I have had regard to my statutory duties under s.66(1). The Council found no harm in this respect, and similarly, given the minimal changes to the front of the site, I find no harm in this regard either.

### **Main Issues**

4. A main issue in both appeals is the effect of the proposed development/works on the special architectural and historic interest of The White Horse Inn, which is Grade II listed, and its setting. In Appeal A there is a further issue of the effect of the proposed development on the local community.

### **Reasons**

#### *The White Horse Inn*

5. The White Horse Inn dates from the late 17<sup>th</sup> Century. The oldest part of the building which fronts High Road is timber frame plastered with weatherboarding detailing to the sides; a known historic vernacular of the area. It sits within a group of other historic buildings at the core of High Cross. In terms of layout it has a 'lobby-entrance plan' in which the original entrance is directly in front of the chimney stack with two main rooms either side. This is a typical domestic plan for the period of construction of the building. The White Horse Inn has significance, therefore, insofar as it has evidential, historic and aesthetic value as a well-preserved building of its time.
6. Part of the proposals before me are to sub-divide The White Horse Inn into three separate residential properties. The front, oldest part of the building, would be divided into two. This would involve splitting the property along the central chimney stack, thereby partitioning off the two rooms either side of this and the original entrance at ground floor. This would disrupt the 'lobby-entrance plan' making the building less legible thereby eroding its significance in this respect.
7. In addition to this, at first floor, one of the rooms to one side of the chimney stack is to be further subdivided with a stud partition. This would again upset the original layout of the most historic part of the building. Even if demountable partition walls were installed, day-to-day, and for the foreseeable future, the historic layout of the building would be concealed.
8. Furthermore, the change at first floor would result in the insertion of a window in the side elevation of the building to serve the newly created room. This window would be inserted into weatherboarding resulting in a loss of historic fabric and a significant alteration to the historic visual appearance of the building. It is also unclear whether the window, which would be not insignificant in size, would be impeded by the timber frame of the property. In the absence of such information I cannot be satisfied that further harm to historic fabric would not occur as a result of this insertion.
9. It would be unacceptable to leave such a consideration to the discharge of conditions stage given the implications of these works to the structure of the



building. The insertion of new doors at ground and first floor into the most historic parts of the building raises similar concerns to those above.

10. The subdivision of the more historic part of the building would also require the insertion of an additional staircase. This would be inserted in a part of the building which appears to date from the late 17<sup>th</sup> Century – early 18<sup>th</sup> Century, or in any event, appears to be of significant age given the uneven appearance of the ceiling here. Therefore, again, the insertion of a staircase here would result in a significant loss of historic fabric. For all of the above reasons I therefore find harm to the special architectural and historic interest of The White Horse Inn.

#### *The setting of The White Horse Inn*

11. The setting of The White Horse Inn includes the land to the side and rear which, until relatively recently, was used for parking and as a garden for the public house. There is little substantive evidence before me of any more specific historic use of this area other than general conjecture that it would have always been used in connection with the property. Notwithstanding this, the area in which the residential development would be located has a strong visual relationship with the public house given their close proximity. There is also a historic connection insofar as the land appears to have always been associated with the building.
12. In principle, given the modest contribution the rear of the site makes to the significance of the listed building, a sensitive residential development here could work. However, the proposals before me would not achieve this. Firstly, in spite of its low eaves design, the overall height of the development would be higher than the public house. Whilst the dwellings are to be set well back from the public house and would be of a similar height to residential development immediately to the east, this adjacent development is on visually separate land to the appeal site and behind a clear boundary. Nevertheless, it is still visible from the front of the public house. Therefore, development of a similar scale, closer to, and with far less to separate it from the public house, would be more impactful, such that it would amount to harm to the setting of the listed building by virtue of overdominance. The points made thus far are sufficient in their own right to warrant the dismissal of both appeals.
13. In addition to the above I also have concerns over how the development surrounds the listed building with parking, an access road, and the new dwellings, leaving very little space around the former public house to allow it to sit comfortably in its setting. Every scrap of land is to be carved up into various new and separate uses such as small private gardens, parking spaces, bin stores etc. which altogether would give it an overdeveloped appearance.
14. Taking the above points together the proposed works would be harmful to the special architectural and historic interest of The White Horse Inn and its setting. In addition to this the proposal would also conflict with Policies VILL2, DES4, HA7 of the East Herts District Plan (2018) (DP) which require new development to respect local character and to protect listed buildings.
15. The harm I have found would be 'less than substantial' given the overall impact of the proposals on the listed building. My assessment of harm is greater than negligible or minor as put to me by the appellant and, for the reasons given, tending towards moderate harm. Nevertheless, any such harm attracts

considerable importance and weight. As per para 196 of the National Planning Policy Framework (the Framework) this harm should be weighed against the public benefits of the proposal. I return to this balance later in my decision.

### *Local community*

16. Policy CFLR8 of the DP seeks to protect community facilities, which, as set out in the supporting text, includes public houses. The text explains that within villages and the rural area public houses play an important role in terms of providing a social venue, local employment opportunities and contributing towards vitality. Consequently, Policy CFLR8 only permits the loss of such buildings in certain circumstances, the first being that an assessment has been undertaken which clearly shows that the facility is no longer needed in its current form.
17. The appellant has provided evidence that the public house is no longer needed by way of a Public House Viability Test. This is based on an objective test set by the Campaign for Real Ale and is designed to address what the business could achieve if it were run efficiently by a reasonable operator. The report sets out various alternative investment scenarios and types of operation, but every scenario leads to a loss-making position. This is due in part to the limited population of High Cross (taking into account recent development), strong local competition, and high refurbishment costs due to the age, condition and listing of the building.
18. I have also considered the effect of increasing the size of the carpark to attract a larger dining clientele but conclude that this would not make such a significant gain to mitigate the loss of all outside space. Similarly, if the profits from the 4 no houses proposed were secured to renovate the pub, the parking required for a profitable public house would be practically all lost. In any event, this scenario is not put to me by the appellant, and there is nothing before me to secure this. To bring these points together, I find the appellant's evidence compelling and there is nothing substantive on the Council's side to rebut it.
19. The White Horse Inn, now vacant, was the last public house in High Cross. However, there are two public houses in Wadesmill; the neighbouring village, which are accessible on foot within a (circa) 20 minute walk along a lit pavement. I agree that it would be desirable to have a public house within High Cross, but there is provision of this type of community facility within a comfortable walking distance for the average person.
20. Taking these points together I find that the evidence before me clearly demonstrates that the White Horse Inn is no longer needed in its current form. I therefore find no conflict with Policy CFLR8 of the DP.
21. The Council would like to see evidence of marketing the public house for approximately 12 months but Policy CFLR8 does not specify what type of assessment is required and I consider the assessment before me has adequately demonstrated compliance with this policy for the reasons set out above.
22. I note that the Parish Council are aware of two potential interested parties in purchasing the public house; although one has now found alternative premises. However, this is not sufficient to override my findings above, and there is nothing to suggest these persons would not come to similar findings as I upon

more in-depth investigation. I have also had regard to the draft Thundridge Neighbourhood Plan and appreciate the value local residents place on The White Horse Inn, but this does not outweigh the compelling evidence before me regarding its viability.

*Public benefits*

23. I return now to the public benefits of the proposals in line with para 196 of the Framework. The White Horse Inn is currently vacant and as a result is deteriorating and vulnerable. As set out above it is no longer viable and in need of a new use to secure its future. The proposals therefore provide a clear benefit in this regard. However, it has not been demonstrated that this is the only way the site could be re-developed. I therefore afford this benefit moderate weight.
24. Alongside this there is the benefit of the addition of a small number of houses to local housing supply, and the economic and social benefits attached to this of additional employment during the construction period and then on-going spending and increased vitality in the local area from new residents. The proposal also involves previously developed land for which there is support in the Framework. I attach moderate weight to these benefits also.
25. Taking these benefits together I nevertheless find that the weight to be attached to them is not sufficient to justify the harm that would be caused to the special architectural and historic interest of The White Horse Inn and its setting; harm that must be given considerable importance and weight in the balancing exercise.

**Conclusion**

26. The appeals are dismissed.

*Hayley Butcher*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

|                   |                           |
|-------------------|---------------------------|
| Zack Simons       | Landmark Chambers         |
| Justin Wickersham | Optimis Consulting        |
| Leila Cramphorn   | Optimis Consulting        |
| Michael Lawton    | Trinity Solutions         |
| Jonathan Edis     | Heritage Collective       |
| Matthew Briffa    | Briffa Philips Architects |
| Tom Nichols       | Everard Cole              |
| Claire Browne     | Heritage Collective       |

### FOR THE LOCAL PLANNING AUTHORITY

|               |                                     |
|---------------|-------------------------------------|
| Eilis Edmonds | East Hertfordshire District Council |
| Mike Brown    | East Hertfordshire District Council |

### INTERESTED PARTIES

|              |                |
|--------------|----------------|
| David Malyan | Neighbour      |
| Britta Hawes | Parish Council |



## Appeal Decision

Site Visit made on 17 November 2020

**by Paul Thompson Dip TRP MAUD MRTPI**

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

**Decision date: 27<sup>th</sup> November 2020**

---

**Appeal Ref: APP/J1915/W/20/3248353**

**Sayes Park Farm, High Wych, Sawbridgeworth, Herts CM21 0JE**

- 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 A Greenall against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1423/FUL, dated 4 July 2019, was refused by notice dated 12 September 2019.
  - The development proposed is to convert redundant barns to 2 dwellings.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The main parties agree that the proposed development would not amount to inappropriate development in the Green Belt, nor would it harm the openness of the Green Belt, as required by Policy GBR1 of the Council's Local Plan<sup>1</sup> and the Framework<sup>2</sup>. I have therefore determined the appeal on this basis and dealt solely with the matters that are in contention, as set out in the main issues below. I have also not found against Policy DES4 of the Council's Local Plan, which refers to design, as the Council did not find harm in this respect.

### Main Issues

3. The main issues are whether the site represents an appropriate location for housing, having regard to the development plan and access to shops, services and facilities.

### Reasons

#### *Location of the development*

4. The access to the land comprising the appeal site is to the southwest of the village of High Wych, which is designated as a Group 2 Village<sup>3</sup>. The barns situated within the site are part of a more extensive group of buildings at Sayes Park Farm in agricultural, residential and commercial use, beyond which is open countryside.
5. The proposal for housing in this location would not meet any of the criteria specified in the hierarchy contained in the Council's Development Strategy 2011-2033. In particular, it would not be a brownfield site or represent limited

---

<sup>1</sup> East Herts District Plan (October 2018).

<sup>2</sup> National Planning Policy Framework.

<sup>3</sup> Policy VILL2 of the Council's Local Plan.

development in a village. I therefore conclude that the appeal site would not represent an appropriate location for housing, having regard to the development plan. Hence, the proposed development would be in conflict with Policy DPS2 of the Council's Local Plan.

*Access to shops, services and facilities*

6. Although the appeal site is situated within an area of countryside, in terms of whether the proposed dwellings would be 'isolated' in the language of the Framework and the Court of Appeal judgement<sup>4</sup>, it is important to have regard to the site's relationship to existing built development as well as accessibility to services and facilities. Paragraph 78 of the Framework seeks to restrict housing in rural areas to locations where housing will enhance or maintain the vitality of rural communities.
7. Taking the physical dimension of isolation first, the proposed dwellings would be close to dwellings and other buildings at the farm. While the proposal would not be isolated from other dwellings it would do little more than add to existing development encircled by open countryside, some distance away from the village of High Wych. There are a small range of local services and facilities in the village, including a primary school, but the reality is that future residents would be obliged to travel further to Sawbridgeworth and Harlow, to meet their day-to-day needs, as a greater range of facilities and services are available.
8. In terms of accessibility, Policy TRA1 of the Council's Local Plan and paragraphs 102 and 103 of the Framework refer to transport issues. The latter suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Given their location, the occupants of the proposed dwellings would be obliged to walk or cycle some distance up the access or along public rights of way across fields to reach the highway. As these lack lighting and dedicated pedestrian footways, the opportunities to walk or cycle to the services and facilities available nearby would not be convenient or realistic ones, particularly after dark or in bad weather.
9. Future residents would therefore be highly likely to be required to travel regularly by private motorised transport to access education, retail, employment and healthcare. I appreciate that the proposal would not, of itself, generate a large number of traffic movements and a greater dependency on car use is inevitable in more rural locations. The residents of existing properties in the immediate vicinity, including at the farm, may also choose to make such journeys. Nevertheless, the cumulative effect of allowing developments in locations such as the proposal would be likely to increase the amount of unsustainable journeys made. I have also not been provided with any information regarding the proximity and frequency of bus services to be able to determine whether they would sufficiently discourage further use of private motorised transport.
10. The appellant has referred to the approach to the accessibility of agricultural buildings that are able to be converted to residential use by virtue of permitted development rights, including references to supportive text in the Planning Practice Guidance. However, there is nothing before me to suggest whether the proposal would meet the requirements of the relevant approval process and, in any event, the appeal relates to an application for planning permission and

---

<sup>4</sup> *Braintree DC v SSCLG* [2018].

such matters are approached in a different manner, as outlined by the main parties in their cases.

11. For the reasons outlined above, I conclude that the site would not represent a suitable location for housing, having regard to access to shops, services and facilities. Hence, the proposed development would conflict with the aims of Policy TRA1 of the Council's Local Plan and paragraphs 78, 102 and 103 of the Framework.

