



## Appeal Decision

Site Visit made on 16 February 2021

**by Paul Thompson DipTRP MAUD MRTPI**

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

**Decision date: 8 March 2021**

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**Appeal Ref: APP/J1915/D/20/3264658**

**Griff, 30 Foxley Drive, Bishop's Stortford, CM23 2EB**

- 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 Amy and Bruce Rodda against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/1580/HH, dated 19 August 2020, was refused by notice dated 8 October 2020.
  - The development proposed is erection of a single-storey rear extension, two-storey side extension and replacement of the existing garage.
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### Decision

1. The appeal is allowed and planning permission is granted for Erection of a two-storey side extension, single storey side/rear extension and replacement garage, together with the introduction of new materials, at Griff, 30 Foxley Drive, Bishop's Stortford, CM23 2EB in accordance with the terms of the application, Ref 3/20/1580/HH, dated 19 August 2020, 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: FD-PL-01, FD-PL-06, FD-PL-07, FD-PL-08, FD-PL-09, FD-PL-10 and FD-PL-11.
  - 3) The external surfaces of the development hereby permitted shall be constructed in the materials specified on the planning application form, Design and Access Statement and/or the submitted drawings.
  - 4) The garage hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.

### Procedural Matter

2. Despite the description of development set out above, I consider the description found on the Decision Notice better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'Erection of a two-storey side extension, single storey side/rear extension and replacement garage, together with the introduction of new materials.' I have therefore dealt with the appeal on this basis.

## **Main Issue**

3. The main issue is the effect of the proposed development on the character and appearance of the existing house and the surrounding area.

## **Reasons**

4. The appeal concerns an interwar detached house situated to the east side of a residential street. The existing house includes deep overhanging eaves to all parts of its roof and is predominantly finished in render with red brick to the plinth, chimney stacks and front doorway, and clay tiles to the roof and detailing of the bay window and windowsills. While there is considerable variation to the style, mass, siting, and materials palette of the houses in the street, they are situated in large plots with generous rear gardens. Many of the houses have been extended or altered, including those to either side of the appeal property. The character and appearance of the street has therefore evolved, including the spacing between houses.
5. The proposed two-storey side extension would be set back from the front façade and down from the existing ridge of the house, with a shallower pitched zinc roof and primarily brick front and side elevations. However, the front façade would include a double-height squared projection with windows, which would be clad in batten on edge timber. The form, appearance and verticality provided by this element would be sympathetic but provide a suitable contrast to the existing double-height bay window.
6. The first floor of the two-storey extension would continue beyond the rear of the house with a flat roof and would also be clad in batten on edge timber. It would be only a small part of the overall scheme but its design would be innovative given that it would pierce through to the ground floor of the proposed single-storey rear extension and be suspended above the internal living environment. It would be visible through the glazed portions of the ground floor.
7. The single storey part of the side extension would be set back toward the rear of the two-storey section and wrap around into the rear extension. It would be finished in render and glazing, with a new brick chimney. The relationship of the extensions with one another would diminish the consequential impact of their overall scale and how this would be perceived from the street and gardens of neighbouring houses.
8. The fenestration of the existing two-storey rear projection would also be altered to incorporate a greater extent of glazing, including a Juliet balcony at first floor, the proportions of which would be suitable in comparison to the form and verticality of that part of the house. The proposed garage would also be a relatively small addition to the house constructed of red brick in place of the current rendered finish and incorporate a hipped zinc roof, rather than a flat roof. Moreover, it would be largely to the same footprint as the existing but increased in size to the rear to include a workshop.
9. The Officer Report suggests that the character and appearance of the existing house and street scene should be maintained, but this would limit the potential for design evolution and stifle innovation. The Reason for Refusal also suggests that the proposal does not respond to local distinctiveness. However, it is evident that the street already features houses of varying design and

construction and has altered and evolved through new houses and extensions and alterations to others.

10. The proposal would add considerably to the existing house, particularly in terms of the width of the two-storey side extension. However, its scale would but be broken down into component parts and clearly defined through modern design elements and composition of matching and modern materials that would be sympathetic to the architecture of the house and appropriate to the size of its plot.
11. I have also had regard to the extension erected at No 32, which the Council suggests is of lesser width than the appeal proposal. However, it could not be said to be subservient to No 32, as it has resulted in a higher roof to the house, while the proposal would be set down from the roof. Notwithstanding this, I have considered the appeal scheme on its own individual merits.
12. In light of the above, I conclude that the size, scale, design, and materials of construction of the proposed development would not be harmful to the character and appearance of the existing house and the surrounding area. Hence, it would 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 and innovative approach to proposed extensions. The proposal would also not conflict with paragraphs 127 and 130 of the National Planning Policy Framework, particularly in respect of development that is sympathetic to local character, while not preventing or discouraging appropriate innovation or change.

### **Other Matters**

13. There is no substantive evidence before me to suggest that the proposal would adversely affect the supply of mains water and gas or place an undue strain on sewage disposal. Furthermore, any damage caused to property during construction would be a private matter between the parties involved, as would any encroachment onto a private access. None of these matters raised therefore alter or outweigh my conclusion on the main issue.

### **Conditions**

14. In addition to the standard time limit for the appeal, in the interests of clarity and the appearance of the existing house, I have specified the approved plans and that the materials of construction of the proposal should be in accordance with the materials listed in the application. A condition relating to the use of the garage for parking is also reasonable and necessary due to the increase in the number of bedrooms associated with the proposal, and the Council's requirements for off-street parking, having regard to highway safety.

### **Conclusion**

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

*Paul Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 15 March 2021

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

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

**Decision date: 29 March 2021**

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**Appeal Ref: APP/J1915/W/20/3263477**

**142 London Road, Ware SG12 9NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Gail Stretch against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/1553/FUL, dated 13 August 2020, was approved on 16 November 2020 and planning permission was granted subject to conditions.
  - The development permitted is described as "Proposed covered area to part of the existing side elevation of the Great Amwell Scout Hut. Proposed Dutch Barn".
  - The condition in dispute is No 4 which states that: There shall be no use or occupation of any of the buildings / structures located on the site between the hours of 22:00 and 08:00 the following day.
  - The reason given for the condition is: In order to ensure an adequate level of amenity for nearby residents in accordance with policy EQ2 of the adopted East Herts District Plan 2018.
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### Decision

1. The appeal is allowed and the planning permission Ref 3/20/1553/FUL for a covered area to part of the existing side elevation of the Great Amwell Scout Hut and Dutch barn at 142 London Road, Ware, SG12 9NH granted on 16 November 2020 by East Hertfordshire District Council, is varied by deleting condition 4.

### Background and Main Issue

2. The development involves the erection of two structures. The proposed covered area to the side of the scout hut has attracted no objections from residents, consultees or the Council. I see no reason to disagree with this as it would be a small area immediately adjacent to the scout hut and its use is unlikely to result in any significant additional disturbance to local residents.
3. The Dutch barn would be a freestanding open-sided structure set away from the scout hut. Its possible future use for private functions has attracted concern from local residents and the Environmental Health consultee regarding the potential for increased noise disturbance at night.
4. The main issue is therefore whether the condition in dispute is reasonable and necessary having regard to the living conditions of neighbouring residents.

## **Reasons**

### *Original condition*

5. The condition in dispute would prevent any use or occupation of any of the buildings or structures located on the site between the specified hours. As this would include the existing scout hut and the other existing building on site the scope of the condition goes beyond what is reasonably necessary and relevant to the development permitted, having regard to the living conditions of neighbouring residents. It therefore fails to meet the tests for planning conditions set out in the National Planning Policy Framework (the Framework).

### *Alternative condition*

6. The Council have suggested an alternative condition limiting the use of the Dutch barn only from 2300 to 0700. I have considered whether this would meet the tests identified in the Framework, having regard to the living conditions of neighbouring residents.
7. There are already functions occurring at the site, and from the evidence before me there are no restrictions on the use of any other structure or part of the site that would apply to such functions. It is not clear that the introduction of the Dutch barn, an open-sided structure, would result in a materially increased likelihood of disturbance over and above what may already occur. In reaching this conclusion I have considered the requirements of Policy EQ2 of the East Herts District Plan 2018, which include that development should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. However, while conditions can be used proactively to prevent harm, where a use already exists and a development would not result in a material change in that use conditions should not be used to retroactively control that use.
8. In addition, as an open-sided structure, there is no apparent way to prevent access to the Dutch barn during any functions that may occur.
9. The alternative condition is therefore not necessary, relevant to the development to be permitted or enforceable, and consequently it fails the tests set out in the Framework.

## **Conclusion**

10. Neither the original condition nor the alternative suggested condition would meet the tests for planning conditions set out in the Framework.
11. Therefore, for the reasons set out above, the appeal succeeds.

*M Chalk*

INSPECTOR



## Appeal Decision

Site Visit made on 16 March 2021 by Emma Worby BSc (Hons) MSc

**Decision by Andrew Owen BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 29 March 2021**

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**Appeal Ref: APP/J1915/D/20/3264481**

**97 Pye Corner, Gilston, Harlow, Essex CM20 2RD**

- 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 Tom Plane against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/1504/HH, dated 17 August 2020, was refused by notice dated 12 October 2020.
  - The development proposed is excavation to construct new utility room to side of kitchen and installation of a roof light/lightwell.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues in the appeal are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies;
  - The effect on the openness of the Green Belt; and
  - Would the harm by reason of inappropriateness be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

### Reasons for the Recommendation

*Whether it would be inappropriate development*

4. The appeal site, containing a three-storey semi-detached dwelling, part of which is subterranean, is located in a residential area which is within the Green Belt. The proposal would extend the basement to provide a utility room and includes a lightwell to the front of the property on the existing driveway.
5. Paragraph 145 of the Framework indicates that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. These exceptions include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the

original building. Policy GBR1 of the East Herts District Plan (2018) defers to the Framework.

6. There is no definition of disproportionate development within the Framework or within Policy GBR1. However the Council indicate that the original dwelling has a floorspace of 52m<sup>2</sup>, with previous additions covering 56m<sup>2</sup>, and that the proposal would have a floorspace of 8m<sup>2</sup>. The appellant does not dispute these figures but states that the proposed floorspace would be only 7.5m<sup>2</sup>. Although the proposal would only add around 7% to the current floorspace, the Council's calculations show that the cumulative impact of the proposal along with the previous additions to the dwelling would result in a 123% increase in floorspace. This would be a disproportionate addition to the modest size of the original dwelling. The fact that the plot as a whole is large has no bearing on the proportionateness of the extension.
7. Therefore, the proposal would be inappropriate development and would be harmful to the Green Belt which, in accordance with paragraph 144 of the Framework, should be given substantial weight.

#### *Openness*

8. As the proposal would be subterranean and not externally visible, except the small light well to the front of the property, it would have no harmful impact on visual openness of the Green Belt. Similarly, although the proposed development would create an extended dwelling, as outlined above, this would be subterranean and within the footprint of the current building and therefore there would be no spatial impact whatsoever on the openness of the Green Belt. This lack of harm to the openness of the Green Belt is a neutral factor.

#### *Other Considerations*

9. The appellant has stated that the proposal would improve the residential amenity for the occupiers of the dwelling through improving light levels and providing additional space in the basement. However, this is a small benefit limited to one part of the house and is given limited weight.
10. It has also been agreed by the Council and the appellant that the proposal would not harm the character and appearance of the area, the living conditions of neighbouring occupiers or highways safety. The lack of harm to these factors is given neutral weight.

#### **Green Belt Balance, Conclusion and Recommendation**

11. I find that the other considerations in this case do not clearly outweigh the harm by virtue of its inappropriateness that I have identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist.
12. Therefore the proposal would fail to accord with policy GBR1 which seeks to protect the Green Belt, along with the Green Belt objectives of the Framework.
13. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

*Emma Worby*

APPEALS PLANNING OFFICER

**Inspector's Decision**

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Andrew Owen*

INSPECTOR





## Appeal Decision

Site Visit made on 17 February 2021

**by Chris Forrett MRTPI, DipTP, BSc(Hons)**

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

**Decision date: 12 March 2021**

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### **Appeal Ref: APP/J1915/D/20/3263939**

### **50 Tamworth Road, Hertford, Hertfordshire SG13 7DN**

- 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 Mark Rooft against the decision of East Herts District Council.
  - The application Ref 3/20/1254/HH, dated 7 July 2020, was refused by notice dated 4 September 2020.
  - The development proposed is the erection of part single and part two storey rear extension, together with associated boundary works.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of part single and part two storey rear extension, together with associated boundary works at 50 Tamworth Road, Hertford, Hertfordshire SG13 7DN in accordance with the terms of the application, Ref 3/20/1254/HH, dated 10 July 2020, 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: 1109-01; 1109-02 F; 1109-07 I; 1109-08 F; 1109-09 H and 1109-10 E.
  - 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 window openings in the first-floor flank wall to bedroom 2 and the en-suite bathroom to the master bedroom shall be obscurely glazed and be of a non-opening design unless the parts of the windows which can be opened are more than 1.7 metres above the internal finished floor level. The windows shall not be replaced with an alternative design, or clear glazing, without the prior permission of the local planning authority.