### **Planning Balance and Conclusion**

12. Although the Council is able to demonstrate a five-year supply of deliverable housing sites, I am mindful of the support offered in the Framework to the Government's objective to significantly boost the supply of homes. However, the contribution of the proposal to the overall housing mix and supply in the District would be minor in its extent and afforded limited weight.
13. While the proposal could provide accommodation for farmworkers to assist in the efficient operation of the farm, there is no substantive evidence before me which would establish a need for such accommodation or whether this need could not be met by other accommodation in the local area. I therefore only give limited weight to these arguments.
14. The proposal would make more efficient use of under-utilised barns, but the Framework is clear that such considerations should include taking into account the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.
15. Some economic benefits would arise from, for example, employment during the construction period. Future occupiers would also contribute to the vitality of the rural economy through expenditure but they would be likely to do so by utilising private motorised transport. Given the scale of the development these benefits would be limited in scale and kind and consequently carry moderate weight.
16. The compliance of the appeal scheme with the Council's Local Plan policies, or parts thereof, in respect of the character and appearance of the barns and their surroundings, living conditions of occupiers of other residential properties, highways and flood risk, would constitute neutral impacts that would neither weigh for nor against the appeal scheme. In terms of harm, the site would not represent a suitable location for housing, having regard to the development plan and access to shops, services and facilities.
17. The proposal would not amount to sustainable development under the terms of the Framework. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission.
18. I have found harm in relation to the location of the development, and there are no other considerations which would outweigh these findings. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

*Paul Thompson*

INSPECTOR





## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

---

**Appeal Ref: APP/J1915/W/20/3246781**

**Bury Farm, Great Hornead, Buntingford, Hertfordshire SG9 0NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs M Wyld against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1503/VAR, dated 10 July 2019, was refused by notice dated 22 November 2019.
  - The application sought planning permission for variation of condition 2 (approved plans) of LPA approval 3/14/1112/FP - Change of use of existing buildings to create 3no 3 bedroomed dwellings, 3no 4 bedroomed dwellings, 1no five bedroomed dwelling, provision of outbuildings, garages and office with associated landscaping and access. Demolition of grain store, ancillary building and structures. Revised design to unit 7, resulting in new layout and external appearance, without complying with a condition attached to planning permission Ref 3/17/0174/VAR, dated 22 March 2017.
  - The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the plans listed at the end of this decision notice<sup>1</sup>.
  - The reason given for the condition is: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.
- 

### Decision

1. The appeal is allowed, and planning permission is granted to retain and reuse the existing modern barn as opposed to its demolition as part of the previously approved residential re-development at Bury Farm, Great Hornead, Buntingford, Hertfordshire SG9 0NS in accordance with application Ref 3/19/1503/VAR without compliance with condition number 2 previously imposed on planning permission Ref 3/17/0174/VAR, dated 27 March 2017, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. For clarity, I have taken the address in the banner heading above from the appeal form as it is more succinct. I have also inserted 'Hertfordshire' to the address as it is listed on the Council's decision notice and application form.
3. For clarity, I have taken the description of development in my decision from the application form, as it more succinctly describes the proposal, omitting 'structure' and inserting 'modern barn' and adding 'as part of the previously approved residential re-development'.

---

<sup>1</sup> Plan no's: 211080DWG200; 211080DWG201; 211080DWG202; 211080DWG203; 211080DWG204; 211080DWG205 Rev A; 211080DWG206; 211080DWG207; 211080DWG208; 211080DWG210; 211080DWG211; 211080DWG212; 211080DWG213; 90016.02 Rev A; 90016.03 and 211080DWG20.

4. The appellant refers to the commencement of the residential development under a previous approved scheme, which has not been disputed by the Council. I have dealt with the appeal on this basis.

### **Main Issue**

5. There is no dispute between the parties that the proposal constitutes a Minor Material Amendment. Based on the evidence before me, I find no reason to conclude otherwise. Therefore, the main issue is:
  - i. the effect of the proposed development on the character and appearance of the appeal site, including the setting of the curtilage listed barn (the listed barn) and the setting of the surrounding Great Hornead Conservation Area (GHCA).

### **Reasons**

6. The modern agricultural barn (the modern barn), subject of this appeal, is located at the northern end of the planning unit and faces a yard area that separates it from the listed barn opposite. The listed barn falls within the curtilage of the Farmhouse<sup>2</sup> at Bury Farm, which is Grade II listed and is located within the GHCA. The modern barn is located just outside the boundary of the GHCA, which currently divides the yard area between the listed barn and the modern barn. However, the adopted GHCA plan<sup>3</sup> indicates that a large proportion of the modern barn is located within an Area of Archaeological Significance.
7. The planning history identifies that the wider site, originally benefits from planning approval in 2014<sup>4</sup>, which was then varied in 2017<sup>5</sup> through the approval of a planning application to vary the plans condition on the 2014 permission. The scheme before me, seeks to vary the plans condition on the 2017 permission, in order to retain the modern barn, and to allow its reuse in the redevelopment of the wider site, instead of its demolition. The modern barn would provide the car parking, storage and office space for the approved residential scheme, instead of the proposed 2no. blocks<sup>6</sup> approved in the previous submissions.
8. It is common ground between the main parties that the modern barn is not curtilage listed. Furthermore, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out that in the exercise of planning functions with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. This statutory duty does not extend to the setting of a conservation area, but it is common ground between the parties that this is a material consideration in this appeal.
9. I consider from my findings during my visit that the significance of the GHCA to be the historic core, which includes various listed properties along the B1038 and off various side roads including, but not limited to, Horseshoe Hill located to the south of the site, which retains a high level of heritage interest. I find that the scheme is unlikely to be visible from the majority of public areas within

---

<sup>2</sup> Farmhouse at Bury Farm (formerly listed as Bury Farm House) first listed on 22 February 1967

<sup>3</sup> Great Hornead Conservation Area Appraisal and Management Plan

<sup>4</sup> 3/14/1112/FP granted on 26 September 2014

<sup>5</sup> 3/17/0174/VAR granted on 23 March 2017

<sup>6</sup> Garage Block 1 and Garage Block 2

the GHCA due to the existing landform and buildings and, therefore, the effect of the proposal on the setting of the GHCA would still be limited. Although I acknowledge that glimpses of the modern barn are possible from Anderson's Lane, but this is limited due to the mature vegetation surrounding the building and the fact that it is set into the land on its side and rear elevations.

10. Turning to the effect on the setting of the listed barn, which dates from approximately c.1850's and is constructed out of brick and flint. The historical value of the listed barn derives from it being curtilage listed to the Farmhouse and still contributes positively, forming part of its original setting. There is no doubt that the modern barn as an existing structure, already has a visual impact upon the listed barn, and setting of the GHCA, which I consider to form a material consideration of significant weight.
11. I accept that the modern barn, whilst not listed, does nonetheless represent a period in the history of the wider site when it was involved in agriculture. Additionally, I note the indication in the appellant's submission to the replacement of some of the external materials on the modern barn. This gives an opportunity to enhance the appearance of the utilitarian building, which I consider could be sufficiently controlled through the imposition of a suitably worded condition.
12. I have a statutory duty under Section 66 (1) of the Act, which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. I consider the proposal accords with this duty. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness.
13. Paragraph 193 of the Framework adds that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). I consider that the retention of the modern barn would have an overall neutral visual effect on the setting of the listed barn and the setting of the GHCA. Additionally, I do not consider that the development as proposed would undermine the high quality or cohesive design that is present in the extant residential scheme. Therefore, as the proposed development would not cause harm to the significance of the designated heritage assets for the purposes of the Framework, there is no requirement for me to consider public benefits to be weighed in a balancing exercise.
14. In conclusion, I find that the proposal would not harm the setting of the GHCA and it would preserve or enhance the setting of the listed barn. Accordingly, the it would comply with the design, heritage, character and appearance aims of Policies DES4, HA1, HA4, HA7 of the Council's District Plan 2018 and the requirements of the Framework.

### **Other Matter**

15. The appellant has referred to the sustainable credentials of reusing the existing modern barn instead of demolishing it. Whilst I have had regard to this matter, it has not been decisive in reaching my decision. I have considered this appeal

scheme on its own particular merits and concluded that it does not cause harm for the reasons set out above.

### **Conditions**

16. The Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. However, the Council's suggested conditions and comments from the appellant have provided sufficient clarity surrounding the status of the conditions imposed on the latest planning permission.
17. I have therefore imposed all the conditions suggested by the Council that I consider relevant. I have also reviewed the conditions imposed on the original permission, taking account of the revisions suggested by the Council. In light of advice contained in Planning Practice Guidance, for clarity, and to ensure compliance with the Guidance, I have amended some of the Council's wording on the original conditions that I have included on this decision.
18. The variation of this condition under section 73 of the Town and Country Planning Act 1990 would result in a new planning permission being created. However, a time limit of commencement of 3 years is not required in this instance. A condition is required to ensure that the development is carried out in accordance with approved plans for certainty.
19. Whilst a schedule of materials has been agreed on a previous submission, there are no specific details before me, surrounding the new materials proposed for the modern barn. Therefore, a pre-commencement condition securing the submission of details of external materials to the Council is reasonable and necessary to ensure the facing materials of the proposed development is acceptable to the character and appearance of the appeal site and the heritage assets. Additionally, conditions for hard/soft landscaping, external lighting and the removal of some permitted development rights for gates, fences, walls or other means of enclosure are all reasonable and necessary in the visual amenities of the development and its effect of the heritage assets.
20. Conditions are reasonable and necessary surrounding the hours of construction works, contamination and the installation of obscure glazing on unit 2, in respect of existing neighbouring occupiers and future occupiers respectively. A drainage condition is reasonable and necessary in the interest of the surrounding environment. However, the surface water drainage condition as suggested by the Council does not satisfy the 6 tests set out in the Framework and the PPG.

### **Conclusion**

21. For the reasons set out above I conclude that the appeal is allowed. I have granted a new permission with the disputed condition varied to allow the scheme to be undertaken in accordance with the design changes proposed in the Minor Material Amendment.

*W Johnson*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 211080DWG200; 211080DWG201; 211080DWG202; 211080DWG203; 211080DWG204; 211080DWG205 Rev A; 211080DWG206; 211080DWG207; 211080DWG208; 211080DWG210; 211080DWG212; 211080DWG213; 90016.02 Rev A; 90016.03 and 526.03A
- 2) The development shall take place in accordance with the written scheme of investigation submitted and agreed in writing with the Local Planning Authority under condition application reference: X/17/0281/CND. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.
- 3) Prior to the commencement of the works to the modern barn, details/samples of external materials to be used in the refurbishment of the modern barn shall first be submitted to and agreed in writing by the Local Planning Authority. The development shall then be constructed fully in accordance with the approved details/samples. The other elements of the development shall be constructed in accordance with the external materials of construction submitted to and agreed in writing by the Local Planning Authority, under condition application referenced: X/17/0281/CND.
- 4) All hard and soft landscape works shall be carried out in accordance with the approved details under condition application reference: X/17/0281/CND. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
- 5) Any external lighting for the development shall be carried out in accordance with the details submitted to and agreed in writing by the Local Planning Authority, under condition application reference: X/17/0281/CND. The lighting scheme shall be retained as such thereafter.
- 6) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 7) The land remediation of the site shall be carried out in accordance with the strategy for land contamination remediation submitted and agreed in writing by the Local Planning Authority, under condition application referenced: X/17/0281/CND. Prior to first occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

9) Prior to the installation of any surface water drainage scheme (SWDS), details shall first be submitted to and agreed in writing by the Local Planning Authority. The SWDS shall then be constructed fully in accordance with the approved details.

10) The development shall be carried out in accordance with the measures as set out in the ELMAW bat report dated August 2014 entitled 'Final Protected Species Constraints Assessment'.

11) The proposed window openings to the landing window serving unit 2 on west elevation shall be fitted with obscure glazing and shall be permanently retained in that condition.

End of Schedule.



## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 25 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3247686**

**Land opposite 44-58 Chapel Lane, Letty Green, Hertfordshire SG14 2PA**

- 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 Mick Sandford of Stay New Homes Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2003/FUL, dated 3 October 2019, was refused by notice dated 4 December 2019.
  - The development proposed is described as: 'construction of a new house, garage and driveway, with new landscape planting'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity and precision, I have taken the address in the banner heading above from the Council's decision notice and application form, as this corresponds with other documents in the appellant's submission, including his Appeal Statement. I have also used 'Hertfordshire' as it is listed on the appeal form.

### Background and Main Issue

3. There is agreement between the main parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. On the evidence before me, including the decision<sup>1</sup> by the previous Inspector (the previous decision), I have little reason to disagree with the main parties on this matter.
4. Therefore, the main issue of this appeal is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

### Reasons

5. The appeal site is an irregular parcel of land that is located between Chapel Lane and Cole Green Way. Opposite the site are detached dwellings located in generous plots, set back by an appreciable distance from the road, with generous front and rear gardens. These neighbouring dwellings are positioned in an orderly arrangement fronting the road, which gives a distinct sense of spaciousness and ordered pattern of development on this section of Chapel Lane.

---

<sup>1</sup> APP/J1915/W/18/3207743



6. The size and layout of the surrounding residential plots provides a notable rhythm of development, which contributes positively to the character and appearance of the surrounding area. I also noted during my visit that some properties along Chapel Lane towards the junction with Letty Green/Station Road and Woolmers Lane comprised of both single storey and 1.5 storey dwellings, with an overall variety in design.
7. I acknowledge that the appellant has sought to address the concerns of the Inspector on the previous decision, particularly, through moving the proposed development further away from Chapel Lane to a distance of approximately 7.8m, which is a reported increase of 3m from the previous scheme, and at 2-storeys, a setback of approximately 10.6m from Chapel Lane would be provided. The proposed development in the scheme before me now comprises single storey and 2-storey elements in its composition. I accept that this would result in articulation of its built form, due to the varying roof heights, in conjunction with its glazed links.
8. My attention has been drawn by various parties to the contemporary dwelling at No 27 Chapel Lane and the associated appeal decision<sup>2</sup>. I accept that this dwelling does not form a prevalent character in terms of site size, nonetheless, it is a material consideration in the determination of this appeal. Policy DES4 of the Council's District Plan 2018 (DP) requires proposals to make the best possible use of the available land by respecting or improving upon the character of the site and surrounding area, amongst other things. Furthermore, a criterion of DP Policy VILL3 is for development to be in character with the character of the village.
9. Whilst I recognise that in isolation the proposed development has some innovative features present in its design, I consider that due to the shape/size of the site, the appeal scheme would be distinctly at odds with the prevailing character of neighbouring dwellings particularly through its orientation. The proposed development would be read as a large dwelling with a notable footprint, which would further contribute to its discordant and strident appearance that would be readily visible from Chapel Lane and Cole Green Way. In this instance, I do not consider that the proposed landscaping scheme would provide sufficient mitigation against the identified harm, nor do I consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
10. For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. As a consequence, it would conflict with the design, character and appearance aims of DP Policies VILL3, DES4 and the requirements of the National Planning Policy Framework (the Framework).

### **Other Matter**

11. I have had regard to the proposed energy saving features to be incorporated within the proposed development, but on the evidence before me this is not a reason to grant permission in the face of the harm identified. I have considered this appeal scheme on its own particular merits and concluded that it causes harm for the reasons set out above.

---

<sup>2</sup> APP/J1915/W/17/3174337

### **Planning Balance and Conclusion**

12. Whilst I accept the absence of other harm arising from the proposed development and the modest social and economic benefits that would arise through the construction phase and subsequent occupation of the proposed development, these factors, do not outweigh my assessment of the main issue.
13. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
14. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR



## Appeal Decision

Site visit made on 7 October 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 03 November 2020

---

**Appeal Ref: APP/J1915/W/20/3253160**

**Pole Hole Farm, Pye Corner, Gilston CM20 2RP**

- 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 Magri Builders Ltd against the decision of East Hertfordshire District Council.
  - The application Ref: 3/19/2169/OUT, dated 23 October 2019, was refused by notice dated 19 December 2019.
  - The development proposed is the demolition of and agricultural barn and erection of five dwelling houses.
- 

### Decision

1. The appeal is dismissed

### Procedural Matter

2. The application was submitted in outline, with all matters reserved apart from landscaping. I have had regard to all other details on the submitted plans on an indicative basis only.

### Main Issues

3. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt;
  - Whether the site is a suitable location for a residential development;
  - The effect of the development upon the character and appearance of the surrounding area, with particular reference to landscaping;
  - The effect of the development upon flood risk; and
  - if the development is 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 the development

### Reasons

*Whether inappropriate development*

4. The site is located within the Green Belt. The National Planning Policy Framework (the Framework) regards the erection of new buildings within the

Green Belt as being inappropriate. There are some exceptions to this, however, the proposed development does not pertain to the carrying out of agricultural, forestry, outdoor sport or recreation activities.

5. Whilst the proposed development would be a replacement building, the scheme before me has a greater massing than the existing structure, which was constructed to support agricultural activities. The existing building therefore has a different effect on the character of the Green Belt than the proposed residential development before me. I also note that the Framework identifies that agricultural developments might be acceptable within the Green Belt.
6. I have had regard to the provisions of paragraph 145 of the Framework and specifically, point (g). This states that limited infilling or the partial or complete redevelopment of previously developed land is not inappropriate provided that it would not have a greater impact on the openness of the Green Belt than the existing development; not cause substantial harm to the openness of the Green Belt, or that development would re-use previously developed land and contribute to meeting an identified affordable housing need.
7. By reason of the siting of the proposed development, the predominance of countryside that surrounds the appeal site and the general pattern of development within the appeal site's environs, I do not believe that development would constitute a limited infill within a village.
8. In addition, by reason of its likely proportions, the number of units of accommodation proposed and the area's general topography, the proposed development would result in a more prominent level of built form within the surrounding area. This is particularly concerning as the building would be clearly visible from the adjacent road. These factors, when combined with the topography of the vicinity, means that the proposed development would be clearly visible. This would therefore result in an erosion of the open character that is a feature of the vicinity.
9. The proposed development in the location indicated on the submitted plans would also erode the spatial sense of openness that is a feature of the site due to their likely form, which would exist in conjunction with boundary treatments to signify the subdivision of the site into individual plots.
10. Furthermore, there is a likelihood that other domestic paraphernalia might be installed in the development post occupation. This would be in addition to the parking area and cycle store. For these reasons, the proposed development would have a greater effect on openness than the existing barn.
11. For these reasons, I do not consider that the proposed development would fall within the definition of not inappropriate development as outlined in paragraph 145 (g) of the Framework.
12. Due to the likely positioning of the proposed development, any increased views across the site are likely to be somewhat limited. In consequence, these views would not result in an enhancement to the level of openness associated with the site.
13. I therefore conclude that the proposed development would erode the sense of openness that is an intrinsic feature of the Green Belt. The proposal is therefore an inappropriate development in the Green Belt. The development, in this regard, conflicts with Policy GBR1 of the East Herts District Plan (2018)

(the District Plan). This policy, amongst other matters, seeks to ensure that planning applications within the Green Belt will be considered in line with the provisions of the Framework.

*Suitability of the site*

14. The appeal site is located outside of settlement boundaries, albeit there are some existing dwellings within the surrounding area. Other dwellings are in the process of being constructed through a conversion process.
15. Whilst the presence of a relatively limited amount of development in the surrounding area means that the proposed development would not be isolated, the proposed siting does raise some concerns. This is due to the relatively low provision of services within the surrounding area. In consequence, residents of the development would be required to travel to other settlements in order to access all the services and facilities that they are likely to require on a day to day basis.
16. The surrounding road network is relatively sinuous in nature, contains few grass verges, is unlit and lacks separate pavements for pedestrians. In consequence, this environment is not conducive to carrying out journeys on foot. Therefore, the lack of an attractive pedestrian environment is likely to encourage the carrying out of journeys by private cars.
17. Although the appeal site is relatively close to Harlow, the distances that would need to be travelled, combined with a diminished provision of public transport means that residents are more likely to use private cars. For similar reasons, I am not persuaded that the site's general proximity to employment areas in Edinburgh Way would be sufficient to prevent a significant number of journeys being made by private cars.
18. I also note that the site is close to a 'sustainable transport corridor potential extension', however, I do not have information regarding the timing for the delivery of this matter, the likely level of public transport provision, and the frequency of services. In consequence, this matter does not allow me to set aside my previous concerns as I do not have certainty that residents of the proposed development would have access
19. I therefore conclude that the site does not represent an appropriate location for a residential development. The development, in this regard conflicts with Policies DPS2 and TRA1 of the District Plan. These, amongst other matters, seek to ensure that there is a delivery of sustainable developments in accordance with a hierarchy of sites and that development proposals should ensure that safe and suitable access can be achieved for all users

*Character and appearance*

20. The proposed development be located to the front of the site. The appeal site is located on lower ground when compared to much of the surrounding area. The wider area primarily consists of open countryside.
21. By reason of the proximity of the proposed development to the road, the increase in built form would be readily apparent. In consequence, the building would erode the more rural character and appearance that defines the vicinity of the appeal site. This therefore highlights the need for appropriate landscaping.

22. Whilst I note that the appeal documents before me include a landscaping scheme, this does not assess the existing planting that is present within the confines of the appeal site and whether it is possible, or appropriate, to retain any of this post development.
23. This is of importance given that there is some mature landscaping adjacent to the highway edge and should it be removed, would result in a significant change to the character of this location. This would be exacerbated as any new landscaping would potentially take some time to become established, which would lessen its effectiveness in ensuring that the proposed development adequately assimilates into the rural surroundings that are a feature of the surrounding area.
24. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area arising from the lack of appropriate landscaping. The development, in this regard, conflicts with Policies DES2 and DES3 of the District Plan. These, amongst other matters, seek to ensure that proposals must demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape; and retain, protect and enhance existing landscape features.

#### *Flood risk*

25. The appeal site is relatively level in nature and is in proximity to a stream. In addition, parts of the appeal site are located within Flood Zones, 1, 2, 3a and 3b.
26. I have had regard to the submitted indicative layout plans. Whilst I acknowledge that the layout of the development has been reserved for future consideration, there is a likelihood that if it were to proceed in a manner consistent with the indicative layout, at least some part would be constructed in a higher risk flood zone.
27. This would cause some concern as this layout would also provide a relatively small ribbon of land between the proposed dwellings and the stream. This would provide a limited area for any flood water to accumulate, whilst also limiting the amount of space for maintenance of the stream or its banks.
28. Such measures could potentially increase the effects of flooding in the future. These concerns are emphasised as a sequential assessment has not been carried out. This means that it has not been demonstrated that there is no option of constructing the proposed development in an area associated with lower flood risk.
29. Whilst the layout of the development has been reserved for future consideration, I am uncertain that that a substantially different layout could overcome these concerns. This is important as any revised layout would need to be implemented in a manner that would also maintain, amongst other matters, the character and appearance of the surrounding area and the living conditions of the occupiers of neighbouring properties, in addition to securing appropriate living conditions for the future occupiers of the development.
30. I therefore conclude that the proposed development would have an adverse effect on flood risk. The development, in this regard, conflicts with Policy WAT1 of the District Plan. This, amongst other matters, seeks to ensure that new developments neither increase the likelihood or intensity of any form of

flooding, nor increase the risk to people, property, crops or livestock from such events, both on site and to neighbouring land or further downstream.

### **Other considerations**

31. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition to the adverse impacts on openness, the Green Belt's purpose of safeguarding the countryside from encroachment has been eroded by the development. Substantial weight should be given to this harm. Very special circumstances will not exist unless the harm to the Green Belt and the other identified harm are clearly outweighed by other considerations.
32. The proposal would result in an increase in the local housing supply, which might be available within the short term. However, the benefits of this are small given the scale of the proposed development. Given that this scale, any economic support of businesses and services within the area is also likely to be small. Accordingly, I give each of these matters limited weight.
33. As explained above, I give only limited weight to each of the considerations cited in support of the proposal and accordingly I do not find that these amount to the special circumstances necessary to justify the development.

### **Conclusion**

34. For the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR





---

## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

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

**Decision date: 9 November 2020**

---

**Appeal Ref: APP/J1915/D/20/3247591**

**10 Brickendon Green, Brickendon, Hertford SG13 8PB**

- 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 & Mrs N & J Rorke against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2242/HH, dated 30 October 2019, was refused by notice dated 23 December 2019.
  - The development proposed is a proposed part single storey/part two storey rear extension and proposed side dormer window.
- 

### Decision

1. The appeal is allowed, and planning permission is granted for the erection of a proposed part single storey/part two storey rear extension and proposed side dormer window at 10 Brickendon Green, Brickendon, Hertford SG13 8PB in accordance with the terms of the application, Ref 3/19/2242/HH dated 30 October 2019, subject to the conditions set out below:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans: 1384-S001-1<sup>st</sup> and 13834-P001-A.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The extension hereby permitted shall not be occupied until the proposed dormer window has been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

### Procedural Matter

2. For clarity and precision, I have inserted 'Hertford' in the address in the banner heading above as it is listed on the appeal form.

### Background and Main Issue

3. There is agreement between the main parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. Furthermore, the Council has not raised any issues towards other

elements of the proposed development, including the additional dormer window on the side facing roof slope, the external alterations, including the insertion of another door on the side elevation or the full width single storey rear extension. On the evidence before me, I have little reason to disagree with the Council on these matters.

4. Therefore, the main issue of this appeal is the effect of the proposed development on the character and appearance of the appeal site, No's 10 to 15 Brickendon Green (the terrace) and Brickendon Conservation Area (BCA), particularly from the 2-storey element of the rear extension.

## **Reasons**

5. The host dwelling is an end terraced house, which has a 1.5 storey appearance due to its cat slide roof design, which in turn, forms a prominent feature to both the front and side elevation of the property and to the street scene that it forms part. The roof has 2no. existing dormers on the front and side facing roof slopes.
6. The site is located within the BCA, which is a linear village extending from Well Green in the east, to Brickendon Green and Brickendon Grange, now associated with a golf course, in the west. It's significance stems from the variety of historic buildings located within it and the street scenes that they form. The relationships of the buildings with each other, the quality of the spaces between them and the vistas and views that unite or disrupt them, which are generally open in character where extensive open spaces with trees and hedgerows forming important elements.
7. The 2-storey rear extension is set in from the existing side elevation, with its fenestration details aligning with the windows on the rear elevation. The proposed roof over the 2-storey extension is a hipped roof that returns into the main roof, following the roof slope on the side elevation. Whilst concern has been raised with regards to the visual effect on the neighbouring properties forming the terrace, I do not share these concerns. The proposed development would not be clearly visible from Brickendon Green, but I accept that glimpses of the site would be possible from Fanshaws Lane.
8. Nonetheless, the proposed development would be a well-designed extension on the rear elevation of the host dwelling. Overall, whilst I note that the rear elevation of the terrace has remained generally unaltered, unlike the front elevations facing Brickendon Green, the design of the proposed 2-storey rear extension would complement the host dwelling and the terrace through replicating existing features within its proposed design.
9. At the statutory level, as the site is in the BCA I am required to pay special attention to the desirability of preserving or enhancing its character or appearance in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. I consider the proposed development accords with this duty. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness.

10. Paragraph 193 of the Framework adds that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). I consider that the proposed development would have an overall neutral visual effect on the BCA. Therefore, as the proposed development would not cause harm to the significance of the designated heritage asset for the purposes of the Framework, there is no requirement for me to consider public benefits to be weighed in a balancing exercise.
11. For all of these reasons, I therefore conclude that the proposed development would not harm the character and appearance of the appeal site, the terrace or the BCA. This would accord with the heritage, design, character and appearance aims of Policies DES4, HOU11 and HA4 of the Council's District Plan 2018.

### **Other Matter**

12. I have also had regard to reference by the Council to the refusal of a similar planning application to the appeal scheme at No 12 Brickendon Green, but on the limited details before me this is not a reason to withhold planning permission in the face of the lack of harm identified. I have considered this appeal scheme on its own particular merits and concluded that it does not cause harm for the reasons set out above.