### **Main Issue**

2. The main issue is the effect of the development on the character and appearance of the area.

### **Reasons**

3. The appeal site is located in a primarily residential area and is also within the Hertford Conservation Area (HCA) which encompasses a large part of the town. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the

character or appearance of the Conservation Area. The appeal property itself is a semi-detached dwelling and is a two-storey Victorian house which has been previously extended at the side and rear.

4. From the evidence before me, the majority of the appeal proposal has already been granted planning permission<sup>1</sup> by the Council. In effect, the appeal proposal seeks to add a small first floor element in addition to what has been previously approved. This includes changes to the first-floor internal layout and would result in a slightly higher ridge line to the roof.
5. To my mind, the proposal clearly reflects the design characteristics of the previously permitted extension and this minor addition only adds a further element of interest in terms of the stepping out of the building at first floor level. Furthermore, the increase in height of the ridge of the resultant roof would be minimal when compared to the extant permission and would not result in any adverse impacts. To that end, I consider that the proposal would preserve the character and appearance of the host building and the HCA.
6. For the above reasons the proposal would not harm the character and appearance of the host property or the wider area and would accord with Policies DES4, HOU11 and HA4 of the East Herts District Plan 2018 which amongst other matters seek to ensure that proposals are of a high standard of design which preserves or enhances the Conservation Area, and be of a scale, proportion, form, height, design and overall character that accords with and complements the parent building and the surrounding area.

### **Other Matters**

7. The Council have also made reference to discrepancies in measurements between the proposed floor and elevation plans. However, these discrepancies have not been set out and the Appellant has noted that no such discrepancy is apparent. From the submitted plans, it is clear as to what the extent of the proposed extension works are. With the above in mind, this does not present any barrier to the granting of planning permission.

### **Conditions**

8. The Council has provided a list of suggested conditions in their appeal questionnaire that it considers would be appropriate. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. In the interests of the character and appearance of the area, a condition relating to matching materials is also necessary. In order to maintain the privacy of the occupants of the neighbouring property, a condition is also required in respect of glazing and opening aspects of the secondary window to bedroom 2 and en-suite to the master bedroom.

### **Conclusion**

9. For the reasons given I conclude that the appeal should succeed.

*Chris Forrett*

INSPECTOR

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<sup>1</sup> Reference 3/20/1148/HH



## Appeal Decision

Site Visit made on 13 January 2021

by **Chris Forrett MRTPI, DipTP, BSc(Hons)**

an Inspector appointed by the Secretary of State

**Decision date: 01 February 2021**

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**Appeal Ref: APP/J1915/D/20/3259113**

**30 Willis Grove, Balls Park, Hertford, Hertfordshire, SG13 8FH**

- 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 J & L Woodley against the decision of East Herts District Council.
  - The application Ref 3/20/1205/HH, dated 29 June 2020, was refused by notice dated 20 August 2020.
  - The development proposed is a single storey rear extension.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the proposal would be inappropriate development in the Green Belt and the effect of the development on the character and appearance of the area.

### Reasons

#### *Green Belt*

3. Paragraph 133 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The Framework, at paragraphs 145 and 146, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
4. Paragraph 145c) sets out that new buildings within the Green Belt are inappropriate unless any extension or alteration of a building is such that it does not result in disproportionate additions over and above the size of the original building. It is common ground that the proposed extension would not result in a disproportionate addition to the original dwellinghouse, and I have no reason to disagree with that view.
5. For the above reasons the development would not be inappropriate development in the Green Belt and would be consistent with Policy GBR1 of the East Herts District Plan 2018 (EHDP) and the aims and objectives of the Framework.

#### *Character and appearance*

6. The appeal property is located within a private gated development within the Balls Park estate. The appeal property itself is a mid-terraced dwelling which

extends to a total of 7 properties. There is also a similar terrace on the opposite side of the driveway.

7. There is a clear synergy to the design concept to the overall housing development and the range of design features on the properties all complement each other. In terms of the appeal property terrace, to my mind, the most striking element at the rear is the first-floor covered balconies which provide a significant and distinctive feature.
8. The proposal is for a modest single storey extension which would be around 1.23 metres deep by 2.1 metres wide. The extension would sit between the existing rear projection of the host dwelling and that of the neighbouring property. It would also include a matching parapet detail to the existing projection and the installation of bi-fold doors.
9. From the evidence before me there have been various planning permissions granted by the Council which have involved alterations to some of the properties in Willis Grove. These have included rear extensions and fenestration changes including bi-fold doors. That said, none of these relate to the two terrace blocks either side of the access driveway.
10. The Council has set out that this small addition would drastically change the rear aspect of the terrace. Whilst I accept that the proposal would result in the loss of the staggered rear aspect of the properties of the terrace, I find it significant that the most distinctive feature of the properties would remain. In my view, the principle of a small addition would not give rise to an unacceptable change to the shape and pattern of development at the rear of these terraced properties.
11. However, the proposal involves alterations to include bi-fold doors which would extend almost to the full width of the rear aspect of the ground floor. This would also result in the removal of the matching pattern of French doors which is present across the wider terrace and would result in an unacceptable disruption to the fenestration of this row of properties.
12. This is particularly the case given the width of the resultant opening and the increased height in glazing. This increased height also results in a revised soldier course above the doors and a smaller area of brickwork to the top of the parapet.
13. Taking all of the above into account, I find that the extent of glazing would be seriously out of character with the host property and the wider terrace. In coming to the above view, I acknowledge that the proposal would not be visible from any public vantage point and would only be partially visible from the rear gardens of the adjoining properties. However, that does not mean that an otherwise unacceptable design should be permitted.
14. In addition to the above, the appeal site is located close to Balls Park Mansion which is a Grade I Listed Building and immediately adjacent to the walls to the walled gardens which is a Grade II Listed Building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of these buildings.
15. The Council have considered that the proposal would not affect the setting of Balls Park Mansion or the walled garden. Given the nature of the proposal, I

also consider that it would not have any adverse impact on the setting of these listed buildings. As such, the proposal would accord with the heritage aims of the Framework and Policy HA7 of the EHDP. However, that does not outweigh the harm I have found.

16. For the above reasons the extension would harm the character and appearance of the host dwelling and the wider terrace of properties and would conflict with Policies HOU11 and DES4 of the EHDP which amongst other matters seek to ensure that extensions are of a high standard of design, which are appropriate to the character, appearance and setting of the host dwelling and the surrounding area.

**Conclusion**

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

*Chris Forrett*

INSPECTOR



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## Appeal Decision

Site visit made on 11 January 2021

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

an Inspector appointed by the Secretary of State

Decision date: 3 February 2021

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**Appeal Ref: APP/J1915/D/20/3259391**

**3 The Orchards, Sawbridgeworth CM21 9BB**

- 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 Paul James against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/1165/HH, dated 24 June 2020, was refused by notice dated 27 August 2020.
  - The development proposed is described as "Two storey rear and side extensions. Single storey rear extension. Room in the roof space with dormer window to rear. Conversion of rear garage to playroom and study. Extension to front entrance porch."
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development proposed on:
  - The character and appearance of the area; and,
  - The living conditions of neighbouring occupiers, with particular regard to 4 The Orchards.

### Reasons

#### *Character and Appearance*

3. The roof to the proposed two-storey side and rear extension would wrap around the roof of the existing house, creating a valley between the two ridges. Although it would be slightly lower than the existing ridgeline, the resulting appearance would be incongruous within the area, where no other similar arrangements exist. In addition, the proposed rear dormer would project from the original roof and through that of the proposed extension, resulting in a bulky and uncharacteristic appearance in the area.
4. The Council has stated in its delegated report that the scale of the two-storey side extension would otherwise be acceptable, and that the front porch extension, rear single-storey extension and garage conversion would also be acceptable. I see no reason to disagree with these conclusions.
5. The roof to the two-storey side and rear extension, and the rear dormer window, would be harmful to the character and appearance of the area. They

would conflict with Policies HOU11 and DES4 of the East Herts District Plan 2018 (the DP). These require, amongst other criteria, extensions and alterations to dwellings to be of a form and design appropriate to the character, appearance and setting of the existing dwelling and the surrounding area.

*Living Conditions*

6. The first-floor rear extension would project along the shared boundary with the attached neighbour, No 4. There is a first-floor window to No 4 adjacent to the boundary that is not shown on the submitted drawings. The first-floor rear extension would be shallower than the ground-floor extension but would still project a significant distance from the existing rear wall. It is not clear from the submitted plans that the extension would not be harmful to the outlook from the nearest first-floor window to No 4.
7. It is for the appellants to show that the development proposed would be acceptable. It is not possible to say, from the information provided, that the appeal proposal would not cause unacceptable harm to the living conditions of the occupiers of No 4. It therefore conflicts with Policy DES4 of the DP, which amongst other things states that proposals will be expected to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties.

**Conclusion**

8. For the reasons set out above, the appeal fails.

*M Chalk*

INSPECTOR



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## Appeal Decision

Site visit made on 11 January 2021

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

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

**Decision date: 10 February 2021**

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**Appeal Ref: APP/J1915/W/20/3258182**  
**29 Station Road, Sawbridgeworth CM21 9JY**

- 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 Colin Hardy against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/1081/FUL, dated 10 June 2020, was refused by notice dated 13 August 2020.
  - The development proposed is conversion, and extension, of existing barn outbuilding into a self-contained residential unit and associated development.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The planning application the subject of this appeal was accompanied by an application for listed building consent, which the Council granted. This appeal therefore only seeks planning permission for the development proposed and has been determined on that basis.

### Background and Main Issue

3. Although not forming part of the Council's reason for refusal, the site lies within the curtilage of a Grade II listed building known as 27, 29 and 31 Station Road, and within the Sawbridgeworth Conservation Area (the CA). The statutory duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require that I pay special attention to the desirability of preserving the setting of the listed building and preserving or enhancing the character or appearance of conservation areas. I have therefore included the effects of the development on these as the main issues. As these have been addressed in the appellant's planning and appeal statements, and the Council's delegated report, and the main parties have also been given the chance to make further comments, this is not prejudicial to their interests.
4. The main issues are therefore whether the development proposed:
  - Would preserve the setting of the Grade II listed building; and,
  - Would preserve or enhance the character or appearance of the Sawbridgeworth Conservation Area.



## Reasons

### *Setting of the listed building*

5. Numbers 27, 29 and 31 Station Road were formerly one 17<sup>th</sup> century long timberframed house. The building has a steep, half-hipped tile roof, plastered and weatherboarded elevations and multi-paned sash windows. It occupies an imposing position at the brow of a hill.
6. The listed building is prominently sited close to the highway along Station Road and positioned so that it faces along Knight Street. It is an important part of the Station Road street scene, and visible in the surrounding area in part due to its elevated position. Its age, scale and visibility at a crossroads suggest that it was of some prominence in the evolution of the village. The significance of the listed building derives from its retained historic fabric and its position within the Station Road street scene and relative to the road layout, which the historic maps contained within the Council's Conservation Area Appraisal show has been consistent in this area since at least the mid 19<sup>th</sup> Century. These maps also show an outbuilding to the rear of the listed building from the late 19<sup>th</sup> Century. Later maps also show a smaller rear outbuilding within the grounds of the listed building. A modern extension to No 29 has reduced the space between that property and the outbuilding, but the ancillary relationship of the outbuilding to the house remains clear due to the outbuilding's backland siting, small size and lower height.
7. Within this context the barn outbuilding is a subordinate structure located to the rear of the listed building, generally consistent with the size and siting shown on the historic maps. The outbuilding has a dual-pitched roof that makes it quite prominent from certain angles. However, as it is quite shallow it does not appear unduly prominent in the setting of the listed building. The proposed extension to the outbuilding would substantially increase its depth. Even with the slightly lower ridgeline over the extension the enlarged footprint would result in the outbuilding appearing significantly more prominent within the setting of the listed building, to the detriment of the interpretation of its historic relationship to the listed building. The conversion of the outbuilding to a separate dwelling would also introduce an independent use for which no historic evidence exists. When taken with the greater size and prominence of the outbuilding, this would fail to preserve the relationship with the listed building as an ancillary and subordinate structure.
8. The Council has granted listed building consent for the works. However, there is limited information before me with regard to the significance of the outbuilding, and that consent does not excuse me from carrying out my statutory duties as required by Section 66 of the Act.
9. The development proposed would therefore fail to preserve the setting of the listed building. It would conflict with the requirements of the Act and Policy HA1 of the East Herts District Plan 2018 (the DP) which states that development proposals should preserve and where appropriate enhance the historic environment of East Herts.