### **Conditions**

13. For certainty, it is necessary that there is a condition requiring that the development is carried out in accordance with the approved plans and that conditions are necessary to ensure the facing materials match those present in the original house.
14. Whilst it is not suggested on the Questionnaire, there is reference in the Officer Report to the imposition of obscure glazing being required within the proposed side dormer window. I consider, due to the modest distance between the host dwelling and No 10a Brickendon Green, it is reasonable and necessary to impose an obscure glazing condition on this window to ensure the living conditions of neighbouring occupiers are satisfactorily maintained.

### **Conclusion**

15. Taking all matters into consideration, I conclude that the appeal should succeed.

*W Johnson*

INSPECTOR



## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 November 2020

---

**Appeal Ref: APP/J1915/W/20/3247579**

**Corner Cottage, 10A Brickendon Green, Brickendon, Hertford SG13 8PB**

- 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 & Mrs N & J Rorke against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2285/FUL, dated 6 November 2019, was refused by notice dated 13 January 2020.
  - The development proposed is described as: 'replacement of two existing outbuildings with a detached one-bedroom bungalow'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity and precision, I have inserted 'Hertford' in the address in the banner heading above as it is listed on the appeal form.
3. Whilst not cited on the Council's decision notice, the appellant has referred to Policy HA4 of the Council's District Plan 2018 (DP) and to the Brickendon Conservation Area Appraisal and Management Plan 2014 (BCAAMP) in their submission, which were provided by the Council in its Questionnaire. Therefore, I will not prejudice either party in taking these documents into consideration in the determination of this appeal.

### Background and Main Issues

4. There is agreement between the appeal parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. On the evidence before me, I have little reason to disagree with the main parties on this matter.
5. Therefore, the main issues of this appeal are the effect of the proposed development on:
  - i. the character and appearance of the appeal site and Brickendon Conservation Area (BCA); and,
  - ii. the living conditions of future occupiers, with particular regard to the provision of amenity space.

## Reasons

### *Character and appearance*

6. The appeal site currently provides the access<sup>1</sup> and parking area for No 10a, with storage available in single storey timber garage and shed. The proposal is for a single storey one-bedroom bungalow that would have a 'L' shape footprint, sited where the timber structures are located. An additional access would be created to serve the occupiers of No 10a.
7. The proposed dwelling would have a single aspect, due to the constraints of the site. However, this feature would not be clearly visible within areas of the public realm, due to existing and proposed boundary treatments that could be secured by a suitably worded condition. Additionally, I observed other bungalow's in the vicinity of the site during my visit and consider that the design of the proposed dwelling would not, in isolation, harm the character and appearance of the BCA.
8. However, the plot size of the appeal scheme in this location appears significantly smaller than the surrounding properties. These properties are all situated in generous plots, with generous rear gardens. The surrounding residential plots are positioned in an orderly arrangement fronting the road, which gives a distinct sense of spaciousness and ordered pattern of development to the immediate surroundings. The sizes of the surrounding residential plots contribute to a regular rhythm of development, making a positive contribution to the surrounding BCA. In the context of the surrounding BCA, the appeal scheme would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location and more cramped in its appearance. This relationship between buildings with each other is an important factor in the significance of the BCA.
9. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness. At the statutory level, as the site is in the BCA I am required to pay special attention to the desirability of preserving or enhancing its character or appearance in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The statutory duty in Section 72 of the Act is a matter of considerable importance and weight. I consider the proposed development fails to accord with this duty.
10. The proposal would have a negative effect on the significance of a designated heritage asset and would result in "less than substantial" harm in the words of paragraph 196 of the Framework. To allow the proposal the resultant harm would need to be clearly outweighed. The proposal provides an additional dwelling to the Council's housing supply and there would be modest economic and social benefits from its construction and subsequent occupation. However, I find that the public benefits of the proposed development would not outweigh the harm to the significance of the BCA.

---

<sup>1</sup> Off Fanshaw Lane

11. For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and the BCA. This fails to accord with the heritage, design, character and appearance aims of DP Policies DES4, VILL2 and HA4. Additionally, the proposed development would not conserve the heritage asset in a manner appropriate to its significance in line with the Framework.
12. The Council have cited DP Policy GBR1 on its decision notice, which confirms that planning applications will be considered in line with the provisions of the Framework. However, the Council have confirmed that it considers the proposed development would not conflict with the aims of the Framework to protect Green Belt land. Therefore, I find DP Policy GBR1 is not directly applicable to the case before me.

### *Living conditions*

13. There is no dispute between the main parties surrounding the sufficient level of internal accommodation that would comply with the guidance set out in the Government's technical housing standards<sup>2</sup>. However, neither party have provided any figures or calculations regarding the amount of outdoor private amenity space that would be provided for the future occupiers of the proposed development.
14. The evidence I have on this matter is inconclusive, as it appeared when on site that a modest amount of space would be provided between the car parking area for the new dwelling and the parking area for No 10A. I consider that this modest area would not be clearly visible from areas within the public realm, due to the notable boundary treatment on Fanshaws Lane, comprising a timber fence and a tall mature hedgerow. Additionally, due to the location of the existing and proposed access points, the outdoor amenity, albeit at the front of the proposed dwelling would benefit from a sufficient level of privacy.
15. Furthermore, I consider that the new shared boundary that would be created between the site and No 10a could be controlled through the imposition of a suitably worded condition to ensure that the boundary treatment would prevent any potential loss of privacy to future occupiers of the proposed development from the occupiers of No 10a. On balance, and in the absence of any substantive evidence to the contrary, I consider that the proposed area of private amenity space would be commensurate to the level of accommodation proposed in the 1no. bedroom, 2-person dwelling.
16. For all of these reasons, I therefore conclude that the proposed development would not harm the living conditions of future occupiers. This would accord with the amenity aims of DP Policy DES4 and the requirements of the Framework.

### **Other Matter**

17. I have also had regard to concerns raised by the appellant about the way that the Council handled the scheme, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

---

<sup>2</sup> Technical housing standards – nationally described space standard 2015

### **Planning Balance and Conclusion**

18. Whilst I accept the absence of other harm arising from the proposed development, including to the living conditions of future occupiers, and the modest social and economic benefits that would arise, these factors, do not outweigh my assessment of the main issues.
19. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
20. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR





## Appeal Decision

Site Visit made on 17 November 2020

**by Paul Thompson Dip TRP MAUD MRTPI**

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

**Decision date: 27<sup>th</sup> November 2020**

---

**Appeal Ref: APP/J1915/D/20/3251573**

**28 Rowney Gardens, Sawbridgeworth, Herts CM21 0AT**

- 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. K. Hawkins against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2535/HH, dated 10 December 2019, was refused by notice dated 4 February 2020.
  - The development proposed is demolition of side garage, removal of chimney stacks. Erection of single storey front, side rear two storied garage, kitchen, living room extensions.
- 

### Decision

1. The appeal is dismissed insofar as it relates to the Demolition of side garage and removal of chimney stacks. Erection of single storey front and rear and two storey side and rear extensions. The appeal is allowed insofar as it relates to Erection of single storey side extension and new vehicle access onto Rowney Gardens and proposed access gates and front boundary wall and planning permission is granted for Erection of single storey side extension and new vehicle access onto Rowney Gardens and proposed access gates and front boundary wall at 28 Rowney Gardens, Sawbridgeworth, Herts CM21 0AT in accordance with the terms of the application, Ref 3/19/2535/HH, dated 10 December 2019, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0797/2g and 0797/3.
  - 3) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans.

### Preliminary Matters

2. Despite the description of development set out above, I consider the description found on the Decision Notice and the Appeal Form better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'Demolition of side garage and removal of chimney stacks. Erection of single storey front, side, rear and two storey side and rear extensions. New vehicle access onto Rowney Gardens and proposed access gates and front boundary wall'. I have dealt with the appeal on this basis.



## **Main Issue**

3. The main issue is the effect of the proposed single storey front and rear and two storey side and rear extensions on the character and appearance of the existing house and the surrounding area.

## **Reasons**

4. The appeal concerns an interwar detached house situated in a residential street of similarly designed houses, the majority of which have been extended to the southern side to incorporate two-storey extensions and altered roof forms. Some also incorporate single storey additions to the rear. The appeal property was extended to the south in the 1980s to incorporate a garage.
5. The proposed extensions to the rear would be split between floors, with the second-storey extension set in at the rear and the single-storey extension continuing beyond this. The ridges of the two hipped roof components of the two-storey extension would be to the same height as the existing north gable and there would be a central box gutter between. The design of the roof would not, of itself, be harmful to the appearance of the property, principally as the existing roof would be visible behind. While there would not be views of these proposed extensions from the street, they would occupy the full width of the house and extend notably beyond the rear, their appearance would therefore be unduly dominant and imposing in relation to the existing house, particularly when viewed from the gardens of neighbouring properties.
6. The proposed two-storey side extension would terminate at the existing rear façade and incorporate a double hipped roof like the extension to the rear. The extension would be set back at first floor at the front and the existing roof slope of the house would be evident above and between the hipped portions of the new roof. At ground floor, the extension would continue further forward at the front, beyond the front elevation.
7. Given the design of the hipped roofs and its position in relation to the house, the proposed two-storey side extension would appear as a subservient addition to the house, in its own right. It would also have a similar appearance to an extension of a house further south. The forward projection, to incorporate the garage, would also be a modest addition that would not jar with the front façade of the house or be harmful in its surroundings. Nevertheless, given that the side extension would be linked to the extensions at the rear, it could not be severed to form an independent element of the appeal scheme. It must therefore be considered, as a whole, in conjunction with those parts of the proposal with which I have found harm.
8. There are numerous extensions to other properties in the street but, other than the alterations to No 1, they are largely not comparable with the appeal scheme, which also includes a two-storey rear extension. Even still, I note that the whole of the roof of No 1 has been altered to a crown roof, the lack of articulation and overall mass of which should not be used as a reason to allow those elements of the appeal scheme that would be harmful to No 28 and its surroundings. In any event, I am also conscious that I must consider the appeal scheme on its own individual merits.
9. In light of the above, despite the lack of local objections to the proposal and my findings, in isolation, in relation to the proposed two-storey side and single

storey front extensions, the appearance, scale and form of the existing house would be unrecognisable and overwhelmed by the proposed two-storey side and rear extensions and the single storey front and rear extensions. I therefore conclude that those elements of the proposed development would be harmful to the character and appearance of the existing house and the surrounding area. Hence, they would not accord with the design aims of Policies DES4 and HOU11 of the East Herts District Plan (Adopted October 2018), particularly in relation to the subservience of proposed extensions. The proposal would also be contrary to the paragraph 130 of the National Planning Policy Framework, as it would fail to take the opportunities available for improving the character and quality of the area.

### **Other Matters**

10. The proposal also includes a single storey extension to the northeast corner of the house to provide a study, which includes a small pitched section to the front and a flat roof behind. There would also be an additional vehicular access to form an in-out driveway, that would be enclosed by a predominantly low wall, but with piers and wrought iron double gates to each access. These parts of the proposal would be modest, both in their size and design, and would not be harmful to the character and appearance of the existing house or the surrounding area. I therefore find no harm in respect of these elements of the proposal and note that the Council did not raise concerns in this regard either. As those parts of the development are both physically and functionally severable from the other proposed extensions to the side and rear of the house, I consider a split decision would be a logical outcome.
11. I appreciate that the property is in the process of being modernised, and the proposal would improve natural light, insulation and the living environment of the appeal property, which would better meet the needs of the appellant and his family, particularly for future care and support. Similarly, the Council did not raise concerns with regard to the living conditions of neighbouring occupiers or highway safety, and there is nothing before me which would lead me to a different conclusion. However, the personal circumstances and other benefits, and absence of other harms would not be sufficient to outweigh the harm I have identified with regard to the other parts of the appeal scheme referred to in the main issue.
12. The appellant submitted the proposal following pre-application advice, which was preceded by refusal of planning permission for a similar proposal. The Framework stresses the benefits of early engagement and of good quality pre-application discussion. The appellant has referred to the conduct of the Council, including with regard to their approach to and the timeframe of those discussions, but also in relation to the approach to and consistency of its decision-making. These are primarily not matters for me to consider as part of this appeal, in any event, I have considered the individual merits of the appeal scheme afresh in relation to the relevant policies and evidence before me.

### **Conditions**

13. In addition to the standard time limit, I have specified in the decision that, in terms of the side extension to form a study, the new vehicular access and the front boundary wall and gates, the development shall proceed in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. A condition relating to materials being in accordance with the details

shown on the application form or plans is also necessary to ensure that the appearance of those aspects of the proposal would be satisfactory.

14. I have not included the other conditions suggested by the Council as they are not relevant to those aspects of the proposal, particularly the protection of hedges and trees, as the front hedge already appears to have been removed and there is already a wall at the front of the site close to the hedge separating Nos 27 and 28.

### **Conclusion**

15. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the single storey side extension, for a study, the proposed new vehicle access onto Rowney Gardens and proposed access gates and front boundary wall, but dismissed insofar as it relates to the single storey front and rear and two-storey side and rear extensions.

*Paul Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 20 October 2020

**by C Beeby BA (Hons) MIPROW**

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> November 2020

---

**Appeal Ref: APP/J1915/D/20/3251564**

**11 Burnham Green Road, Datchworth, Hertfordshire SG3 6SE**

- 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 Wager against the decision of East Herts Council.
  - The application Ref 3/19/2613/HH, dated 16 December 2019, was refused by notice dated 5 February 2020.
  - The development proposed is described as “raise the roof to the existing front projection and reconfigure the first floor layout”.
- 

### Decision

1. The appeal is allowed and planning permission is granted for “raise the roof to the existing front projection and reconfigure the first floor layout” at 11 Burnham Green Road, Datchworth, Hertfordshire SG3 6SE, in accordance with the terms of the application, Ref 3/19/2613/HH dated 16 December 2019, subject to the following 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: RL/4884/11-16 dated October 2019.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Preliminary 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 Issue

3. The main issue is the effect of the appeal proposal on the character and appearance of the area.

### Reasons

4. The appeal property is a two-storey detached dwelling lying within a residential area. Property design in the vicinity is relatively diverse, however a number of dwellings have two-storey front gables which project from the property’s front

elevation, combined with eaves to the main roof at ground floor level. Several of the front gables match the height of the main roof. Thus, the combination of eaves to the main roof at ground floor level with a gable element with substantially higher eaves is characteristic of the area's pattern of development.

5. The property has an existing single storey front gable, which the appeal proposes to extend to two-storey height. The scheme would consequently be characteristic of the surrounding pattern of development.
6. Furthermore, the eaves to the extension would approximately match the height of those above a dormer window which lies within the other side of the roof, producing a symmetry of design which would acceptably mitigate any visual harm which would arise from the contrast in eaves height elsewhere. The extension's lower roof ridge line would give rise to a subservience to the existing property, which would contribute positively to the building's appearance.
7. Accordingly, the proposal would assimilate satisfactorily with the surrounding pattern of development, and would have an acceptable effect on the character and appearance of the area. Thus, the proposal accords with Policies DES4, VILL2 and HOU11 of the East Herts District Plan 2018, which set out that development should reflect local distinctiveness and should be in keeping with the character of the surrounding area.

### **Other Matters**

8. Concern is raised by an interested party regarding the proposal's effect on daylight and outlook available to the occupiers of No 13 Burnham Green Road. However, the dwelling is reasonably well set back from its boundary with the appeal property, so that the distance would prevent any unacceptable effect on these matters.
9. Concern is additionally raised regarding the proposal's effect on the privacy of the occupiers of No 10 Burnham Green Road. Nevertheless, as the dwelling concerned lies across intervening highway, verges and front garden areas with boundary treatments, I am satisfied that the separation between the two dwellings would allow for an acceptable effect on the issue.

### **Conditions**

10. I have imposed a condition specifying the relevant drawing as this provides certainty.
11. A condition in respect of materials is necessary in order to protect the character and appearance of the area.

### **Conclusion**

12. For the above reasons, I conclude that the appeal should be allowed.

*C Beeby*

INSPECTOR



---

## Appeal Decision

Site visit made on 18 November 2020

by **David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 30<sup>th</sup> November 2020

---

**Appeal Ref: APP/J1915/Q/20/3253992**

**The Cock Inn, Ginns Road, Stocking Pelham, Buntingford, Hertfordshire SG9 0HZ**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a failure to determine that a planning obligation should be discharged.
  - The appeal is made by Mr Shaun Savage, Winchmore Developments Ltd against East Hertfordshire District Council.
  - The development to which the planning obligation relates is the construction of two residential dwellings and a public house.
  - The planning obligation, dated 14 February 2012, was made between East Hertfordshire District Council and David Lyle Smith.
  - The application Ref 3/20/0201/SV is dated 15 January 2020.
  - The application sought to have the planning obligation discharged.
- 

### Decision

1. The appeal is allowed and the planning obligation is discharged.

### Main Issue

2. The main issue is whether the planning obligation performs a useful function.

### Reasons

3. The Cock Inn, a public house in the village of Stocking Pelham, was destroyed by fire in 2008. In 2012 outline planning permission (Ref. 3/10/1583/OP) for the construction of two residential dwellings and a public house was granted by the Council following a Section 106 agreement between the Council and then site owner David Smith.
4. Under this agreement, with the objective of securing construction of the public house, the third schedule specifies:

“The owner shall not suffer nor permit the occupation of more than one dwelling until such time as the public house has been constructed and put in to a state where it is capable of being granted a premises license under part 3 of the Licensing Act 2003 (“Operational State”) to the reasonable satisfaction of the [Council’s] director; and

The owner shall procure that the public house shall be constructed and put into an Operational State to the reasonable satisfaction of the [Council’s] director not later than 12 months after the date of occupation of the first dwelling at the site”.

5. The fifth schedule specifies:

“At the written request of the owner the Council shall provide written confirmation of the discharge of the obligations contained in this deed when satisfied that such obligations have been performed”.

6. The two dwellings have been constructed together with the public house which, from an internal inspection, includes a large ground floor space suitable for a bar and dining area with a separate storage room at one end, layout for toilets at the other and kitchen space with stores to the rear. The first floor is divided by unfinished internal partitions into various rooms which could have a variety of uses. Whilst the two dwellings are now occupied, the public house building is unoccupied and requires considerable internal finishing and fitting out works.
7. The appellant, who now owns the public house building, states that both the dwellings and public house were constructed in 2015 with the first dwelling (Sweet Bay Cottage, still in their ownership) first occupied on 18 September 2015 and the second dwelling (Wild Cherry Cottage) sold and first occupied on 8 December 2015. In addition, on 21 July 2015, a Premises Licence No PL1067 was granted by the Council for “the sale by retail of alcohol for consumption on and off the premises” between 10am and 11pm daily with opening hours 10am to 12 midnight. A copy was provided with the appeal documentation.
8. Although the premises licence has since lapsed, the fact of its issue in July 2015 demonstrates that the building fulfilled the Section 106 agreement definition of being put into an “Operational State” at that time. The definition was that a premises licence could be issued. Furthermore, this requirement was met *prior* to the occupation of the first dwelling on 18 September 2015, so well before the deadline in the agreement of a year *after* this occupation date. The requirement was also met prior to the occupation of the second dwelling on 8 December 2015, the backstop date in the Section 106 agreement.
9. The Council, who failed to determine the current application, have confirmed in writing their view that the issue of the premises licence is determinative in this case and that the obligation has therefore been met. The obligation in the third schedule therefore no longer serves a useful purpose and it follows that the appeal must succeed.
10. Under the fifth schedule the owner is entitled to written confirmation that the obligation has been performed. This decision letter serves that function.
11. Local residents understandably wish to see the public house in the village reopen. It is important to note that this appeal decision does not affect the current planning or asset of community value status of the building, it only relates to the obligation within the Section 106 agreement.

**Conclusion**

12. Having regard to the above the appeal is allowed.

*David Reed*

INSPECTOR





## Appeal Decision

Site visit made on 10 November 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Wednesday, 25 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3252844**

**Land adjacent Lorne Croft, Wellpond Green, Standon SG11 1NJ**

- 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 Mr & Mrs L. & M. Petrie against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0307/FUL, dated 19 February 2020, was refused by notice dated 15 April 2020.
  - The development proposed is the erection of a detached, four-bedroom dwelling with associated driveway and amenity area.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the suitability of the site as a location for a residential development;
  - the effect of the development upon the character and appearance of the surrounding area;
  - the effect of the development upon ecology;
  - the effect of the development upon highway safety;
  - whether appropriate refuse storage could be provided; and
  - if any harm caused in respect of the above issues is outweighed by the personal circumstances of the appellant.

### Reasons

#### *Suitability of the site*

3. The appeal site consists of an area adjacent to the garden of Lorne Croft. It has a more natural appearance that contrasts with the form of the existing dwelling and its garden. The site is accessed via a track and is near to other dwellings.
4. Whilst this siting means that the dwelling would not be isolated, residents of the proposed dwelling would need to travel to other settlements in order to access all of the services and facilities that they may require on a day-to-day basis.

5. Whilst I acknowledge that the relevant distances might not be overly large, the surrounding road network is of a narrow, sinuous and sometimes uneven nature. These characteristics are combined with limited streetlighting and verges and a lack of separate environments for pedestrians and cyclists. This means that any pedestrians or cyclists would potentially come into conflict with motor vehicles owing to the nature of the road network.
6. This would be particularly concerning in times of poor light or inclement weather, where residents might reasonably be reluctant to undertake a potential journey by such a method.
7. In consequence, the lack of a welcoming environment for pedestrians and cyclists is likely to increase the reliance of the occupiers of the development upon private cars as a means of travelling to and from the site, irrespective of the actual distances that might need to be travelled.
8. In addition, the surrounding area does not appear to be well served by public transport. In consequence, there does not seem to be a satisfactory alternative within the surrounding area to travelling by private car.
9. Although the actual appeal site might not be within open countryside, it would be located some distance away from existing houses. Furthermore, these existing houses are generally arranged in a linear form and face one of the highways within the vicinity. The proposed development would be located to the rear of existing dwellings. In consequence, it cannot be considered to represent an infill development within a village as it would not be sited within a linear form of existing developments.
10. I therefore conclude that the appeal site represents an unsuitable location for a residential development. The development, in this regard, would conflict with the requirements of Policies DPS2, VILL3 and GBR2 of the East Hertfordshire District Plan (2018) (the District Plan). These, amongst other matters, require developments to be located in a hierarchy of sustainable settlements; relate well to the village in terms of location, layout and connectivity; and encourage developments to maintain the countryside.

#### *Character and appearance*

11. The appeal site is located to the rear of the existing dwelling, which is also served by a garden and some outbuildings. Near to the appeal site are some additional buildings, some of which are in use as residential dwellings. In addition, the site is next to open countryside. The site is also in the Nags Head Field, Wellpond Green Local Wildlife Site due to its grassland interest.
12. Whilst the proposed dwelling would be of a single storey, it would have a relatively large footprint. In consequence, the development would amount to a relatively sizeable building that would be at odds with the predominantly open and verdant character of the precise appeal site.
13. By reason of the site's individual location, it forms a transitional space between the open countryside and the more developed form of the settlement of Wellpond Green. Although within the curtilage of the existing dwelling, the specific location of the proposed dwelling currently has a very different appearance to the remainder of the garden and built form. In consequence, its development and replacement with a dwelling would lead to an erosion of this characteristic owing to the increase in built form. This would occur even if I

were to agree with the appellant that the proposed development was not in a backland location.

14. In addition, the proposed development would include an area for vehicle parking and manoeuvring, as well as a driveway. Owing to the change of surface treatments, this would also add to the overall built form of the development and change in the character of the surrounding area.
15. Furthermore, as a dwelling, there is a likelihood that the garden would include items of domestic paraphernalia, such as sheds. This would add to the general built and developed form of the proposal. In consequence, the proposed development has the potential to significantly alter the character and appearance of the site.
16. This is particularly concerning owing to the general prominence of the site. Views of the appeal proposal would be possible from some of the surrounding dwellings and their gardens, in addition to some of the public routes that exist within the surrounding area. In consequence, the proposal has the potential to be experienced by a significant number of people and, in result, the incongruous form of development would be readily apparent.
17. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, conflicts with Policies GBR2, VILL3, DES2, DES3, DES4, NE1 and NE2 of the District Plan.
18. These policies, amongst other matters, seek to ensure that new developments be well designed and in keeping with the character of the village and the rural area; conserve, enhance or strengthen the character and distinctive features of the landscape; be of a high standard of design and layout; safeguard the nature conservation value of the site; and provide a net gain in biodiversity.

### *Ecology*

19. The appeal site consists of an undeveloped area and part of the garden of the existing dwelling. The site therefore has a natural appearance. There are also some mature trees adjacent to the site's boundaries. Beyond the appeal site is open countryside.
20. By reason of the nature of the proposed development, the undeveloped appearance of the site would be eroded. This would therefore reduce some of the natural features of the site. The consequence of this is that the potential of the site to provide a suitable habitat for wildlife would be diminished.
21. In consequence, the absence of an appropriate survey into the presence of matters of ecological note is particularly concerning. This is because it has not been conclusively demonstrated that the proposed development would not have an adverse effect upon the ability of the site to support wildlife habitats.
22. I acknowledge the suggestion that a condition could be imposed that would cover the carrying out of survey work. This would also, if needed, identify additional mitigation to be provided.
23. However, without certainty regarding the level of ecological activity, it is therefore not possible to reasonably impose such a condition. The reasoning for this is that it is not possible to precisely state the level of mitigation at this

junction that might be required and whether this could be maintained and retained throughout the life of the development if needed. In consequence, such a condition would lack sufficient precision to be reasonably imposed and would therefore be unreasonable.

24. I therefore conclude that the proposed development would have an adverse effect upon ecology. The development, in this regard, conflicts with Policies NE1 and NE2 of the District Plan. These policies, amongst other matters, seek to ensure that new developments safeguard the nature conservation value of the site; and provide a net gain in biodiversity.

#### *Highway safety*

25. The proposed dwelling would be accessed via its driveway, which would cross the existing garden and run from a track. This is, in turn, served by a road.
26. Whilst larger vehicles, such as fire appliances, might only be expected to be at the site on an occasional basis, the fact that the requirement for their presence cannot be discounted does raise some concerns.
27. In particular, the limited space within the site for a larger vehicle to turn around is concerning. It can also be reasonably anticipated that, at times, there might also be multiple cars parked on the site that are associated with occupiers of the development.
28. Whilst I am aware that a larger driveway and turning area could be provided, I do not have details of the likely scale of this before me. In consequence, I am mindful that an increase in the level of built form has the potential to add to the previously adverse effects on the character and appearance of the surrounding area owing to a greater amount of additional hard surfacing, in addition to the greater loss of planting. In result, I do not find that this suggestion is sufficient to overcome my previous concerns.
29. In consequence, should there not be enough room to turn a large vehicle, such as a fire appliance, manoeuvring onto and off the driveway utilising the track may cause conflict with other users, such as pedestrians owing to its relatively narrow width and general lack of forward visibility. This would not be conducive to securing satisfactory levels of highway safety. In reaching this view, I have also had regard to the requirements of the National Planning Policy Framework (the Framework), which is clear that developments that have an adverse effect on highway safety should be resisted.
30. I therefore conclude that the proposed development would have an adverse effect on highway safety. The development, in this regard conflicts with Policy TRA2 of the District Plan. Amongst other matters, this policy requires that new developments are acceptable in highway safety terms.