### *Conservation Area*

10. The Council's Conservation Area Appraisal notes that the terrace is a landmark building within the CA. Together with the bakery opposite it frames the landscape dominated prospect along Station Road, contributing to the semi-

rural character along that stretch of Station Road as it transitions between the built-up area of the settlement and the countryside beyond. The outbuilding is a peripheral feature in such views due to its siting to the rear of the terrace, set back from the road, although it is visible from Bullfields between the trees that line the junction with Station Road.

11. The outbuilding is at the edge of the CA, with properties on Leat Close and Bullfields beyond lying outside of the CA. The outbuilding is unique in the immediate vicinity as a timber weatherboarded structure of substantial size and backland siting, although there are smaller garages and other outbuildings visible within the grounds of properties in Leat Close and Station Road. The CA derives its significance in part from the historic relationships between buildings and their surroundings, as well as from the usage of the buildings within it.
12. The extension and conversion of the building would result in it becoming more prominent in its setting due to its greater size, and it would not appear as a subservient outbuilding to the terrace. The character of the site would change due to the independent use of the building. However, as a one-bedroom dwelling the intensity of use would be little different to that of a domestic store.
13. Consequently, it is the enlargement of the outbuilding that would have the greatest effect on the CA. The building is substantially larger than any other outbuilding visible in the surrounding area, and further enlargement would result in it appearing even more prominent in its setting. This would be out of keeping with the prevailing pattern of development in the area, which does not typically include significant backland development that is visible in the street scene.
14. The appeal proposal would therefore also fail to preserve or enhance the character or appearance of the CA, contrary to the requirements of the Act and of Policy HA1 of the DP, which are set out above.

#### *Other Matters*

15. There has been support for the appeal proposals from local residents. However, this does not overcome the identified harm to the designated heritage assets that would result from the development proposed.

#### *Planning balance*

16. The harm arising from failure to preserve the setting of the listed building and to preserve or enhance the character or appearance of the CA would be experienced principally in the immediate setting of the appeal site. It would amount to less than substantial harm, when weighed against the significance of the listed building and the CA as a whole. The National Planning Policy Framework states that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the assets' conservation irrespective of whether any potential harm amounts to less than substantial harm.
17. The appeal proposal would result in public benefit from the creation of a new dwelling, supporting the Government's objective of significantly boosting the supply of homes. While there is no indication that the Council has a shortfall in its housing land supply, this does not diminish the value of new housing.

18. Nevertheless, there would be limited public benefits arising given the scale of development. These limited benefits would not, in this instance, outweigh the great weight to be given to the harm to the designated heritage assets.

**Conclusion**

19. For the reasons set out above, the appeal fails.

*M Chalk*

INSPECTOR



## Appeal Decision

Site Visit made on 17 February 2021

**by Christopher Forrett MRTPI, DipTP, BSc(Hons)**

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

**Decision date: 16 March 2021**

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### **Appeal Ref: APP/J1915/D/20/3266075**

### **19 Gilston Lane, Gilston, Harlow, Hertfordshire CM20 2RF**

- 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 William Jenkins against the decision of East Herts District Council.
  - The application Ref 3/20/1074/HH, dated 9 June 2020, was refused by notice dated 2 November 2020.
  - The development proposed is the removal of car port, construction of two storey and single storey side extension, and new first floor front window opening.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the removal of car port, construction of two storey and single storey side extension, and new first floor front window opening at 19 Gilston Lane, Gilston, Harlow, Hertfordshire CM20 2RF in accordance with the terms of the application, Ref 3/20/1074/HH, dated 10 June 2020, 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: Location plan; 224/PL/004 D, 224/PL/005 D, 224/PL/006 D, 224/PL/007 D and 224/PL/009 C.
  - 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.

### **Main Issue**

2. The main issue is the effect of the development on surface water flood risk.

### **Reasons**

3. The appeal site is located in a rural area and consists of a semi-detached dwelling. There is also an attached garage to the side, albeit that the garage is set back broadly in line with the rear wall of the existing dwelling. To the side of the existing property is a gravelled driveway to the garage.
  4. The proposal would result in the replacement of the existing garage with a single storey extension together with a two-storey element to the side of the existing house and in front of the garage. Therefore, the only additional building footprint would be alongside the existing dwelling and to the fore of the garage.
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5. The Council have set out that the appeal site lies in an area of high surface water flood risk and that the proposal could be built in the flow path itself, with the potential to exacerbate flooding and deflect water away or off-site.
6. Whilst the route of the flow path has not been provided to me, from my site visit and in light of the views afforded over the surrounding topography of the land, any flood flow path is likely to be from the land at the rear through the appeal site to Gilston Lane.
7. Even if that is the case, I find it significant that the appeal proposal would be no wider than the existing garage building nor would it project further back into the site than what currently exists.
8. In that sense, should any of the building be within a flood flow path any diversion of such a path would be minimal. Any altered flood flow path would be as a result of the side wall of the proposed extension and would be for a maximum length of around 7.7 metres.
9. I am also conscious that there would be an undeveloped area to the side of the proposed extension which would be around 3.2 metres in width within the curtilage of the appeal property. To my mind, this width would provide a sufficient space to allow for any flood flow path to be maintained alongside the extension before any water would be allowed to spread out to the front of the property itself where the driveway is.
10. In addition to all of the above, the proposal would result in an increased level of built form, and this would have the potential to increase surface water run-off. However, given the extent of the extension any such increase in surface water run-off would not be significant.
11. Taking all of the above into account, I consider that the proposal would be unlikely to have any significant impact on flooding (or flood risk) either on site or elsewhere.
12. For the above reasons the proposal would be unlikely to impede the flow of surface floodwater, increase flood risk, nor would it unacceptably reduce the drainage capacity of the land. It would therefore accord with the provisions of Policy WAT1 of the East Herts District Plan 2018 which amongst other matters seeks to ensure that new development should not increase the likelihood or intensity of any form of flooding.

### **Other Matters**

13. I have also had regard to the matters raised in the representations received on the proposal including issues such as the potential loss of privacy and overshadowing; and the size, scale and massing of the extension together with it being out of keeping with the Victorian nature of the dwelling. However, none of these matters provide for a compelling reason to withhold planning permission for an otherwise acceptable development.

### **Conditions**

14. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. In the interests of the character and appearance of the area, a condition relating to matching materials is also necessary.

**Conclusion**

15. For the reasons given I conclude that the appeal should succeed.

*Chris Forrett*

INSPECTOR



## Appeal Decision

Site visit made on 23 March 2021

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

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

**Decision date: 31 March 2021**

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**Appeal Ref: APP/J1915/W/20/3260794**

**Land adjacent Ideal Farm, Braughing Friars, Braughing, Herts**

- 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 Miss Abby Canfield against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0994/FUL, dated 7 June 2020, was refused by notice dated 10 August 2020.
  - The development is a chicken run to house geese, ducks, and chickens. The run is divided in three separate areas to house the poultry separately. The run is made with timber and chicken wire, with three poultry houses for the birds to roost at night. The sheds are 8ft by 10ft which sit on slabs. The run is 23.35 x 12.31. Change of use to agricultural.
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### Decision

1. The appeal is allowed and planning permission is granted for a chicken coop for housing chickens, ducks and geese on land adjacent to Ideal Farm, Braughing Friars, Braughing, Herts in accordance with the terms of the application, Ref 3/20/0994/FUL, dated 7 June 2020, and the plans submitted with it, subject to the condition below:
  - 1) The development hereby approved shall be carried out in accordance with the following approved plans: unnumbered location plan dated 05 Apr 2019 1:1250; unnumbered block plan dated 05 Apr 2019 1:500; 310A Site plans & Elevations; 300A Floor plans.

### Preliminary Matters

2. The application was made retrospectively. The construction was incomplete at the time of my visit; the roof of the coop had temporary netting in place. For the avoidance of doubt, my determination of the appeal is based on the drawings submitted and not on the development as constructed. For succinctness, I have used the description of development given in the appeal form and in the Council's decision notice in my formal decision.

### Main Issue

3. The main issue is the effect of the development on the character and appearance of the rural area.

### Reasons

4. The site is in the open countryside where agricultural buildings such as chicken coops are not uncommon. Indeed, the remains of previous buildings appearing
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similar to poultry sheds, stand on the adjacent land, close to this coop, which suggests that low-scale buildings for poultry are not an unusual feature of the landscape in this area. The coop is shorter than the stables beside it, standing around 2m tall, and limited in footprint. The bird sheds within it are small in footprint. Being shorter than surrounding buildings, little taller than the field boundary enclosures beside it, and taking-up only a very small portion of the open field, it is not a dominant structure by any measure.

5. The sides and roof are to be enclosed by chicken wire. This will allow light to pass through the coop, and to reduce its presence in middle-distance views. The coop is sited beside the taller stables, close to the corner of two, tree-lined field boundaries. This siting limits its exposure across the open field in long-distance views from two aspects of the surrounding countryside. Against the background of the field enclosures, the coop tends to be visually absorbed.
6. Some glimpsed views of it are possible through the boundary enclosure beside the public bridleway, and part of its roof may be visible from the north. However, its form and scale are not incompatible with the agricultural character of this rural area. I can identify no incompatibility from the appearance of the coop with the manège or paddock area, which contain ground surfacing, grass, and timber posts, to exercise and enclose horses. Nor do its timber structure and wire enclosure, similar to structures commonly found in the countryside, appear at odds with the character of the landscape in which it stands.
7. The coop has a visual presence within the field, and standing where there was previously no building, it has reduced the openness of the countryside, though given its siting and its visual dimensions, by only a marginal degree. However, the effect on openness is not a measure in the development plan policy applied by the Council. The test for development in policy GBR2 of the East Herts District Plan 2018 (DP), which permits buildings for agriculture in the Rural Area beyond the Green Belt, is whether it is compatible with the character and appearance of the rural area. It is. There is therefore no conflict with DP policy GBR2. Nor does the development conflict with DP policy DES4 which requires a high standard of design and layout in development to reflect and to promote local distinctiveness.

### **Other Matters**

8. The appellant has set out how waste from the poultry in the coop would be regularly collected and removed. Given the number of birds kept, and the distance of the coop from surrounding houses, the closest of which is around 37m away across the bridleway, as well as the boundary enclosures, stables and trees between them and the coop, it is unlikely that noise and odours would reach a level uncharacteristic of the rural area which includes worked land, and certainly not to a level which may harm the privacy of surrounding occupiers. I note that the Council raised no objection on noise and odour grounds, and that its environmental health section did not raise any objection. I can identify no conflict with DP policy DES4 where it protects the amenity of the occupiers of neighbouring properties.
9. There are no trip estimates provided. However, given the scale and nature of the coop, their number is unlikely to be significantly greater than the trips already associated with the equestrian use, and no material risk to safety. There would be no conflict with paragraph 109 of the Framework which



indicates that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

**Conditions and Conclusion**

10. As the development is almost complete, a start date condition is unnecessary. For the avoidance of doubt, I have imposed a condition requiring the development to accord with the approved plans. As the materials of the development are given in the application form there is no necessity for a materials condition. As I have found no harm from appearance, and the site is already partially screened, I see no justification for a condition requiring landscaping screening works.
11. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*Patrick Whelan*

INSPECTOR



## Appeal Decision

Site Visit made on 16 February 2021

**by Paul Thompson DipTRP MAUD MRTPI**

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

**Decision date: 15<sup>th</sup> March 2021**

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**Appeal Ref: APP/J1915/W/20/3261158**

**Land adjacent to 208 Stortford Hall Park, Bishops Stortford CM23 5AS**

- 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 D Harvey (Stortford Hall Property Limited) against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0962/FUL, dated 28 May 2020, was refused by notice dated 31 July 2020.
  - The development proposed is Erection of new attached dwelling in the side garden of 208 Stortford Hall Park. The development would provide a new three-bedroom, two-storey house with separate access, parking provision and a front and side garden.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The first reason for refusal on the Decision Notice (DN) refers to Policy HOU7 of the Council's Local Plan<sup>1</sup>. However, I have not found against that policy as it relates to the accessibility and adaptation of homes, and neither the DN nor the Officer Report identify any concerns in respect of either matter. I have therefore determined the appeal on this basis.

### Main Issues

3. The main issues are: -
  - the effect of the proposal on the character and appearance of the area;
  - the effect of the proposal on the living conditions of the occupiers of 210 Stortford Hall Park, with regard to outlook and privacy; and
  - whether suitable living conditions would be provided for future occupiers of the proposed house, with regard to the provision of internal space.

### Reasons

#### *Character and appearance*

4. The appeal concerns the garden of a two-storey semi-detached house situated at a corner within Stortford Hall Park, a residential street typically characterised by staggered pairs of houses of generally consistent proportions and design. Each house is also set back from the street behind hard and soft landscaped frontages, which incorporate parking. Given its corner location, No 210 to the

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

southwest is separated from No 208 by the gardens of both houses. While these are enclosed by a low wall and clearly distinguishable from open amenity land, together with their planting, they form an important open and undeveloped gap between the houses. This softens the appearance of the street which is otherwise formed of a continuous built-up frontage of houses.