#### *Refuse storage*

31. The proposed development would include a relatively large garden and access road.
32. As a house with a garden, there would be sufficient space within the development to accommodate an area for the storage of refuse in convenient proximity to the dwelling. This would ensure that residents of the development would have adequate access to such a facility.

33. Residents of the development would need to carry such refuse to the edge of the appeal site, which would be some distance. However, the relative infrequency that such journeys would need to be made would not generate excessive levels of inconvenience to the occupiers of the development.
34. Although limited details of refuse storage have been submitted with the proposals, had I been minded to allow this appeal I could have imposed conditions that would require additional refuse storage to be agreed with the Council at an appropriate juncture and for this to be implemented and retained throughout the life of the development.
35. Furthermore, conditions could have been imposed regarding the surfacing of the access into the development. This would have aided the movement of refuse to the appeal site edge.
36. I therefore conclude that the proposed development could provide appropriate refuse storage. The development, in this regard, complies with Policy DES4 of the District Plan. This, amongst other matters, requires that developments make provision for the storage of bins.

### **Other Matter**

37. I note concerns raised by the appellant regarding the manner in which the Council considered the planning application. However, in assessing this appeal, I have limited my considerations to the planning matters before me.

### **Planning balance and personal circumstances**

38. I have carefully considered the reasons why the appellant has applied for planning permission for the proposed development. Given the nature of the information before me, as part of the appeal documentation, it would not be appropriate for me to outline the specific reasons why planning permission was applied for. Nonetheless, I have no doubt that the proposed development would result in improved conditions for the appellant's family. These are personal circumstances to which I attribute weight in favour of the appeal.
39. In weighing the personal circumstances in the planning balance, this must be considered against the very significant effect that the proposal would have on the character and appearance of the surrounding area, the harm arising from the site being an unsuitable location for a residential development and the adverse effects on highway safety and ecology.
40. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act 1998, which requires that decision makers have due regard to Human Rights and any protected characteristics in making a decision.
41. In respect of the above, a refusal of planning permission is a proportionate, and necessary approach to the legitimate aims of ensuring that residential dwellings are located in appropriate locations; that the character and appearance of an area is maintained; and that developments do not have adverse effects on highway safety and ecology.

42. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the family of the appellant's human rights.

Therefore, whilst I acknowledge the personal circumstances of the appellant's family, I conclude that this is not a matter that outweighs the harm that would be caused by the proposed development in respect of my previous conclusions on the other main issues.

### **Conclusion**

43. Whilst I recognise that a condition could be imposed that would ensure that appropriate refuse storage could be secured by a condition, this would not overcome my concerns in respect of the other main issues. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

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

**Decision date: 10 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3254838**

**Dalmonds Wood Farm, Mangrove Road, Brickendon, Hertford SG13 7QA**

- 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 Eamon Bourke of Dalmonds Wood Farm Limited against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0337/FUL, dated 17 February 2020, was refused by notice dated 4 May 2020.
  - The development proposed is described as: 'change in use of existing disused reservoir from agricultural use to recreational use in the form of private fishing and the installation of a small boat to be let for holiday accommodation in association with the private fishing use'.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues of this appeal are:
  - i. whether the proposed development would be inappropriate development in the Green Belt;
  - ii. the effect of the proposed development on the openness of the Green Belt;
  - iii. the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,
  - iv. if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### Reasons

#### *Background*

3. It is confirmed in the Officer Report that the principle of the change of use of the land and reservoir for the provision of outdoor sport/recreation in the form of private fishing would be acceptable. Additionally, it acknowledges the associated landscape planting, grading engineering works to the sides of the existing reservoir to provide shallow margins, the installation of 5 small wooden fishing platforms (1m x 1.5m) and the formation of an informal parking area for 3 vehicles would also be acceptable, causing no Green belt



harm. The main area of dispute between the main parties surrounds the provision of a holiday let in the form of a sailing boat (the boat), moored on the reservoir. The boat would have approximate dimensions of 7.6m long x 3.6m wide. On the evidence before me, I have little reason to disagree with the Council's observations on these matters and have therefore dealt with the appeal on this basis.

#### *Inappropriate development*

4. The National Planning Policy Framework (the Framework) states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145 of the Framework.
5. In the Planning Statement it is confirmed that the boat would have its engine and fuel tank taken out to ensure potential sources of pollution are removed. Therefore, on this basis, the boat would have a degree of permanence. However, although the boat would be used for residential purposes, it cannot to my mind be equated to a new 'building' and in turn to a 'dwelling'. I consider that the correct approach is firstly to note that paragraph 145 refers only to buildings.
6. Therefore, based on the above, I find paragraph 146 to be more appropriate in this instance, which states: 'Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it'. Particular relevance in this case is paragraph 146 e), which states: 'material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)'. Even if I decided that the boat constituted a 'new building' for the purposes of the Framework, paragraph 145 b) still requires the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation facilities to preserve the openness of the Green Belt and not to conflict with the purposes of including land within it.
7. Consequently, the proposed development would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate.

#### *Openness*

8. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a development on Green Belt openness. It states that openness is capable of both spatial and visual aspects.
9. The appeal site is located in the open countryside and is partially screened by mature trees and vegetation on the site boundaries, which reduces its visual effect. Nonetheless, the effect on openness is not just about the degree to which a structure would be visible to the public realm, but it is also concerned about the spatial aspect of encroachment on openness which can result from the effect of even small structures, such as the boat.

10. I recognise that the boat would be of a simple design, relatively small in scale, occupying a small part of the reservoir. Nonetheless, the boat would introduce additional bulk and massing to the site and therefore, in spatial terms, would have a harmful impact upon the openness of the Green Belt. It follows that whilst the proposal would not be visually intrusive in terms of openness, it would nonetheless, have a moderate impact on openness due to its spatial characteristics.
11. Whilst the appeal site is only small, even small incursions into the Green Belt can erode it, meaning that it's lost forever. There is no definition of "openness" in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development. I conclude that the proposal would have a moderate harmful impact on the openness of the Green Belt and would, therefore, represent inappropriate development.

#### *Character and appearance*

12. The reservoir is approximately 3500m<sup>2</sup> in area and is an open expanse of water with minimal surrounding vegetation and the site has a visual connection with the surrounding open countryside, especially with the adjoining agricultural fields. The boat would be moored in the north east section of the reservoir, although I note that this location is indicative. Additionally, I acknowledge that the immediate area surrounding the site reservoir would benefit from a scheme of native tree planting.
13. However, whilst I accept that it is not unusual to find boats on expanses of water, I do consider in this instance that a 'sailing vessel' of the type indicated in the Planning Statement would appear as an unusual feature on the site, as such a vessel would not normally be moored on such an expanse of inland water. Additionally, on the limited details before me, I cannot be certain that such features as the mast or the sails would not be raised. I have considered whether suitably worded conditions could be imposed to ensure that otherwise unacceptable development could be made acceptable in this respect, but this is not possible in this instance.
14. For the reasons given above, I conclude that the proposal creates moderate harm to the character and appearance of the appeal site and surrounding countryside. The development therefore fails to accord with the design, character and appearance requirements of the Framework.

#### *Other considerations*

15. I have concluded that the proposal represents inappropriate development in the Green Belt and harms the openness of the Green Belt. Substantial weight should be given to this harm. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
16. Whilst no formal case has been put forward by the appellant to demonstrate very special circumstances, I acknowledge there would be some limited economic and social benefits resulting from the proposal. I also recognise that the Framework<sup>1</sup> seeks to support a prosperous rural economy, including the development of tourism. The proposal would complement the appellant's existing rural business, utilising the existing reservoir, where the tourist

---

<sup>1</sup> Paragraph 83

accommodation would be provided in an attractive countryside location and relatively close to surrounding settlements and other holiday lets. There is no good reason to take the view that the proposed accommodation would not be successful in attracting visitors. However, I have found harm to the Green Belt by way of inappropriateness and the moderate harm to openness to which I must attach significant weight.

17. Consequently, these considerations, along with the other matters identified in the evidence either individually or collectively, do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the proposal.

### **Other Matters**

18. The Council has raised concerns surrounding the viability of the proposed holiday let in the Officer Report, albeit providing little evidence to support its assertion. However, as I am dismissing the appeal for other reasons, I have not needed to consider this matter further.
19. The appellant has also expressed concerns about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

### **Green Belt Balance**

20. In summary, therefore, the appeal proposal would be inappropriate development in the terms set out in the Framework and lead to a moderate loss of openness to the Green Belt. Furthermore, the proposed development would cause moderate harm to the character and appearance of the appeal site and surrounding countryside.
21. Having carefully considered the benefits of the proposal and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm and other identified harm. As such, the very special circumstances needed to justify the proposal in the Green Belt do not exist in this case. Accordingly, there is conflict with Policy GBR1 of the Council's District Plan 2018 and the requirements of the Framework.

### **Conclusion**

22. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR



---

## Appeal Decision

Site visit made on 11 November 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Wednesday, 25 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3253952**

**Land rear of 138 Hertingfordbury Road, Hertford SG14 2AL**

- 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 C. Johnson (Willowmead Construction Ltd) against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0635/FUL, dated 23 March 2020, was refused by notice dated 18 May 2020.
  - The development proposed is the erection of a new property, comprising 1no. one bed, 1no. two bed and 2no, three-bedroom flats with associated parking, cycle and bin stores.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effects of the development arising from car parking;
  - whether appropriate living conditions would be provided for the future occupiers of the development;
  - whether the proposed development would provide appropriate refuse storage; and
  - the effect of the development upon the character and appearance of the surrounding area.

### Reasons

*Effects of the development arising from Car parking*

3. The proposed development includes four dwellings in total and four separate, off-street car parking spaces. Hertingfordbury Road is a dual carriageway leading into the settlement of Hertford. The appeal site is served by a spur of Hertingfordbury Road, which also serves as access to a number of other dwellings. There are some driveways and dropped kerbs within the section of the road. The site is near to Valeside, which features a number of corners and dropped kerbs.
4. Amongst other dwelling types, the development includes some three-bedroom flats. By reason of their scale, there is a reasonable likelihood that some would

- be occupied by families. In consequence, at times, a larger number of vehicles might be required to be present at the site.
5. Owing to the limited number of spaces within the development, some cars might be displaced into the surrounding streets. This poses a concern as the layout of the surrounding streets and presence of dropped kerbs there does not appear to be an abundance of car parking spaces within the vicinity of the site. In addition, the availability of on-street car parking is further reduced due to restrictions being in place in parts of the nearby road network.
  6. In consequence, the displacement of cars associated with the proposed development onto the surrounding road network is likely to lead to an erosion of highway safety as residents might be encouraged to park in inopportune locations. This would potentially reduce the level of visibility of motorists when entering or leaving a driveway or turning at a junction.
  7. On my site visit, I noted a number of vehicles parked on pavements, which reduces the amount of space for pedestrians to move within the vicinity. Whilst I appreciate that my site visit represents a single snapshot in time, should this occur on a regular basis, my concerns would be heightened. This increased competition for car parking spaces is also likely to cause greater inconvenience for the occupiers of neighbouring properties owing to the lack of alternative available spaces in the vicinity.
  8. Due to the location of the proposed development on one of the main routes into Hertford, I acknowledge that residents would have some access to public transport provision. However, whilst this would be of some use, it would not necessarily serve as a suitable alternative for all journeys. In addition, the use of bicycles may not always be an adequate alternative. As such, these points do not overcome my previous concerns.
  9. Furthermore, owing to the scale of the development, occupiers of at least some of the dwellings might own multiple cars, and visitors arriving at different dwellings at similar times cannot be discounted. In consequence, the presence of public transport routes does not overcome my previous concerns.
  10. No objections have been raised to the development by the local Highway Authority. However, whilst this is a matter of note, it is only one of the points that must be considered and therefore does not overcome my previous concerns.
  11. I therefore conclude that the proposed development would have an adverse effect upon highway safety and the living conditions of neighbouring properties. The development, in this regard, would conflict with Policies TRA3 and DES4 of the East Hertfordshire District Plan (2018) (the District Plan). These, amongst other matters, seek to ensure that car parking should be integrated as a key element of design to ensure good quality and safe environments; and avoid significant detrimental impacts on the occupiers of neighbouring properties.

#### *Living conditions*

12. The footprint of the proposed development would encompass a significant proportion of the site. The dwellings to the rear of the site are also located on significantly higher ground when compared to the dwellings in Hertingfordbury Road due to topography. As a result, the windows of the dwellings are concentrated on some elevations.

13. The proposal details that Unit 1 (as shown on the submitted plans) would feature a light well. Whilst this would ensure that residents of this particular dwelling would experience an appropriate amount of light, when this is combined with the limited number of windows, the level of outlook for some rooms would be diminished owing to the proximity of the sides of the light well. This is particularly concerning given that one of the effected rooms would be the dwelling's kitchen and living room, which is likely to be used on a regular basis.
14. In consequence, the presence of light wells would not appropriately mitigate the concerns arising from the relative lack of windows within the dwelling.
15. Unit 2 (as shown on the submitted plans) would have windows that would be directly adjacent to part of the car parking area. This dwelling would also be near to the car parking area of an adjacent dwelling. Owing to this relationship, any parked cars would need to be manoeuvred near these windows.
16. This is likely to generate excessive noise and disturbance that would prevent occupiers of this particular dwelling from experiencing satisfactory living conditions. Furthermore, such vehicles might reasonably be expected to manoeuvre during late nights and early mornings where the occupiers of Unit 2 might expect a greater level of peace and quiet. As the development would be occupied by separate households, it is unlikely that vehicle movements could be co-ordinated to prevent this from having an adverse effect on living conditions.
17. The car parking spaces and manoeuvring area would be available for use by all occupiers of the development. Owing to the proximity of these areas to the windows, the movement of people would allow for clear views into Unit 2. This would erode the level of privacy that residents of this dwelling would experience.
18. This is particularly concerning as the proposal would comprise four separate households. In consequence, not all residents are likely to be well known to each other. This would mean that the loss of privacy to occupiers of Unit 2 would be significant. Owing to the layout of the dwelling, it would not be possible for residents of Unit 2 to utilise different rooms of the dwelling to overcome this matter, whilst also experiencing appropriate levels of light and outlook.
19. By reason of the scale of the site, the outdoor recreation areas are relatively small. This is particularly concerning as Units 3 and 4 would both feature three bedrooms. In result, they could be occupied by families. In consequence the lack of appropriately sized private garden space would reduce the ability of residents to undertake private outdoors recreation, including outdoor play.
20. The proposed development would feature dwellings of an appropriate size and these are likely to meet the needs of the future occupiers. This would also allow for the storage of household items, whilst separate cycle storage has been provided. However, this would not overcome the issues regarding noise, light and outlook as previously identified. Furthermore, the presence of outdoor recreation areas would not overcome the previous concerns.
21. I therefore conclude that the proposed development would not provide appropriate living conditions for all occupiers of the proposed development. The



development, in this regard, would conflict with Policies DES4 and EQ2 of the District Plan. Amongst other matters, these seek homes, that are flexible to future adaptation, including the changing needs of occupants; and to ensure that developments be designed in a way that minimises the direct and cumulative impact of noise on the surrounding environment.

#### *Refuse storage*

22. The proposed development would be set back from the highway edge and would be accessed via a private service road. This would be shared with occupiers of the adjacent residential development. A refuse storage area has been illustrated but is outside of the red line as denoted on the site plan.
23. Whilst the refuse storage area could accommodate some large sized bins in order to store refuse and recycling materials for the development's residents, this would be located some distance away from the actual dwellings and via a relatively steep service road, which would be inconvenient.
24. In addition, the fact that it is outside of the appeal site, as illustrated by the red line of the proposed site plan means that I cannot be certain that a condition requiring the implementation and retention of the proposed refuse storage would meet the statutory tests.
25. This is particularly concerning as owing to the relatively small outside areas that have been allocated to each dwelling, there are limited areas where refuse and materials for recycling might be stored. In consequence, should such refuse and recycling materials be stored within such areas, it would limit their effectiveness as an area where residents might undertake outdoors recreation, or outdoor play.
26. I therefore conclude that the proposed development would not provide appropriate refuse storage. The development, in this regard, would conflict with District Plan Policy DES4. This, amongst other matters, seeks to ensure that developments make provision for the storage of bins.

#### *Character and appearance*

27. The proposed development would be located to the rear of properties in Hertingfordbury Road and near to an existing, backland development. The buildings within the surrounding area are constructed to different designs and are set back from the highway edge by differing amounts. The surrounding area also features a garage court.
28. Owing to the mixture of building types, designs and locations within the vicinity of the appeal site, the surrounding area does not feature a single defining building style. Accordingly, the proposed development, whilst being of a different design to many other nearby buildings, would not appear to be particularly discordant as it would complement the variety of built form within the surrounding area.
29. In addition, the proposed development would be located alongside an existing backland development, which although constructed to a different design has a similar mass to the proposed development. In consequence, this relationship would prevent the proposal from eroding the character of the area.



30. The proposed development would be screened, to a significant degree by the existing dwellings in Hertingfordbury Road and Valeside. In consequence, the proposed development would not be readily visible from the wider area and any views of the development would generally be fleeting in nature and obscured by other buildings.
31. Therefore, whilst the proposed development would include four dwellings, vehicle parking areas, manoeuvring areas and a cycle store, it would not appear unduly strident or prominent.
32. Furthermore, had I been minded to allow this appeal, I could have imposed a condition to secure the implementation and retention of some soft landscaping. Whilst such areas of landscaping would be relatively small, they would reduce the overall effect of the increased built form.
33. I therefore conclude that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conform with District Plan Policies DES3, DES4 and HOU2. These, amongst other matters seek to ensure that new there is no net loss of landscaping features; that developments be of a standard of design that reflects and promotes local distinctiveness and be informed by the character of the local area.

#### **Other Matters**

34. My attention has been drawn to previous appeal decisions in respect of this site. I do not have all of the information regarding their planning circumstances, which lessens the weight that I can attribute to them. Furthermore, I note that they pertain to a different nature of development to the one before me as they relate to a single dwelling. Accordingly, the presence of these decisions does not overcome the concerns that I have previously identified.
35. The proposed development would result in development of a site within the existing urban area and would add to the local supply of housing. Whilst these are matters of note, they do not outweigh my conclusions in respect of the main issues.

#### **Planning balance and conclusion**

36. The proposed development would not have an adverse effect on the character and appearance of the surrounding area. Whilst this is a matter of note, this does not outweigh the adverse effects arising from the negative effects from the car parking, the lack of appropriate refuse storage and the lack of appropriate living conditions for the future occupiers of the development. Accordingly, for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



---

## Appeal Decision

Site visit made on 10 November 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Wednesday, 25 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3253823**

**Walnut Tree House, Acorn Street, Hunsdon SG12 8PG**

- 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 Mr & Mrs P. & M. Morris against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0636/FUL, dated 23 March 2020, was refused by notice dated 29 May 2020.
  - The development proposed is the conversion of an existing stable and hay and tack store building to create a three-bedroom dwelling and two parking spaces.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the suitability of the site as a location for a residential development;
  - the effect of the development upon the character and appearance of the surrounding area; and
  - the effect of the development upon the availability of equine facilities.

### Reasons

#### *Suitability of the site*

3. The appeal site is located on the periphery of the village, with fields to the rear and one side of the site. Dwellings within the surrounding area are generally arranged in a linear form.
4. The proposed dwelling would be located within the existing stable building, however, there are some large areas of open areas immediate adjacent to it. Therefore, notwithstanding the precise classification of the settlement, the proposed development cannot be accurately described as being an infill development.
5. Furthermore, due to the nature of the appeal site's location, residents of the development are likely to need to travel to other settlements in order to access all the services and facilities that they may need on a day-to-day basis.
6. On account of the nature of the settlement, there is less access to public transport. Whilst there are pavements between the appeal site and the nearby

- settlement of Hunsdon these are relatively narrow and have limited lighting. This means that these pavements might not be attractive routes for all occupiers of the development, such as those with pushchairs. Furthermore, their relatively narrow width and lack of lighting may also deter some pedestrians during periods of poor weather or lighting.
7. The lack of a welcoming pedestrian environment is therefore likely to deter residents of the development from undertaking journeys by methods such as walking and would, in turn, increase the usage of private cars for travel.
  8. This means that irrespective of the proximity of the proposed development to the settlement of Hunsdon, residents are likely to be reliant upon private vehicles for the bulk of their travel. Furthermore, the appeal site lies outside of the settlement boundaries of Hunsdon.
  9. My attention has been drawn to other developments within the surrounding area. I do not have the full information regarding their planning circumstances, which lessens the weight that I can attribute to them. Nonetheless, I note that these were permitted under the provisions of a different development plan. Given that the proposed development would result in more people living within the locality, residents of the proposed development are more likely to meet other people when using the pavements in the vicinity. Owing to the relatively narrow width of the pavements, some people might need to step into the road in order to pass. This would cause potential conflict between pedestrians and passing vehicles. In result, the presence of other developments in the surrounding area does not overcome my previous concerns.
  10. The appellant has highlighted Policy VILL3 of the East Hertfordshire District Plan (2018) (the District Plan). Whilst this policy identifies some residential developments as being acceptable, the policy is clear that developments will be permitted in villages with an adopted Neighbourhood Plan. The evidence before me indicates that there is no currently adopted Neighbourhood Plan covering the appeal site.
  11. Furthermore, this policy also highlights that such development should be a limited infill. Whilst the proposed development would be adjacent to an existing dwelling, there would be open areas to one side and to the rear. In consequence, the proposed development would not be an infill. I am therefore unable to give this policy a significant amount of weight in my considerations.
  12. I therefore conclude that the siting of the proposed development would represent an unsuitable location for a proposed dwelling. The development, in this regard, would conflict with Policies GBR2, INT1 and TRA1 of the District Plan. These, amongst other matters, seek to ensure that developments are primarily located in places which enable sustainable journeys to be made to key services and facilities; specify the most appropriate types of development; and consider planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

#### *Character and appearance*

13. The proposed development would result in the conversion of the stable block to a dwelling. This would involve the installation of additional doors and windows, in addition to the creation of a garden area. The appeal site is near to the Acorn Street and close to fields. A public footpath runs across these fields.

14. The building currently has a functional style of architecture that is commensurate with its purpose. In consequence, it does not appear particularly incongruous given that it is viewed alongside fields.
15. Whilst the proposed development would not result in an enlarged building, its appearance would be substantially altered. In particular, the proposed dwelling would feature a greater number of doors and significantly larger areas of glazing. Therefore, the building would be changed so that it would have a much more domestic appearance.
16. Furthermore, the proposed development would include a garden area. In time this could feature various items of domestic paraphernalia, which would further erode the current functional style of architecture that is a feature of the site, in addition to the general open character of the landscape within this location.
17. In addition, in order to provide access and vehicle manoeuvring spaces to the development, an increased amount of hard surfacing would be provided. In consequence, this element would erode the verdant character that is a feature of this part of the appeal site.
18. These matters are of importance owing to the prominence of the site. The site is in proximity to the road and therefore the development would be visible from passers-by, in addition to the occupiers of the dwellings on the opposite side of the road. Whilst there are hedges adjacent to the road, the screening effect would only be partial and, in consequence, would not overcome my concerns.
19. In addition, views of the development would be possible from the footpath running adjacent to the appeal site. This means that users of the footpath would have views of the rear garden's boundaries and the rear elevation of the proposed dwelling. This would be in addition to the potential views of parts of any outbuildings or structures within the rear garden.
20. For these reasons, the proposed development has the potential to be experienced by many people, which would therefore exacerbate the overall adverse effects upon the character and appearance of the surrounding area. Whilst the proposed development could include some landscaping at the boundaries, this is unlikely to effectively screen the entirety of the dwelling.
21. I acknowledge that under the provisions of the existing use, items such as horse boxes might be parked at the site and open storage of hay might take place. However, such activities would be commonly associated within the countryside and would not necessarily be of the same scale as the proposed development. Accordingly, this would not outweigh my previous concerns.
22. I therefore conclude that the proposed development would erode the character and appearance of the surrounding area. The development, in this regard, would conflict with Policies GBR2, DES3 and DES4 of the District Plan. These, amongst other matters, seek to ensure that new developments have a design that is appropriate to the character, appearance and setting of the site and/or the surrounding area; that proposals demonstrate how they will retain, protect and enhance existing landscape features; and be of a high standard of design.

#### *Effect on equine facilities*

23. The appeal site consists of a stable building, and the site also features some outdoor areas. These appear to have been used on a non-commercial basis.

24. Owing to the nature and scope of the proposed development, these facilities would cease to be operational. Whilst I am conscious that it does not appear that these can be used by visiting members of the public, I have been directed towards planning policies that seek to ensure the retention of such facilities. This policy does not make a distinction between commercial and non-commercial facilities.
25. Owing to the proximity of the appeal site to the countryside it appears that such facilities may be required by future occupiers of the surrounding area on a recreational or hobby basis as it would support the carrying out of equine related hobbies within a less developed context.
26. I acknowledge that concerns have been raised regarding the access and manoeuvring areas. Whilst this might render it difficult to utilise the development with larger vehicles, it has not been conclusively demonstrated that it is not possible to utilise smaller alternatives.
27. It has also been highlighted that the appellant has not been able to accommodate their horses within the stable. However, it has not been demonstrated that a smaller number of horses could be accommodated within the existing development. As such, I do not believe that this point outweighs my previous concerns.
28. The evidence before me is not indicative that it has been established that there is not an ongoing demand for such a facility within the surrounding area. In addition, it has also not been demonstrated that the existing facilities are not of a suitable standard to continue being operational. In consequence, I do not believe that the loss of the equine facilities has been appropriately justified.
29. I therefore conclude that the proposed development would result in an unacceptable loss of equine facilities. The development, in this regard, conflicts with Policy CFLR6 of the District Plan. This, amongst other matters, requires that proposals that result in the loss of equestrian facilities should be accompanied by an Equestrian Needs Assessment which demonstrates that the facilities are no longer needed.

### **Conclusion**

30. For the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



## Appeal Decision

Site visit made on 10 November 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Wednesday, 25 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3253449**

**Land adjacent to Barwick Lodge, Road between Gore Lane and Kettle Green Lane, Barwick, High Cross SG11 1DB**

- 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 Chaldean Estates Ltd against the decision of East Hertfordshire District Council.
  - The application Ref, dated 27 March 2020, was refused by notice dated 20 May 2020.
  - The development proposed is the conversion of the existing outbuilding to a two-bedroom dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A revised plan showing the provision of cycle storage has been submitted as part of the appeal documentation. Given that the Council had the opportunity to comment on the revised plan and owing to the relatively small scale and nature of the amendment, I do not consider it would cause prejudice to any party to assess the appeal on the basis of this revised plan. I have therefore proceeded on this basis.
3. I have noted references to an emerging Neighbourhood Plan. However, owing to the status of this plan and the fact that I have not been directed towards any specific policies means that I am unable to give this document a significant amount of weight in my considerations.

### Main Issue

4. The main issue is the suitability of the site as a location for a residential development.

### Reasons

5. The appeal site is located to the rear of an existing dwelling and close to a relatively small cluster of other dwellings. Beyond the appeal site is open countryside, including woodlands, of variable gradients.
6. By reason of the nature of the surrounding land uses, residents would need to travel to other settlements in order to access the array of services and facilities that they are likely to require on a day to day basis. This would occur irrespective of the fact that the proposed development would not be isolated due to its proximity to other dwellings.