5. Despite part of the front and side garden being retained, the proposed house not projecting beyond the building line formed by the pairs of houses to either side and being aligned with the pair of houses opposite, its presence would nevertheless draw existing development closer together. Moreover, it would significantly erode the open, undeveloped and landscaped qualities of the space between the houses and the contribution it makes to the local distinctiveness of this part of the street.
6. The design of the proposed house would reflect elements of the existing pair of houses, but it would be noticeably wider than the existing adjoining houses and the other pairs of houses in the street. It would therefore appear at odds with the established visual characteristics of these properties and the wider street.
7. I am mindful that the proposal originally included parking to the front, the location of which altered to the side of the property to satisfy concerns regarding highway safety. I note that there are other examples of parking to the side of houses within the locality but the proposal would not follow the general pattern of parking arrangements found within the street. The presence of the parking in the gap between the houses would therefore add to the harm that would be caused to the character and appearance of the area.
8. I have had regard to the spaces between Nos 47 and 49 and to the south of the flats situated near to the junction with Church Manor. The former is occupied by garages and areas of hardstanding, so is not comparable with the appeal site, but the latter shares characteristics with the appeal site in that it softens the appearance of the flatted development within the street. Similarly, I have been referred to extensions built at Nos 35, 49 and 186 and a new dwelling alongside No 15. However, these relate to existing terraces of houses of varying extents, so would not be comparable with the appeal scheme before me for a house attached to a pair of houses.
9. For the reasons outlined above, I conclude that the proposed development would have a significantly detrimental effect on the character and appearance of the area. Hence, the proposal would not accord with the design aims of Policies DES3 and DES4 of the Council's Local Plan.

*Living conditions of occupiers of No 210*

10. The appeal property and No 210 are arranged roughly at right angles to one another with a gap between. The side boundary of the rear garden of No 210 therefore abuts the rear garden of No 208. While the proposal would not be deeper than No 208, it would add considerably to the extent of built development and significantly close the gap between the houses, creating an enclosing effect, and would appear oppressive and unduly prominent in views from the conservatory and garden of No 210.
11. The proposal would introduce two additional windows at first floor that would face toward the garden and conservatory of No 210, the closest of which would serve a bathroom, so could be obscure glazed. The other window would be

directly alongside that serving a bedroom in No 208. While overlooking of the garden or conservatory would not be introduced from different vantage points, it would add to the feeling of occupants of No 210 being overlooked in these spaces. This would be of detriment to their living conditions.

12. I appreciate that part of the garden of No 210, between the boundary and its flank wall is narrow and a fence and some established planting is present along the boundary. However, the proposed development would be visible from and allow visibility of the garden of No 210 beyond this area. The existing screening would not therefore be sufficient to screen the harmful effects of the proposal and, in any event, the planting could not be relied upon in perpetuity.
13. In light of the above, I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of 210 Stortford Hall Park, with regard to outlook and privacy. Hence, the proposal would not accord with Policy DES4 of the Council's Local Plan and paragraph 127 of the National Planning Policy Framework (the Framework), in respect of these matters.

*Living conditions for future occupiers of the proposed house*

14. The main parties agree that the floor area of Bedroom 2 within the proposed house would fall below the minimum requirements for a single bedroom, as described in the Government's Technical Housing Standards - Nationally Described Space Standards (NDSS).
15. Footnote 46 of the Framework advises that policies may make use of the NDSS, where the need for an internal space standard can be justified. Policy DES4 of the Council's Local Plan does not refer to internal space standards or compliance with the NDSS and I have not been referred to another policy which specifically does so. With this in mind, while the NDSS may provide a useful indication of what would constitute a reasonable size for bedrooms, it is not a policy requirement.
16. The accommodation in Bedroom 2 would include a cupboard above the bulkhead of the stairs leading to ground floor, so the room would not necessarily be spacious. However, the floor plan demonstrates that it would be similar in size to Room 3 in No 208 and that furniture could still be housed within it. The room would therefore not appear cramped and would form a usable and functional part of the overall living accommodation for future occupiers.
17. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers, with regard to the provision of internal space. Hence, the proposal would not conflict with aims of Policy DES4 of the Council's Local Plan in respect of the size and dimensions of rooms.

**Other Matters**

18. The appellant submitted the proposal following pre-application advice. The Framework stresses the benefits of early engagement and of good quality pre-application discussion. Whilst I am mindful that this is not binding, in any event, I have considered the individual merits of the proposal afresh and any positive feedback given in respect of any matters does not warrant allowing this appeal.

## **Planning Balance**

19. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise, which includes the Framework.
20. The appeal scheme would deliver a new three-bedroom house, which would be sustainably constructed and located, and could be built out relatively quickly in order to contribute to local and national housing targets. Despite these factors, given the scale of development proposed, the contribution to the supply of housing would be minor in its extent, so it would only be afforded limited weight.
21. I also recognise that the proposal could be said to make more efficient use of the site. However, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
22. The proposal would be compliant with the policies of the development plan in respect of the living conditions of future occupiers. In terms of harm, the proposed development would not comply with development plan policy in respect of the harm to character and appearance and living conditions of neighbouring occupiers.
23. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission. The proposal would also not amount to sustainable development under the terms of the Framework.

## **Conclusion**

24. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

*Paul Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 11 January 2021

by **S Tudhope LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 February 2021

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**Appeal Ref: APP/J1915/W/20/3259494**

**Highways Land, Great Hadham Road, Bishops Stortford CM23 4PX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by MBNL (EE UK LTD & H3G UK LTD) against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0937/TEL, dated 14 May 2020, was refused by notice dated 13 July 2020.
  - The development proposed is the installation of a 20m high slimline tower supporting 12 no antenna apertures with the installation of 8 no ground-based equipment cabinets and ancillary development.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The appellants' evidence refers to the appeal proposal being an application for full planning permission. Nevertheless, the application as submitted to and determined by the Council, was for prior approval of permitted development under the GPDO as set out above. I have necessarily determined the appeal on that basis.

### Planning Policy

4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have therefore had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

## **Main Issues**

5. The main issues are the effect of the siting and appearance of the proposed development on the character and appearance of the area, and whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

## **Reasons**

### *Character and appearance*

6. The appeal site is located on the southern side of the Great Hadham Road (B1004), within the grassed highway verge. A housing development of predominantly two storey properties lies immediately to the south, with the nearest dwelling approximately 13 metres from the site. A vegetation covered fence runs between the back of the highway verge and the nearest houses. A footway runs along the opposite side of the road with a backdrop of mature trees and hedgerow which screen the school playing fields beyond.
7. The proposal would involve the installation of a 20 metre high telecommunications mast with a wraparound cabinet at its base and a further seven equipment cabinets, set in four groups, which would form a linear arrangement parallel to the road. The appellant indicates that the proposal is required to facilitate the upgrading of digital coverage in the area including the provision of 5G coverage. The installation would be shared between two providers and would also be compatible for use by the emergency services.
8. There is an existing 15 metre high mast and equipment approximately 85 metres west of the appeal site, at the rear edge of the footway, set within the context of relatively tall street trees. Streetlights, of approximately 8 metres high, are a feature of the street scene but they are situated along the northern side of the road. By contrast the area around the appeal site has a lower rise appearance and is largely devoid of trees and street furniture.
9. As a result of this existing character, I consider that the appeal proposal would be conspicuously large and out of scale in the context of the surrounding built and natural environment. Moreover, the close siting of the mast to the side and rear elevations of the neighbouring dwelling would result in an unsympathetic and incongruous relationship and would emphasise the disproportionate scale of the proposal. The number and scale of the cabinets required in connection with the mast would add to its visual impact. The proposal would cause a cluttered and crowded appearance to a part of the street which is currently quite open. The Great Hadham Road is a relatively straight road in this location and the proposal would be readily visible on the approach in either direction.
10. I acknowledge the existing vertical features within the street scene. However, these would not be sufficiently close to the appeal site to provide any effective screening of the proposed development. The proposal would not be integrated or assimilated into its surroundings. It would be prominent in views through the area including from nearby residential streets and properties and when travelling along the Great Hadham Road. Irrespective that it would be finished in grey to minimise its impact, by virtue of its excess height and its bulk, including the antenna and wraparound base, the proposal would be a dominant and visually obtrusive feature.



11. The existing mast and equipment have a very different relationship to the environment which surrounds them. That site is backed and flanked by vegetation and mature trees, other vertical street features are in proximity and there is a greater separation from lower level built form. Its position amongst the mature trees reduces the relative appearance of its height and lessens its prominence. I do not consider that the presence of the existing mast and equipment offers genuine support to the acceptability of the location of the appeal proposal.
12. I have been provided with photographs of other similar installations. However, these differ in their site specific circumstances from the appeal proposal, particularly in relation to surrounding development and other vertical features such as street lights, other masts and mature trees. These examples do not therefore lead me to a favourable conclusion in respect of the appeal scheme.
13. I therefore conclude that the siting and appearance of the proposed development would cause unacceptable harm to the character and appearance of the area. Although not determinative, the proposal would conflict with Policies ED3 and DES4 of the East Herts District Plan 2018 (DP) and Section 10 of the Framework. Collectively and amongst other matters these policies require development to be sympathetically designed and appropriately located and to respect the character of the site and the surrounding area.

#### *Alternative sites*

14. The Framework states that high quality and reliable communications infrastructure is essential for economic growth and social well-being and it supports the expansion of electronic communications networks, including 5G. Even so, the number of masts and the sites for such should be kept to a minimum and the use of existing masts, buildings and other structures is encouraged.
15. In this case, the existing 15 metre mast is shared by the 2 operators and it provides 2G, 3G and 4G coverage. However, it is not considered structurally suitable to host the necessary equipment for both operators to rollout 5G services in this location in its current form. The existing monopole would have to be increased substantially in height and bulk to accommodate all the technologies on one mast.
16. The Site Specific Supplementary Information justifies the location of the proposal partly on the basis that there are no alternative structures or buildings of sufficient height to utilise in the area and that to remove the existing mast, to enable a new structure to be built in its footprint, would cause a total blackout of services in the area.
17. The appellant also states the proposal would utilise one structure (supporting 2G/3G/4G and 5G), shared between two providers and would negate the need for an additional installation within this cell area. The appellant refers to the appeal proposal being a replacement mast, however, the evidence is ambiguous as it is further stated that the removal of the existing mast does not form part of this proposal as a definite timescale cannot be given for its decommissioning. I cannot be certain that the existing mast would be decommissioned and removed and therefore the weight to be given to the benefit of operators sharing the proposed mast is limited.



18. In addition, the evidence states that the choice of site for any base station is limited by the availability together with town planning and radio coverage constraints, and that in this case the search area was particularly constrained by underground services and space restrictions.
19. Nevertheless, there is very little detail about the particular site selection process or the specific constraints of underground services and space restrictions to demonstrate that the appeal site is the only viable option. Furthermore, whilst I have no reason to dispute that replacement of the existing mast in situ would result in a loss of service from that mast, no consideration appears to have been given to whether or not service could be maintained by the use of a temporary mobile mast during the construction period.
20. Consequently, I conclude that it has not been robustly demonstrated that the proposed development needs to be sited in this location, having regard to the potential availability of less harmful sites. Insofar as they are a relevant material consideration, I also conclude that the proposal would conflict with DP Policy ED3 and Section 10 of the Framework.

*Other considerations*

21. The appellant has referred to two appeal decisions related to sites in other Council areas. The heights of those masts and the site specific circumstances differ from those of the appeal scheme before me. Whilst mindful of those decisions, I must necessarily assess the appeal proposal on its own merits.
22. My attention has been drawn to a number of Government and industry statements and guidance documents including the Code of Best Practice on Mobile Network Development in England 2016. In this regard there is no dispute that high quality communications infrastructure is supported both nationally and locally. Furthermore, the ability to communicate electronically and access the internet via mobile devices has undoubtedly been even more evident during the Covid-19 pandemic. I also recognise the important contribution of the provision of mobile technologies to the emergency services and that EE has been selected to provide the new critical emergency services network.
23. I have taken account of these economic and social benefits and the merits of an effective and enhanced communications network. These are factors that weigh in favour of the proposal. Nonetheless, I do not find these benefits outweigh the harm to the character and appearance of the area that would be generated by the siting of the mast and associated works in such a location. Furthermore, the evidence does not make a convincing case that no suitable alternative sites exist, and that weighs against the proposal.

**Conclusion**

24. For the reasons above, I conclude that the proposal would not be acceptable in respect of its siting and appearance, therefore the appeal is dismissed.

*S Tudhope*  
Inspector



## Appeal Decision

Site visit made on 26 January 2021

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

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 09 March 2021

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**Appeal Ref: APP/J1915/W/20/3257470**

**Ellenglaze, Bramfield House, Bramfield, Hertford SG14 2QT**

- 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 Chris Armstead against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0919/FUL, dated 14 May 2020, was refused by notice dated 3 August 2020.
  - The development proposed is the construction of garage and home office
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - whether the proposal would be an inappropriate development in the Green Belt with regard to the National Planning Policy Framework (the Framework);
  - the effect upon openness; and
  - if the development is inappropriate, 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

*Whether inappropriate development*

3. The proposed development would be sited within the Metropolitan Green Belt (the Green Belt). The Framework regards the construction of new buildings as generally being inappropriate.
4. There are some exceptions to this, which are listed in Paragraph 145 of the Framework. However, the proposed development would not be used for agriculture or forestry; sport and recreation facilities; would not be a replacement building; would not be a limited infill; would not be affordable housing; and would not pertain to redevelopment of previously developed land.
5. My attention has also been drawn to the requirements of Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan). This requires that

proposals for new developments in the Green Belt are assessed against the requirements of the Framework.

6. Although the proposed development would be an outbuilding for use in association with an existing dwelling, the evidence before me is indicative that the proposed building would be located outside of the curtilage of the dwelling. In addition, the proposed building would be located a substantial distance away from the appellant's dwelling. This distance would mean that the proposed development would appear divorced from the original dwelling.
7. In addition, the proposed garage would have a significant footprint which, in conjunction with other outbuildings on the property, would contribute to a large increase in built form at the site. In consequence, owing to its location and proportions, the proposed development could not be considered to be a proportionate addition to the original dwelling.
8. In result, the proposal would represent an inappropriate development in the Green Belt. The development, in this regard, would conflict with Policy GRB1 of the District Plan and the Framework. Amongst other matters, these seek to prevent the undertaking of inappropriate development in the Green Belt.

*Effect on openness*

9. The topography of the surrounding area is relatively flat. This is also reflected on the appeal site, the rear boundary of which is marked by a post and rail fence. In consequence, the location of the proposed development and the countryside beyond can be viewed alongside one another, including from the adjoining residential properties.
10. In result, views of the proposed development and the wider countryside would be possible. This would be exacerbated by the footprint of the proposed development. This would mean that the proposed development would erode the physical sense of openness of the Green Belt.
11. In addition, the increase in built form which would be physically separate from the existing dwelling and other sizeable built structures would erode the spatial character of openness that is an intrinsic feature of the Green Belt.
12. Therefore, whilst views of the proposed development would be screened from Well Green, it would be visible from other parts of the Green Belt, which is a concern given that it would erode the spatial character of openness due to an increase in built form. Furthermore, owing to the proportions of the proposed development, it would not blend into the surrounding landscaping.
13. Paragraph 134 of the Framework sets out the reasons for including land within the Green Belt. These include safeguarding the countryside from encroachment. By reason of the scale and siting of the proposed development, it would result in an encroachment of built form into the countryside. Therefore, the proposed development would conflict with the purpose of including land within the Green Belt.
14. I am aware of a development on an adjacent property. I do not have the full information regarding its planning circumstances, which lessens the weight that I can attribute to it. Nonetheless, I note that it appears that these works have been undertaken using permitted development rights and are within the curtilage of the associated dwelling house.

15. In addition, this development is closer to the associated dwelling than the scheme before me and also appears to be constructed to smaller proportions than the appeal scheme. In consequence, the scheme before me would have a greater effect upon the openness of the Green Belt. Therefore, the presence of a development on the adjoining site does not allow me to disregard my previous concerns.
16. I therefore conclude that the proposal would have an adverse effect on openness. The development, in this regard, would conflict with the requirements of Policy GBR1 of the District Plan and the Framework. These, amongst other matters, seek to ensure that planning applications are considered in line with the requirements of the Framework; and that developments do not affect the Green Belt's open character.

#### *Other considerations*

17. The proposed development would provide additional garaging at the property. I am certain that this would increase convenience for occupiers of the dwellings and, potentially, reduce the need for residents to park in Well Green, which is relatively narrow and is an access shared with other properties.
18. However, the benefits of this are limited as the property already features off road parking, which is located behind gates that would provide some security for parked vehicles. In result, this provides an area for residents to park without effecting the movement of vehicles and pedestrians in Well Green. Therefore, I am only able to give this matter a limited amount of weight.
19. I note that the appeal site does not include a front garden, which means that off-street car garaging could only take place to the rear of the property. However, given that parking is available, this matter also only carries a limited amount of weight

#### **Other Matters**

20. I acknowledge 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.
21. The application for planning permission was not the subject of objections and that support was expressed by the Parish Council. Whilst these are matters of note, they are only some of the points that must be considered and therefore do not outweigh my conclusions in respect of the Main Issues

#### **Planning Balance and Conclusion**

22. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to this harm. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
23. 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. Therefore, they do not clearly outweigh the harm to the openness of the Green Belt.

24. In consequence, and for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



## Appeal Decision

Site Visit made on 13 January 2021

by **Chris Forrett MRTPI, DipTP, BSc(Hons)**

an Inspector appointed by the Secretary of State

**Decision date: 04 February 2021**

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**Appeal Ref: APP/J1915/W/20/3258823**

**Land rear of 33 Homefield Road, Ware, Hertfordshire SG12 7NG**

- 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 Jenkins against the decision of East Herts District Council.
  - The application Ref 3/20/0836/FUL, dated 29 April 2020, was refused by notice dated 23 June 2020.
  - The development proposed is the erection of a detached one-bedroom bungalow with new vehicle access and parking.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and on the living conditions of the occupiers of the neighbouring properties with particular regard to outlook.

### Reasons

#### *Character and appearance*

3. The appeal site is located within a residential area of Ware and consists of part of the rear garden of a semi-detached bungalow. The bungalows on the south side of Homefield Road have a uniformity to their spacing and their gardens are generous in their length. From my site visit I saw that there is an existing outbuilding adjacent to the appeal site at the bottom of the garden to The Manse. The only buildings which exist to the rear of the Homefield Road properties are ancillary domestic buildings.
4. The proposal would result in the subdivision of the garden of No.33 with the rearmost section accommodating the proposed bungalow. The bungalow would be formed in an 'L' shape and would be around 3.85 metres in height. The bungalow would extend across the majority of the width of the site with approximately 1 metre each side left open to allow for access.
5. My attention has been drawn to a previous proposal which was refused permission by the Council and subsequently dismissed at appeal<sup>1</sup>. From the evidence before me, the current proposal has a very similar footprint and siting to the previous proposal but has a much lower roof pitch which has resulted in a building which is much lower than previously considered. Nevertheless, this appeal decision is an important material consideration.

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<sup>1</sup> References 3/18/2058/FUL and APP/J1915/W/19/3221849

6. Given the lowered roof height of the proposed bungalow any views of it from Homefield Road would be very limited. However, the proposal would be highly visible from the rear of the adjoining properties on Homefield Road and from the properties accessed off the private driveway to the rear off High Oak Road.
7. More significantly, the retained garden for No.33 would be much shorter than those of the other properties on Homefield Road, including Nos. 35 and 37. To my mind, it is this factor together with the addition of the building itself would result in an overall pattern of development which would unacceptably undermine the character of the existing development along Homefield Road. In this respect, it would result in an overly cramped form of development.
8. Notwithstanding that, I am conscious of the existing bungalows at 62A, 64 and 66 High Oak Road which are accessed off the private driveway to the rear. The pattern of development of these bungalows is much more tightly packed, with plot sizes being much smaller than the Homefield Road properties.
9. However, from the Councils figures, the appeal plot would be much smaller than even the smallest of these bungalows (No. 62A) and the development of even a small bungalow on this site would contribute to the feeling of a new dwelling being squeezed into the available space. Whilst the level of harm is not as great as that in relation to the Homefield Road character, there is nevertheless some harm.
10. Taking all of the above into account, the development would have a harmful impact on the character and appearance of the area in conflict with Policy DES4 of the East Herts District Plan 2018 (EHDP) which amongst other matters seeks to ensure that development is of a high standard of design and layout to reflect and promote local distinctiveness. It would also be at odds with the overarching design aims of the National Planning Policy Framework.

#### *Living conditions*

11. The Councils reason for refusal also includes reference to harm to the visual amenities of neighbouring residents, although the Officers' report concludes that the proposed scheme would have an acceptable impact on the residential amenities, in accordance with Policy DES4(c) of the EHDP.
12. Notwithstanding that, I am conscious that the representations received on the application have included matters relating to the potential loss of light and overshadowing, sewerage/drainage, the enjoyment of neighbouring gardens, noise and pollution from additional traffic, security issues and light nuisance from new security lights.
13. Whilst I have found harm in terms of the cramped form of development on the character and appearance of the area, on balance, I consider that none of the matters raised in respect of the effect of the development on the living conditions of the occupiers of the adjoining properties amount to a further compelling reason to withhold planning permission.
14. For the above reasons, I consider that the proposal would not harm the living conditions of the occupiers of the adjoining, or nearby, residential properties and in this respect the proposal would accord with Policy DES4(c) of the EHDP which seeks to ensure that new development avoids significant detrimental impacts of the amenity of the occupiers of neighbouring properties.

### **Other Matters**

15. I have also had regard to the other matters raised in the representations, including highway aspects. Whilst I share some of the concerns of local residents in respect of the width of the access and whether cars would be able to manoeuvre into and out of the proposed parking spaces, I am also conscious that the access driveway is outside of the application site, and therefore outside of the scope of the application.
16. The provision of a suitable access to the appeal site is clearly a material planning consideration which does not appear to have been fully considered by the Council. Had I been minded to allow the appeal, then this is clearly a matter which would have needed further consideration as to whether a safe and suitable access could be provided. However, given my conclusions above, I have not explored this matter any further.
17. In respect of the other matters raised in the representations not already covered above, none of these matters present a barrier to the granting of planning permission.

### **Conclusion**

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

*Chris Forrett*

INSPECTOR





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## Costs Decision

Site visit made on 22 September 2020

by **S Tudhope LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

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### **Costs application in relation to Appeal Ref: APP/J1915/W/20/3254148 8 Parsonage Lane, Bishops Stortford CM23 5BE**

- 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 Mr Emlyn Morton for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for part single and part two storey rear extension. Conversion and alteration of 1 garage to form front entrance door; together with associated elevational alterations.
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### **Decision**

1. The application for a reward of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council has, in essence, made an erroneous decision refusing the proposal on design grounds in the absence of any adopted design code or design guidance specific to the locality; that it has not properly considered the proposal in light of the National Planning Policy Framework (the Framework); and that the Council have failed to take into account all material considerations including lack of objection to the proposal, consideration of development plan policies which support the proposal and the fallback position of permitted development allowances. The applicant further considers that this is inconsistent with the Council's approach to a similar planning application in the locality where permitted development was considered.
5. To support its decision the Council provided a detailed officer report on the planning application which clearly set out the conflict between the proposed development and the requirements of Policies DES4 and HOU11 of the East Herts District Plan 2018 which seek to ensure a high quality of design. This is consistent with paragraph 130 of the Framework which does not prevent development proposals being refused solely on the grounds of poor design.

6. Further, an absence of an adopted design code or specific design guidance for the area does not prevent the exercise of planning judgement with regard to good design. Consideration was also given to other development plan policies with which the Council did not find conflict. In any case, other issues where no material harm has been identified and lack of objection by third parties would be neutral in the planning balance. The Council's concerns were not based on vague or generalised assertions and the report reached an appropriately reasoned judgement.
7. No specific reference was made by the Council to the benefits of the proposal in respect of resultant improved living conditions for the occupiers. However, it is not possible to infer that had this matter been expressly weighed against the harm that the Council identified, that it would have led to a positive outcome and thereby negated the need for the planning appeal.
8. It is possible that the site could be developed by exercising the permitted development rights of the property. However, the Council can only reasonably assess the fallback position when details are presented to them to allow a comparison to be drawn. As this matter was only presented at appeal stage, the Council's omission of considering it at application stage was not unreasonable.
9. Consistency of decision making is critical to ensuring confidence in the planning process. However, I do not find that the Council acted inconsistently with the decision they made in relation to a planning application at a different site in the locality. The fallback position in that case was presented and considered at planning application stage and it seems to me that there were material differences between that case and the appeal proposal. Further, there is nothing that would indicate that the Council would have arrived at a different decision had it carried out the assessment of the appeal scheme fallback position at application stage, particularly given its indications within the appeal evidence.
10. The Council in its appeal statement determined that the proposed fallback scheme would be significantly smaller than the appeal proposal and as such it was not considered to be a reasonable alternative or a genuine fallback position. In addition, the applicant has advised that he has sold the property and moved elsewhere. For a fallback scheme to be influential in decision making there must be a real prospect of such development being implemented. That does not appear to be the case here and it was not unreasonable for the Council to exercise its planning judgement in relation to this matter.
11. Although the appeal has proved successful, I am satisfied that in refusing planning permission, the Council rightly sought to protect local character and to ensure quality of development. It presented suitably detailed reasons to justify its decision when assessed against the provisions of the development plan. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*S Tudhope*  
Inspector



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## Appeal Decision

Site visit made on 22 September 2020

by **S Tudhope LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

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**Appeal Ref: APP/J1915/W/20/3254148**

**8 Parsonage Lane, Bishops Stortford, CM23 5BE**

- 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 E Morton against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0329/HH, dated 13 February 2020, was refused by notice dated 17 April 2020.
  - The development proposed is part single and part two storey rear extension. Conversion and alteration of 1 garage to form front entrance door; together with associated elevational alterations.
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### Decision

1. The appeal is allowed and planning permission is granted for part single and part two storey rear extension. Conversion and alteration of 1 garage to form front entrance door; together with associated elevational alterations at 8 Parsonage Lane, Bishops Stortford, CM23 5BE in accordance with the terms of the application, Ref 3/20/0329/HH, dated 13 February 2020, 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: Existing Floor Plans, Block Plans & Location Plan Drawing Number 1803-01-PL2; Existing Elevations & Roof Plan Drawing Number 1803-02-PL2; Site, Block & Location Plans - proposed Drawing Number 1803-10-PL2; Ground Floor Plan - proposed Drawing Number 1803-11-PL2; First Floor Plan - proposed Drawing Number 1803-12-PL2; Roof Plan - proposed Drawing Number 1803-13-PL2; Front & Rear Elevation - proposed Drawing Number 1803-14-PL3; and Side Elevations - proposed Drawing Number 1803-15-PL2.