7. This poses a concern as the surrounding road network is narrow, undulating and sinuous. It also lacks separate environments for pedestrians and cyclists. I also note that the appeal site is near to a ford. By pedestrians this can only be crossed by a relatively narrow footbridge. This width is also likely to deter individuals travelling with larger items, such as pushchairs.
8. In consequence, this environment is likely to deter residents of the development from travelling by methods such as walking or cycling owing to the potential conflict with motor vehicles. This conflict is therefore likely to encourage additional journeys by private cars.
9. Whilst I note that some bus services are available within the wider area, the relevant bus stops are still some distance away from the appeal site. This means that residents of the development would still have to travel, in part, on the surrounding road network which is likely to deter journeys being made on foot or by bicycle.
10. Although access to public transport might reasonably be expected to be lower than a more urban area, the absence of a readily accessible service raises concerns regarding the suitability of the development's location.
11. Residents would have access to some footpaths within the surrounding area. However, these are unlikely to be a completely satisfactory alternative owing to the lack of lighting and metalled surface. These paths also have varying gradients. In consequence, they are unlikely to represent a satisfactory alternative for all residents. In result, they do not offset my previous concerns.
12. The proposed development features cycle storage and had I been minded to allow the appeal, I could have imposed conditions requiring the implementation and retention of this element of the proposal. Whilst this matter would ensure that residents of the proposed development would have adequate storage for bicycles, this would not address my previous concerns regarding the nature of the surrounding road network.
13. My attention has been drawn to Policy DPS2 of the East Hertfordshire District Plan 2018 (the District Plan), which provides a hierarchy for the location of new developments. The development would not be sited within one of these locations, however, I have identified some adverse effects arising from the siting of the proposed development. Therefore, the fact that the proposed development would not be located within one of the specified areas carries some weight.
14. The proposed development would result in the re-use of the building in addition to some improvements, such as through the removal of the asbestos roof. These would be of some benefit. However, given that I have identified harm arising from the location of the proposed development, such benefits are outweighed.
15. There is an extant planning permission to change the use of the existing outbuilding to an annexe and that this permission is still capable of being fully implemented. Accordingly, it carries some weight in my considerations. However, an annexe would be occupied by members of the same household as the existing dwelling. As such, there is a greater opportunity for shared journeys and trips.



16. Therefore, the scheme before me would be used on a more intensive basis as the scheme could be occupied by a family unconnected with the existing dwelling. In result, I do not believe the presence of an approval to use the outbuilding is sufficient to outweigh my previous concerns.
17. My attention has also been drawn to other proposals. I do not have the full information regarding their planning circumstances, which lessens the weight that I can attribute to them. Nonetheless, the nature of their surrounding road network is different to the scheme before me. Accordingly, these proposals do not allow me to disregard my previous concerns.
18. I therefore conclude that the proposed site would represent an inappropriate location for a residential development. The development would conflict with Policies DPS2 and TRA1 of the District Plan. Amongst other matters, these policies seek to direct new development to preferred locations and ensure that safe and suitable access can be achieved for all users.

**Other Matter**

19. The proposed development would not have an adverse effect upon the character and appearance of the surrounding area. Whilst this is a matter of note, it is only one of all the points that must be assessed. It therefore does not overcome my conclusions in respect of the main issue.

**Conclusion**

20. For the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



## Appeal Decision

Site visit made on 28 September 2020

**by A Denby BA(Hons) DipTP MRTPI**

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

**Decision date: 25 November 2020**

---

**Appeal Ref: APP/J1915/W/20/3254917**

**Lanbrook, St Marys Lane, Hertingfordbury, SG14 2LD**

- 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 & Mrs Mullins against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0723/FUL, dated 7 April 2020, was refused by notice dated 1 June 2020.
  - The development proposed is construction of a 5-bedroom, two storey dwelling following demolition of the existing dwelling after fire.
- 

### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. The appeal site is located within the Metropolitan Green Belt and is partially within the Hertingfordbury Conservation Area (CA), though the proposed dwelling itself would be sited just outside the CA boundary. The Old Rectory, a Grade II listed building (LB), is in close proximity to, and accessed via the same driveway as the appeal site.
3. The appeal site itself comprises an area of land that was occupied by a dwelling until it was destroyed by fire and subsequently demolished. The dwelling had an extensive garden area which remains, and this includes a formal garden and tennis court. The appeal scheme proposes the construction of a new dwelling in a similar position to the previous building.
4. The main issues are therefore:
  - Whether the proposal would be inappropriate development in the Green Belt, and its effect on the openness of the Green Belt;
  - The effect of the proposed development on the character and appearance of the area, with particular regard to the setting of the CA and LB; and
  - Whether any 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 required to justify the proposal.

## Reasons

### *Whether inappropriate development*

5. Policy GBR1 of the East Herts District Plan, 2018 (LP) states that proposals within the Green Belt will be considered in line with the National Planning Policy Framework (the Framework). Paragraph 145 of the Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless they fall within certain categories of development which may be regarded as not inappropriate, subject to certain conditions.
6. Part d) of this paragraph lists the replacement of a building as one such exception, provided that the new building is in the same use, and not materially larger than the one it replaces. I appreciate that both parties have considered the dwelling as a replacement for that which existed prior to the fire. However, for something to be considered as a replacement, the element that it replaces must exist at the time the replacement development is considered. There is no existing building on the site, and as such, the proposal does not fall to be considered under the exception at Paragraph 145(d) of the Framework.
7. There is no disagreement between the parties that the land was occupied by a permanent structure and I saw on my site visit that, although the dwelling has been demolished and hoardings erected, areas of hardstanding remain visible, and as such the remains have not blended into the landscape. In my view, the proposal therefore comprises the redevelopment of previously developed land and falls to be considered under Paragraph 145(g). This exception allows for the redevelopment of previously developed land providing it would not have a greater impact on the openness of the Green Belt than the existing development.
8. The proposed new building would however have a greater impact on the openness as no building currently exists on the site. In this respect the new building would, unavoidably, lead to a reduction in the openness of the Green Belt. The proposal would also not contribute to meeting any identified affordable housing need and therefore conflicts with paragraph 145(g) of the Framework.
9. The development would not satisfy any of the other exceptions in paragraphs 145 and 146 of the Framework and as such would amount to inappropriate development in the Green Belt which Paragraph 145 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework is clear that substantial weight should be given to any harm to the Green Belt.

### *Openness*

10. A fundamental aim of Green Belt policy, as set out in Paragraph 133 of the Framework, is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Court judgments have confirmed that there can be both spatial and visual dimensions to openness within the Green Belt.
11. The proposed dwelling would be a two and a half-storey property, with a substantial crown roof, having one continuous ridgeline and substantial gable features to the front and rear elevations. It would be a substantial building and

its overall bulk and massing would, in spatial terms, have a harmful impact upon the openness of the Green Belt.

12. Openness also has a visual aspect as well as a spatial one. The appellant has indicated that due to the positioning of the site, at the end of a long private drive, and existing mature landscaping, the proposed dwelling would be well screened. Whilst the proposed dwelling would not be visible from St Mary's Lane, the site frontage is relatively open. The dwelling would occupy a prominent position. There would be open views of it on the approach from the driveway and the adjacent parkland, which existing landscaping would not screen.
13. The appellant has referred to a judgment<sup>1</sup> in relation to the consideration of openness, should a proposal be considered to be not inappropriate development under Paragraph 145 (d) of the Framework. As detailed above, I do not consider the appeal scheme falls to be considered against Para 145(d).
14. Due to its overall height and bulk, I consider that the proposed dwelling would be visually intrusive. I therefore conclude that the development would result in significant harm to Green Belt openness and I have attached substantial weight to this harm.

*Character and appearance, with particular regard to the setting of the CA and LB*

15. The proposed dwelling would have a relatively simple footprint and overall form. However due to its design, height and overall bulk it would be an imposing building, incorporating central gable projections to the front and rear and flat roof dormers to accommodate living space within the hipped roof.
16. The appeal site is partially within the CA, though the proposed dwelling itself would be sited just outside the CA boundary. The CA is centered on Hertingfordbury Road which has a linear character and St Mary's Lane which rises to St Mary's church, which as identified in the CA Appraisal and Management Plan, 2016 (CAAP), is a large building that dominates the local scene.
17. The CA includes expansive areas of open land, some having parkland characteristics and this is a particularly special characteristic of the CA which, along with other aspects such as historic buildings and mature landscaping, show the evolution of the settlement and add to the rural quality of the CA. The Old Rectory is a Grade II listed building (LB) and, as its name would suggest, is a former rectory and is positioned within a landscaped park.
18. The appeal site is accessed via a long private drive from St Mary's Lane, directly adjacent to the church, and this is also the access to The Old Rectory. Metal estate fencing, which the CAAP identifies as a prominent and important feature in the parkland setting, runs in parallel to the driveway up to the appeal site, with open parkland beyond, and there are views to the rear of The Old Rectory and its manicured gardens to the other side of the driveway.
19. The appeal site occupies a prominent position at a point where the driveway splits, providing access towards the site and sweeping round to The Old Rectory. It is very much viewed as an integral part and key feature of this

---

<sup>1</sup> Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council and Valley Crown Nurseries Ltd (2016) EWCA Civ 404

- important rural parkland setting and is reflective of the special interest of the CA, retaining a verdant and open character. It also forms an important part of the history and evolution of the CA and LB, having originally been the site of a garden cottage associated with The Old Rectory.
20. I saw on my site visit that The Old Rectory is a substantial building, though it is well screened by mature trees, and appears nestled into the landscape. There are however clear views of its rear elevation and garden from the driveway. These views provide an appreciation of its grandeur and status within this established parkland setting, which is an important part of its significance. Furthermore, the CAAP identifies this as being particularly important to the setting of the LB.
  21. The proposed dwelling would be visible within the same views and, due to its proposed size and design it would be a dominant building which, even considering the separation between the buildings and existing landscaping, would compete visually with the LB. This in turn would have a harmful affect upon the appreciation of the significance of the LB and detract from its setting.
  22. Whilst the proposal would incorporate some aspects of the local vernacular, such as proposed materials, its bold and ostentatious design, with substantial gable features, entrance portico with balcony above, flat roof dormers and overall bulky roof arrangement, would be at odds with the more modest building sizes and architectural styles characteristic of the CA.
  23. For the same reasons it would harmfully intrude on the open and rural character of the parkland setting of which it would become an intrinsic part, and this would be wholly at odds with the established character of the CA, having a negative effect on its setting. Its visual impact would be significantly greater than that of the previous dwelling on the site, which retained a low level and horizontal emphasis and, although it extended further to the rear, presented a more restrained frontage to the driveway and adjacent parkland.
  24. I have paid special attention to the desirability of preserving the listed building or its setting, and to the desirability of preserving or enhancing the character and appearance of the CA, including its setting, and the result of the proposal would be less than substantial harm when considered in the context of the Framework. Whilst the proposals would provide an additional dwelling, I do not consider this public benefit would be sufficient to outweigh the harm I have identified to the CA and LB, and to which I have attached considerable importance and weight.
  25. Therefore, for the reasons stated above the development would conflict with LP Policies DES2, DES3, DES4, HA1 and HA4 which amongst other things seek to ensure that developments are of high-quality design, being of a scale, proportion, form, height, design and overall character that accords with, and compliments, the surrounding area, reflecting and promoting local distinctiveness and positively conserving and enhancing the appearance and character and setting of the CA and designated heritage assets.

### ***Other considerations***

26. The proposal includes built development where none currently exists, however, it is recognised that there was a building on the site which only ceased to exist due to a fire, and since that incident there has been a clear intention to erect a

new dwelling on the site. The appellant has lost their established residential use for reasons beyond their control and I consider this factor carries great weight.

27. There is some disagreement between the parties in relation to the exact measurements and dimensions of the demolished and proposed dwellings. There is, however, general agreement that the volume and footprint of the proposed dwelling would be less than that of the dwelling destroyed by fire and this attracts some weight.
28. However, the proposed height and floorspace would be greater and from the plans submitted, it is clear that although the previous dwelling was a two-storey building the first-floor accommodation was provided for within the roof space, and so the dwelling retained a low level and horizontal emphasis. Its size and design, with outriggers and single storey elements also reduced its overall bulk, and from the details before me, although it may have had a larger footprint, it did not appear as a substantial building.
29. Therefore, that the proposed dwelling would have a more simplistic footprint and form would not weigh in favour of the proposals as due to its design, height and overall bulk it would appear as a more substantial and dominant structure and this would be more harmful than the previous dwelling.
30. The appellant has stated that the proposed dwelling would be environmentally friendly, and this is a positive matter, though there is little to suggest this would provide any sustainable measures above and beyond that required by modern building standards and therefore attracts limited weight.
31. That the proposal would not adversely impact on the living conditions of existing nearby occupiers, retain existing landscaping and utilise appropriate materials would have a neutral effect, and therefore these matters do not weigh in favour of the appeal.

### **Planning Balance**

32. I have found that the development would amount to inappropriate development in the Green Belt and that there would be significant harm caused to openness. Paragraphs 143 and 144 of the Framework make clear that inappropriate development is harmful to the Green Belt and this is therefore a matter to which I must attach substantial weight.
33. In addition, I have found that the development would also result in less than substantial harm to the setting of the CA and LB. This would not be outweighed by any public benefits and collectively this attracts considerable importance and carries substantial weight.
34. I conclude the benefits of providing a replacement dwelling following the destruction of the previous property by fire, and to which I have accorded great weight, does not clearly outweigh the harm I have identified. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt and the development conflicts with LP Policy GBR1 and the Framework.

### **Other Matters**

35. I note the appellant's concerns that the Council refer to the proposed dwelling as a 'kit house', and that reference was made to details from a website which the appellant states did not form part of the planning application. The Officer Report does however state that the Council's consideration was on the basis of the submitted plans. Nevertheless, the details of the website or information contained therein have not been made available to me as part of this appeal, and so has not formed part of my assessment.

### **Conclusion**

36. For the above reasons I conclude that the appeal should be dismissed.

*A Denby*

INSPECTOR