### Application for Costs

2. An application for costs was made by Mr Emlyn Morton against East Hertfordshire District Council. This application is the subject of a separate Decision.

### Procedural Matter

3. The description of development in the banner heading and my decision above is taken from the Council's decision notice. The appeal form indicates that there was an agreement to change the description from that given on the application

form. Nevertheless, I note that the wording provided on the appeal form differs slightly from that on the decision notice. However, the above description adequately describes the development and I have determined the appeal on that basis.

### **Main Issue**

4. The main issue is the effect of the proposed development on the character and appearance of the host property, 8 Parsonage Lane, and the street scene.

### **Reasons**

5. The appeal property is a large detached dwelling situated on the north-eastern side of the road in a substantial plot. Parsonage Lane is predominantly residential with a mix of dwelling types and sizes. Houses front the road and are set back from it providing modest front gardens and off-road parking. There is considerable variation in the detailed design, size and materials of the houses within the street and several have been enlarged by extensions and roof alterations.
6. The proposal comprises several elements. The existing double garage would be altered externally by replacing one of the garage doors with an entrance door and window, and internally to a single garage and entrance hall. Consequently, the appearance of the front of the building in the street scene would be largely unaltered.
7. The proposed part two storey and part single storey rear extension would result in a substantial addition to the existing dwelling. Nevertheless, the enlarged house would have a cohesive design respectful of the existing dwelling in its detailing. The roof alterations would include a crown roof, but other houses in the road also include this feature. This element would be stepped down from the main roof line, indicating subservience to it. The roof profile would broadly replicate that of the existing dwelling, retaining a hipped roof form, and the position of the flat roof element, towards the rear of the building, would ensure that this design feature would not be readily visible from outside of the site. I am of the view that the overall size of the resultant dwelling would not be disproportionate to, or over dominant in the site's context. Further, I am satisfied that the design of the roof would not be out of keeping with other development within the area.
8. Policy HOU11(c) of the East Herts District Plan 2018 (LP) states that flat roofed extensions, except those on the ground floor, will be refused as visually undesirable other than in those exceptional circumstances where the character of the original dwelling allows a flat-roofed design to be appropriately incorporated, or it represents a sustainable or innovative design approach. Although the proposed roof form incorporates a flat roof element above first floor level, this is as part of a crown roof whereby the existing hipped roof design is the predominant form retained. Consequently, in the particular circumstances of this case, I do not consider that the appeal proposal comprises a flat roof extension such as would conflict with part (c) of LP Policy HOU11.
9. Evidence has been submitted to demonstrate development that could be carried out at the site under permitted development allowances. The Council does not consider this to be comparable to the appeal proposals in terms of

scale and does not consider that the stated fallback position would be genuinely likely to be carried out if the appeal were to fail. Whilst I acknowledge the position of both parties in respect of this matter, given my findings above, it has not been determinative in this instance. Equally any comparison with other appeal decisions submitted by the appellant, in support of his proposal, would be of limited relevance. In any case I have determined the appeal on its own merits.

10. Consequently, I conclude that the proposed development would not have a harmful effect on the character and appearance of the host property or the street scene. Thus, it would comply with LP Policies HOU11 and DES4 which, together and amongst other matters, seek to ensure a high standard of design that is appropriate to the character and appearance of a host dwelling and the surrounding area.

### **Conditions**

11. In addition to the standard implementation condition, I have imposed a condition specifying the approved drawings as this provides certainty.
12. I do not consider it necessary to impose a separate condition with regard to the proposed external materials, as these are indicated on the approved drawings and this matter is therefore adequately covered by Condition 2.

### **Conclusion**

13. For the reasons given above the appeal is allowed.

*S Tudhope*

Inspector



## Appeal Decision

Site Visit made on 13 January 2021

by **Chris Forrett MRTPI, DipTP, BSc(Hons)**

an Inspector appointed by the Secretary of State

**Decision date: 04 February 2021**

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**Appeal Ref: APP/J1915/W/20/3259621**

**Land at Old Station Yard, Millers View, Much Hadham, SG10 6BN**

- 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 Browndog Developments Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0269/FUL, dated 4 February 2020, was refused by notice dated 6 April 2020.
  - The development proposed is Erection of four market dwellings & four affordable dwellings with associated access road & landscaping.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

3. The appeal site is located on the south-western edge of Much Hadham. The developable area of the site is broadly rectangular in shape and was historically used as railway sidings and a station. The site is currently vacant and is largely covered in self-set trees and vegetation which have formed a small secondary wooded area.
4. To the north-east of the site are residential properties on Windmill Way whilst to the south-east are more modern properties on Millers View which is where the development would be accessed from. In other directions the surrounding land is open and undeveloped, save for an area of trees to the north-west of the development which is shown as being retained on the submitted plans.
5. It is common ground between the main parties that the site is located beyond the settlement boundary for Much Hadham and as such, in planning policy terms, is located in the countryside. That said, the site adjoins the settlement boundary where there is existing development.
6. My attention has been drawn to an appeal decision<sup>1</sup> at the site for the erection of eight dwellings (four semi-detached and four detached) with associated access road. Whilst that development differs from the one before me, and was determined on the basis of a now superseded Development Plan, it is nevertheless a significant material planning consideration.

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<sup>1</sup> Reference APP/J1915/W/17/3186663 dated 13 June 2018

7. As noted in the previous appeal decision, the layout of that appeal scheme would create a built form that would protrude substantially further to the north and west than the existing development. Whilst the current appeal scheme would not extend quite as far as the previous one, with a depth of woodland of around 35 metres being retained, it would nevertheless extend well beyond any of the existing development in a linear fashion from Millers View. Another significant difference between the two proposals is that the current scheme has four bungalows which would be to the north-western end of the proposed development.
8. Whilst concerns over the principle of the development are not explicitly set out in the Councils reason for refusal, its evidence refers to Policies DPS2, GBR2 and VILL1 of the East Herts District Plan 2018 (EHDP) which go to the heart of the locational aspect of the development. Significantly, these policies seek to locate new development in the most sustainable locations in a hierarchical order. They also recognise and seek to maintain the countryside as a valued resource.
9. This point is acknowledged by the Appellant as the list of types of developments supported by Policy GBR2 in a location such as the appeal site does not include general housing proposals. However, in the Appellants view, Policy GBR2 does not explicitly preclude such developments or that the list of developments that will be permitted is exhaustive.
10. Policy DPS2 identifies limited development in villages at the bottom of the sustainable development hierarchy. That said, Policy VILL1 of the EHDP identified Much Hadham as a Group 1 village, which are the most sustainable villages in the District. It is also recognised that such villages can accommodate new housing and that such provision will help to sustain existing facilities and deliver community benefits. Indeed, it is indicated that a minimum of 54 dwellings should be provided within the village by the end of the Plan period.
11. With the above in mind, it is clear that the principle of some development at Much Hadham would be acceptable. Notwithstanding that, the Appellant does acknowledge that the site lies outside of the village boundary and as a result does not strictly adhere to the hierarchical approach.
12. My attention has also been drawn to the draft Much Hadham Neighbourhood Plan. This plan seeks to allocate housing sites to accommodate this growth but does not include the appeal site as a potential housing site. However, this plan is still in its infancy and has yet to go through its examination. Therefore, I can give this very little weight.
13. I am also conscious that the site cannot be considered to be isolated in the context of paragraph 79 of the National Planning Policy Framework (the Framework). Furthermore, Much Hadham does have a range of facilities, a point recognised by the Council. In that sense, I am satisfied that there would not be an over-reliance on the private motor car to gain access to the most basic level of services. However, this does not mean that the proposal is sustainable development as sustainability goes way beyond means of travel.
14. Turning to the detail of the effects of the development on the character and appearance of the area, it is noted that the appeal site does not lie within any special landscape designation and in the context of the Framework is not a valued landscape.



15. However, as a matter of fact, the proposal would result in the permanent loss of countryside. Whilst the site has historically been used as part of the Much Hadham railway, the site has blended into the rural landscape and cannot be considered to be previously developed land.
16. The proposal would also result in the loss of a significant number of trees on the site. Whilst none of these can be said to be individually important, this wooded area does nevertheless contribute positively to the edge of the village. In my view, the current level of tree coverage assists in the transition of the built development into the open countryside.
17. As shown on the photo montages provided with the submission, there would be a noticeable thinning out of this tree coverage as a result of the development. There would also be views of the new dwellings, particularly from viewpoints 1 and 2 despite the retained trees and proposed native hedge. Whilst the new dwellings would be seen in the context of the existing development, and the remaining trees, it is an inescapable fact that there would still be a negative impact on the overall landscape in the area. In my view, this could not be mitigated by planning condition should I be minded to allow the appeal. That said, this is clearly a local impact.
18. Taking the above into account, the development would have an undesirable intrusion into the countryside by having an urbanising effect on the local landscape.
19. In respect of the detailed design aspects of the proposal, I noted from my site visit that Millers View as a whole has a mixture of built form with aspects of both two storey and single storey garage development. Whilst the more recent development including the pairs of semi-detached dwellings have an element of spaciousness to the unattached sides, this is in contrast to the other dwellings on the road.
20. The massing of the appeal buildings would be more akin to the original dwellings on Millers View, albeit that the design principles are somewhat different. It is noted that plots 1-4 include flat roof garages to the side which help break up the visual massing of the two storey dwellings. These would also assist in providing a visual gap between the plots to the extent that the overall development would not appear cramped when compared to the original part of Millers View.
21. In terms of the proposed materials, I acknowledge that these would contrast with those of the existing development. However, in this instance, I find that this aspect would only add interest to the overall streetscene.
22. Taking all of this into account, I consider that the design and appearance of the dwellings themselves are not objectionable. However, that does not outweigh the harm I have found in respect of the overall character and appearance of the area.
23. For the above reasons the proposal would harm the character and appearance of the area and would conflict with Policies GBR2, DES2, DES3, DES4, DPS2 and VILL1 which amongst other matters seek to deliver sustainable development which relates well to the village, and maintain the Rural Area Beyond the Green Belt as a valued countryside resource, including the retention of existing landscape features which are of amenity value. It would



also be at odds with the overarching aims of the National Planning Policy Framework.

### **Other Matters**

24. The Council Officers' report also appears to identify concerns relating to the loss of biodiversity on the site, although this does not feature at all in the reason for the refusal of planning permission. This concern also relates back to the previous proposal on the site which did not retain the area of land which the current proposal does. With the above in mind, on the basis of the limited evidence before me, I consider that this issue is not a barrier to the granted of planning permission as some element of mitigation and compensation is possible.
25. In addition to the above, the Appellant has proposed that the four bungalows would be affordable dwellings. With that in mind, a unilateral undertaking has been submitted with the aim of delivering the four two-bedroomed bungalows as affordable dwellings.
26. That said, the submitted undertaking is not complete as it is undated, does not include the defined plan nor does it not include the signature of the Appellant. Furthermore, the trigger point for the deed to take effect is upon the date of the granting of planning permission and the commencement of development. The agreement defines the planning permission as "the planning permission to be granted by the Council in respect of the planning application".
27. Significantly, in the event that I allow the appeal, the planning permission would not be granted by the Council, and therefore the trigger point for the planning obligation to take effect would not occur. Therefore, I give this undertaking very little weight in my decision.
28. I have also considered whether the affordable housing could be secured through the imposition of an appropriately worded planning condition which Policy HOU3 of the EHDP suggests may be possible.
29. However, I have serious doubts as to whether the delivery of the affordable housing could be secured by this method to the extent that I am of the view that such a condition would not pass the tests as set out in the Framework and the Planning Practice Guidance. Furthermore, the fact that the Appellant sought to complete a legal agreement to realise the benefits of the delivery of such affordable housing only reinforces my view in this respect.
30. Given the above, I have not been presented with an appropriate mechanism to secure the provision of affordable housing. As such, I can give the suggested benefits of such provision very little positive weight in my decision.
31. Notwithstanding that, I acknowledge that the proposal would result in the delivery of eight much needed additional dwellings and this must be considered as a benefit of the scheme. Coupled with this, there would also be temporary economic benefits during the construction phase, together with long term social and economic benefits through increased support for local shops and services in this rural area. However, these are limited benefits of the scheme.

**Conclusion**

32. Whilst the proposal would deliver much needed new housing, for the reasons given above, I conclude that the appeal should be dismissed.

*Chris Forrett*

INSPECTOR



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## Costs 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: 03 March 2021**

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### **Costs application in relation to Appeal Ref: APP/J1915/W/20/3254717 Land adjacent to Hermitage Cottage, Scholars Hill, Wareside, SG12 7RQ**

- 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 Mr & Mrs Bill & Sally Tillbrook for a partial award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for demolition of an existing double garage in Wareside Conservation area to construct 2 bed dwelling on a portion of land to the rear of Hermitage Cottage, Wareside.
- 

### **Decision**

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

### **Reasons**

2. Paragraph 030 of Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 049 of PPG goes on to state that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The applicant states that the Council based their second reason for refusal on an incorrect and unreasonable assumption that the site lies partly within Flood Zone 2. They consider that if the Council had checked the Environment Agency (EA) flood maps it would have been clear that the site lies within Flood Zone 1. As such, they contend that there was no requirement for a Flood Risk Assessment to be submitted. It is also contended that the Council's view the property was at high risk of surface water flooding was not based on any factual evidence.
4. The EA flood maps, whilst providing an indication of the flood zones, are not sufficiently clear or precise on their own. In this instance, whilst the appeal site appears to largely fall within Flood Zone 1, from the maps alone it does appear that the north-east corner of the site could fall partially within Flood Zone 2. I have explained this in my decision on the appeal case.
5. The Council did advise at the pre-application stage that they considered the site to partly fall within Flood Zone 2 and 3. I have not been made aware of any detail submitted with the planning application to challenge this or establish that this was not the case. The Planning Statement submitted with the original

planning application also stated that the north east of the site was either slightly within or adjoining the boundary of Flood Zones 2 and 3.

6. Nevertheless, there is no detail to demonstrate the basis on which the Council determined the extent of the flood zone or that the site was susceptible to surface water flooding. Therefore, I do consider they have been unreasonable in that regard as they have failed to produce evidence to substantiate this reason for refusal on appeal.
7. The EA were consulted on the application and raised no objections subject to an informative. However, this appears to relate only to the impact of proposed works on the existing flood defences and retention of an adequate buffer to the brook. The EA would not necessarily review surface water data as part of a planning submission.
8. The information submitted to the appeal has demonstrated that the site is at high risk of surface water flooding. Drawing on the above, whilst I find the Council acted unreasonably in not fully substantiating its case, it was necessary for further site-specific information to be submitted in order to establish the extent of the flood zone and surface water flooding in this location. Hence the need for a FRA. Although the Council's reasoning appears to be confused, I have found that there were reasonable concerns about the impact of the proposed development which justified its decision in this regard.

### **Conclusion**

9. Whilst I find that unreasonable behaviour has occurred, it has not been demonstrated that this led to unnecessary or wasted expenses being incurred. As such, the requirements for an award of costs to be granted, as set out within the PPG, have not been met.

*A Denby*

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: 03 March 2021**

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**Appeal Ref: APP/J1915/W/20/3254717**

**Land adjacent to Hermitage Cottage, Scholars Hill, Wareside, SG12 7RQ**

- 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 Bill & Sally Tillbrook against the decision of East Herts Council.
  - The application Ref 3/20/0250/FUL, dated 6 February 2020, was refused by notice dated 8 April 2020.
  - The development proposed is demolition of an existing double garage in Wareside Conservation area to construct 2 bed dwelling on a portion of land to the rear of Hermitage Cottage, Wareside.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Bill Tillbrook against East Herts Council. This application is the subject of a separate decision.

### Procedural Matter

3. The appellant submitted a Flood Risk Assessment (FRA) with this appeal. The Council have had the opportunity to comment on it. I am satisfied that neither the Council nor interested parties have been prejudiced in this regard and I have taken the FRA into account in determining this appeal.

### Main Issues

4. The main issues are a) the effect of the proposed development on the character and appearance of the area with specific regard to the Wareside Conservation Area; b) the effect of the proposed development on the setting of listed buildings; and c) whether the proposed development would be at an unacceptable risk of flooding.

### Reasons

#### *The Wareside Conservation Area (WCA)*

5. Much of the significance of the WCA is derived from the tightly knit village core of traditional cottages, many of which are listed, clustered in the valley bottom of the Nimney Bourne Brook. The trees and hedgerows within the village are also an important visual component of the character of the WCA, particularly those on the narrow lanes. They screen and provide relief from the built

- development and a transition from the compact centre to the wider rural surrounds.
6. The appeal site comprises an area of garden associated with Hermitage Cottage. It is currently occupied by a detached garage and areas of hardstanding. There is also some landscaping within the site and a mature hedge to the road frontage. The site therefore has a verdant, open and spacious character which provides some visual relief from the concentrated development within the village core. It contributes positively to the character of the WCA.
  7. The proposed dwelling would be a substantial building, with large box dormers and a bulky shape. It would be in very close proximity to the road frontage and positioned at an angle towards the boundary, resulting in the end gable, and roof, with its large eaves overhang, being particularly dominant features, especially in views from Scholars Hill and its junction with the main road. The built development would extend almost the full length of the site boundary with the road and visually it would fill the plot, eroding its open and spacious character and consequently appearing cramped.
  8. The design of the proposed dwelling would be at odds with the established character of other development in the WCA. Although dormer windows are not an alien feature, those proposed would be of a more contemporary design. I appreciate that this can sometimes interestingly contrast with more historic forms. However, the roof and dormers would be the main visible feature of the dwelling and due to their size, design and materials they would appear obtrusive and incongruous amongst the more traditional architecture within the WCA.
  9. Whilst the existing garage at the appeal site is a more modern structure it is low level, set back from the road frontage and well screened by the existing landscaping. It is not a prominent feature and has a limited impact on the character and appearance of the WCA. Its removal would be a positive aspect of the appeal scheme but would not accordingly justify the impact of the design, scale and siting of the proposal for the above reasons.
  10. The appellant considers the provision of additional planting would mitigate the visual impact of the proposed development and a condition could address this concern. However, a substantial amount of the existing landscaping would be removed or reduced as part of the proposals. It would take some considerable time for any new landscaping to establish and considering the proximity of the dwelling to the boundary and large eaves overhang, the effectiveness of any landscaping in screening the development would be limited. It has been suggested that the existing hedging does not support wildlife though there is no detail to substantiate this.
  11. The bulky roof and substantial dormer windows would remain the dominant features of the appeal scheme. The proposals would not only remove a positive gap in the street scene but introduce a development which would be incongruent for the reasons I have given.
  12. Therefore, the development would have a harmful impact on the character and appearance of the WCA and conflict with Policies DES4, HOU2, HOU11, HA4 and VILL2 of the East Herts District Plan, 2018 (DP), which, amongst other things, seek to ensure that all development achieves a high standard of design

and layout promoting local distinctiveness, preserves or enhances the special interest of conservation areas and relates well to the village.

### *Setting of Listed Buildings*

13. Hermitage Cottage is a detached grade II listed building which is currently in use as a single dwelling. It is a traditional and attractive cottage located in the historic core of the village. The evidence suggests it was previously separated into 3 workers cottages associated with the Gosslin estate, each cottage with its own small garden area which would have allowed space for the occupiers to grow their own fruit and vegetables and be self-sufficient. The building is in close proximity to the main road and adjacent to its road junction with Scholars Hill, which also adjoins the garden boundary to two sides. The Nimney Bourne Brook adjoins the other boundary passing closely to the cottage. The significance of the building lies in its traditional architectural form and features together with its connection to the local area, position within the village, historic use and connections to the Gosslin estate.
14. As a result of the building's conversion to a single dwelling, the smaller individual gardens have been amalgamated and consequently the cottage has a substantial garden area. Be this as it may, there remains a clear historic functional link between the appeal site and Hermitage Cottage. This provides an insight into the rural nature of the village, reinforced by the single-track narrow lanes. The space created by the appeal site remains an integral and valuable part of the curtilage of the building. The development of it for a new dwelling would greatly reduce the size, quality and contribution of the space, erasing an important historic feature of the building's curtilage.
15. As I have explained above, the proposed dwelling would be a dominant feature, visible from public vantage points at the front of Hermitage Cottage, where the Nimney Bourne Brook crosses under the main road and the junction with Scholars Hill. The proposed dwelling would obscure views of Hermitage Cottage on approach to the appeal site from Scholars Hill, reducing the quality of its contribution to the street scene.
16. The proposal would therefore be harmful to the setting of Hermitage Cottage, and thereby the significance of it as a designated heritage asset. It would therefore conflict with DP Policy HA7 which seeks to permit development only where the setting of the listed building would be preserved.

### *Flood Risk*

17. The Nimney Bourne Brook runs along the boundary of the site and there are flood defences in place. There is some dispute between the main parties as to which Flood Zone the appeal site is located within. The Council contend that part of the site falls within Flood Zone 2 and is at high risk of surface water flooding, requiring a Flood Risk Assessment (FRA) to be submitted. The FRA submitted to the appeal includes an Environment Agency (EA) Map which indicates flood zones. On the basis of this they consider the site falls wholly within Flood Zone 1. Whilst the EA Flood Maps provide an indication of the flood zones, they alone are not sufficiently precise or clear. This is evident with this site as on the basis of this map it does appear that the majority of the site falls within Zone 1. There are however areas within Flood Zone 2 and 3 which follow the Nimney Bourne Brook, and these appear to be in close proximity to, if not extend into the appeal site, particularly at its north-east corner.



18. No further detailed site-specific information has been submitted to the appeal on this matter and therefore, on the basis of the EA map alone, I cannot be certain that the site falls wholly within Flood Zone 1.
19. The National Planning Policy Framework (the Framework) explains that, through the application of the Sequential Test, development should be steered towards those areas at the lowest risk of flooding. With the above ambiguity in mind, I cannot be sufficiently sure that this would be the case. Moreover, the FRA identifies that the site is at high risk from surface water flooding. The information submitted indicates that mitigation measures could be provided to ensure that the new dwelling would be protected from surface water flooding on the site. However, there is little detail about the offsite impacts of such measures. I cannot therefore be sure that the proposal would not increase flood risk elsewhere as per part of the intention of the Exception Test, also set out by the Framework.
20. Flood risk matters could not therefore be dealt with by condition and in that regard, the development would conflict with LP Policy WAT1 and the advice in the Framework. These policies seek to ensure that development is directed towards areas at the lowest risk of flooding, development is made safe from the impacts of flooding, and that risk is not increased elsewhere.

### **Other Matters**

21. The appellant has drawn my attention to a previous scheme for the creation of a new vehicular access to provide two parking spaces to the rear of Hermitage Cottage. From what I have seen, this scheme introduced some hardstanding to the centre of the existing curtilage. There appears to have been no further development proposed within the garden. The site would therefore have retained its open and spacious character and remained linked to and associated with the cottage. This would not be the case with the appeal before me. The two schemes are not therefore sufficiently comparable to the point that my conclusions on this appeal would change.
22. I see that pre-application discussions took place and the appellant amended their proposal in an attempt to address the Council's concerns. Be this as it may, any such advice is given without prejudice to the final outcome of a planning application and in any case, would not absolve me as the decision maker from assessing the scheme's individual merits and coming to a view thereon.
23. The Environment Agency were consulted on the planning application and raised no objections in relation to the impact on the adjacent flood defences, subject to offering an informative. However, the EA would not necessarily review surface water data as part of a planning submission, and this does not therefore lead me to a different conclusion.

### **Planning Balance and Conclusion**

24. The site is within the village where some local services and facilities would be available. LP Policies and the Framework would support development in such locations. However, they are also clear that developments should function well and add to the overall quality of the area, being sympathetic to and responding positively to the local character, protecting or preserving heritage assets. As detailed above, the appeal scheme would not achieve this, resulting in



unacceptable harm to the character and appearance of the site, conservation area and setting of a listed building.

25. I note that LP Policies and the Framework emphasise the need to support the efficient use of land and that the proposal would provide an additional dwelling. Although I recognise the important contribution small sites can make to meeting the housing requirements of an area, the provision of one additional dwelling would have a limited impact in relation to boosting the supply of housing.
26. I have paid special attention to the desirability of preserving or enhancing the character and appearance of the WCA, and to the desirability of preserving the listed building, 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, in an accessible location, I do not consider these public benefits would be sufficient to outweigh the harms I have identified, and to which I have attached considerable importance and weight.
27. It is for these reasons that the appeal is dismissed.

*A Denby*

INSPECTOR



## Appeal Decision

Site Visit made on 13 January 2021

by **Chris Forrett MRTPI, DipTP, BSc(Hons)**

an Inspector appointed by the Secretary of State

**Decision date: 04 February 2021**

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**Appeal Ref: APP/J1915/W/20/3256186**

**Land at South End, Perry Green, Much Hadham, Hertfordshire SG10 6EW**

- 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 The Trustees of the Congregation of the Daughters of The Cross of Liege & Grange Builders LLP against the decision of East Herts District Council.
  - The application Ref 3/20/0144/FUL, dated 22 January 2020, was refused by notice dated 30 March 2020.
  - The development proposed is the demolition of all existing buildings and the erection of 9 dwellings (3 detached and 6 semi-detached) together with associated cart lodges/car ports served by a new access and 24 parking spaces.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. My attention has been drawn to the draft Much Hadham Neighbourhood Plan (MHNP) . However, this plan is still in its infancy and has yet to go through its examination. Therefore, I can give this very little weight.

### Main Issues

3. The main issues are:
  - (i) whether the site is situated in a sustainable location;
  - (ii) whether the proposal would result in the loss of a rural workers dwelling, a rural employment generating use or a community facility;
  - (iii) whether the proposal would provide for a suitable housing mix; and
  - (iv) the effect of the development on the character and appearance of the area.

### Reasons

#### *Sustainable location*

4. The appeal site is located to the south-west of Perry Green which is defined as a Group 3 Village in the East Herts District Plan 2018 (EHDP) and within the parish of Much Hadham.
5. It is common ground between the main parties that the site is located within the Rural Area Beyond the Green Belt. As such, in planning policy terms, it is located in the countryside. That said, the site adjoins an extensive complex of buildings known as the St Elizabeth's Centre which occupies a 26 hectare site, the core of which is quite densely developed. From the evidence before me,

- this facility provides for residential accommodation for 102 people with varying degrees of disability together with College and School facilities (and associated residencies) and Day Facilities and Social Enterprises.
6. It is common ground that the appeal site constitutes previously developed land and the EHDP generally supports the redevelopment of such sites in sustainable locations. Furthermore, the site cannot be considered to be isolated in the context of paragraph 79 of the National Planning Policy Framework (the Framework) given the extensive development in the immediate vicinity of the site.
  7. However, there is a distinct lack of services in the vicinity. As such, it is clear to me that the future occupiers of the dwellings would be heavily reliant on the private motor car to access the most basic level of services. In that sense, it cannot be said to be sustainably located. Therefore, it follows that there is some conflict with Policies GBR2, DPS2 and VILL3 of the EHDP.
  8. In coming to that view, I acknowledge that there is a free weekly bus service from Perry Green to Bishops Stortford. Whilst this would provide a limited degree of accessibility, this does not provide for a realistic choice of transportation mode. I also acknowledge that it would be possible to access facilities at Much Hadham, albeit that this would invariably involve a short car journey – a point acknowledged by the Appellant.
  9. However, I am conscious that this is also an existing situation as there is at least 6 residential units on the site at the present time (the 4 staff bungalows and the two flats at The Lodge). Whilst the staff bungalows currently have an occupancy tie to St Elizabeth's, the occupiers of these properties would still need to travel to access local facilities and services. In addition to the above, there is C2 residential use at Loreto Cottage and St Joseph's Cottage which could further add to travel demand.
  10. It is also noted that the Appellant has suggested that in order to improve the sustainability of the site electric car charging points could be provided for each dwelling. Indeed, this also forms the basis of one of the suggested planning conditions should I be minded to allow the appeal. It would also help aid carbon emission reduction which is part of the objectives of Policy TRA1 of the EHDP. Therefore, this should be considered to be a benefit to the scheme.
  11. Taking all of the above into account, I find that the proposal would only result in a modest increase in housing in the area and would involve the redevelopment of previously developed land. Whilst there is some clear conflict with some aspects of the relevant policies drawn to my attention in the EHDP, in this case, I consider that the sustainability of the sites location is not the determinative factor in whether planning permission should be granted. I also consider that the proposal would accord with the overarching aims of the Framework in this respect.

#### *Rural/community uses*

12. The Council have clarified that their concern in respect of the loss of a rural workers dwelling relates to the four bungalows at the site which were granted planning permission<sup>1</sup> in February 1995. This permission included, amongst others, two planning conditions, one of which restricted the occupancy of the

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<sup>1</sup> Reference 3/94/1120/ZA

bungalows to essential full-time staff employed at St Elizabeth's school and home (condition 3) with the other condition requiring the removal of the bungalows if they were no longer required for the purposes of essential full-time staff employed at St Elizabeth's (condition 4). The reasons for both of these conditions were stated as being as the site is in the rural area where new dwellings are only allowed in exceptional circumstances.

13. The evidence before me suggests that these bungalows are no longer required for the purpose originally applied for. With that in mind, and assuming the original conditions are reasonable and enforceable, it follows that there cannot be a loss of rural workers dwellings as suggested by the Council. To suggest otherwise would misconstrue the requirements of condition 4.
14. On the other hand, if I accept the Appellants argument that condition 4 should not have been imposed in the first place given that the bungalows appear to be of a permanent form of construction, then consideration also needs to be given to the potential loss of a rural workers dwelling.
15. That said, as the Appellant asserts, St Elizabeth's Centre cannot reasonably be described as a rural business as such. Hence, the fact that the bungalows are located in a rural area does not mean that they fulfil the definition for rural workers' housing.
16. To that end, I consider that the loss of the bungalows would not result in the loss of rural workers dwellings and therefore the provisions of Policy HOU5 are of little relevance to me.
17. Turning to the potential loss of a rural employment generating use and a community facility, this can only relate to the properties known as Loreto Cottage and St Joseph's Cottage as The Lodge appears to be a private rented property.
18. These properties were originally approved for housing agricultural employees but did not restrict their occupation as such. However, the Council appear to have granted planning permission<sup>2</sup> in 1993 for the extension and modification of these properties. This permission clearly considered that the use of these properties fell within Use Class C2 at that time.
19. The Council have referred to Policies ED2 and CFLR8 in respect of these matters. However, given that the buildings are in a residential type use I consider that neither of these policies are particularly relevant to the proposal before me.
20. Taking all of the above into account, I consider that the proposal would not result in the loss of a rural workers dwelling, a rural employment use or a community facility and as such the proposal would accord with the provisions of the Development Plan in that respect as no conflict would arise with Policies HOU5, ED2 or CFLR8 of the EHDP.

#### *Housing mix*

21. The appeal proposal is for a total of nine dwellings, of which seven properties would have three bedrooms and two properties would have four bedrooms.

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<sup>2</sup> Reference 3/1590-93FP

22. Both main parties have referred me to the 2015 Strategic Housing Market Strategy (SHMA) which sets out that the greatest need is for three-bedroom properties (46%), whilst four-bedroom properties make up the next largest demand (23%).
23. Whilst the Officers report concludes that the provision of three and four bedroom properties is acceptable, it goes on to say that regard should also be had to the provision of two-bedroom dwellings on the basis that the MHNP sets out that there is an identified need for schemes of one, two and three bedroom homes. However, as I have already noted, the MHNP is still in its infancy and has yet to go through its examination. On this basis, I consider that the SHMA evidence should prevail in this instance.
24. Considering the above, the proposal would provide an appropriate housing mix and would accord with Policy HOU1 of the EHDP which amongst other matters seeks to create balanced and mixed communities through a mix of housing types and sizes. It would also accord with the overarching aims of the Framework in this respect.

*Character and appearance*

25. The appeal proposal would result in a total of nine dwellings, 7 of which would be located along the road frontage at South End with a pair of semi-detached dwellings located to the rear of the site.
26. In my view, the proposal must be considered in the context of the extensive St Elizabeth's complex behind it which has numerous buildings. With that in mind, I consider that the location of plots 8 and 9 set behind the frontage plots is not objectionable as they would be seen very much with the backdrop of the complex behind them.
27. In a similar vein, the proposal would create a new access into the site and the parking facilities would be provided from this access within a series of cart lodges. Whilst this would not reflect other housing in the area, it would not appear out of place given the nature of the existing built form and hard surfacing at St. Elizabeth's. There would also be landscaping opportunities to help assist in reducing the impact of such a level of hardstanding on the site.
28. Having said all that, the proposal would introduce a much greater extent of development alongside the road frontage. With the exception of the current siting of The Lodge, all of the proposed buildings would be sited closer to the road than the existing development. This is particularly the case where the bungalows are sited where the proposal would result in a much more intensively developed area, together with a significant increase in the mass and bulk of buildings.
29. Whilst I consider that the amount of building frontage development is not objectionable in principle, it is significant that one of the important trees on the frontage (an Ash tree identified as T14 in the arboricultural survey) would be lost as part of the development. The existing trees along the frontage provide an important function in softening the impact of the existing development, albeit that most of the existing trees cannot be considered to be high quality specimens in themselves.
30. Whilst I acknowledge that both the Council and the Appellant have set out that there would be replacement tree planting along the road frontage, given the

siting of the proposed dwellings it would not be possible to plant any replacement trees of any substance to the extent that any mitigation afforded from such trees would be very limited.

31. To my mind, this is an important factor, as without a sufficient set back of the dwellings from the road, they would appear as overly prominent features in the streetscene. The prominence of the development from South End is particularly relevant in this case as the proposal would result in an intensely developed frontage to the site, something which does not currently exist at the present time. In my view, this would ultimately be harmful to the semi-open aspect of the site and the wider rural characteristics of the area despite the existence of St. Elizabeth's to the rear.
32. Turning to the designs of the individual plots, I note that most of the dwellings would have a slightly jettied upper floor which is a feature very characteristic of this part of Hertfordshire. In this respect, I find the properties entirely appropriate and the visual variety which the Council aspires to could be achieved through the use of different materials and finishes. This could be easily controlled through a suitably worded planning condition. However, the positive design aspects of the dwellings do not outweigh the harm I have found.
33. For the above reasons, I consider that the proposal would harm the character and appearance of the area and would conflict with Policies DES4, GBR2 and VILL3 of the EHDP which amongst other matters seek to ensure that development is of a high standard of design which respects or improves the character of the site, including the massing of buildings and landscaping.

#### **Other Matters**

34. I have also had regard to the Appellants evidence that the development would help support St. Elizabeth's. Whilst this factor weighs in favour of the proposal, I consider that this is not sufficient to outweigh the harm I have found to the character and appearance of the area.

#### **Conclusion**

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

*Chris Forrett*

INSPECTOR

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# Appeal Decision

Site visit made on 25 November 2020

**by J Bell-Williamson MA MRTPI**

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

**Decision date: 10 February 2021**

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## **Appeal Ref: APP/J1915/D/20/3250300**

### **4 Hadham Park Cottages, Cradle End, Little Hadham SG11 2EH**

- 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 Frank Harvey against the decision of East Herts Council.
  - The application Ref 3/19/2441/HH, dated 27 November 2019, was refused by notice dated 22 January 2020.
  - The development proposed is two storey side extension, single storey rear extension, side porch and relocated access and driveway.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. As the appeal property is within the Green Belt the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
  - the effect on the openness of the Green Belt; and
  - if the proposal would be inappropriate development, whether the harm to the Green Belt 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 it.

### **Reasons**

3. The appeal property is a two storey semi-detached dwelling within the small village of Cradle End. The village includes a limited number of detached and semi-detached dwellings and is located in an open rural setting.

#### *Whether the Proposal is Inappropriate Development*

4. The National Planning Policy Framework (the Framework) makes clear that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions<sup>1</sup>. One of these is the

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<sup>1</sup> Paragraph 145.

- extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building<sup>2</sup>.
5. The Council refers to Policy GBR1 of the East Herts District Plan 2018, which states that planning applications within the Green Belt, as defined on the Policies Map, will be considered in line with the provisions of the National Planning Policy Framework. Accordingly, I have had regard to this policy as well as to the Framework.
  6. The Council indicates that the original building had a floor area of just under 72m<sup>2</sup>. This has increased by just under 13% to just over 81m<sup>2</sup> as the result of an additional 9m<sup>2</sup> floor area created to the side of the dwelling. Taken together with this previous addition, the area of the proposed extensions would amount to a nearly 89% increase to the size of the original building.
  7. The appellant provides a different set of measurements, based on a different understanding of the original built form of the appeal property and taking account of a former outbuilding. By this calculation the original building had an area of just under 78m<sup>2</sup>. The appellant also calculates the area of the proposed extensions differently and concludes that these would be just over 72m<sup>2</sup>. The conclusion reached is that the current proposal would amount to a 64.5% increase between the original and extended building.
  8. Despite these differences, the quantitative increase of well over 50% floor area in both parties' calculations is not an insignificant increase by this measure. However, as a general principle and because of the different calculations provided by the parties, the increase in floor area or volume should not be the sole basis for considering whether the proposed extensions would be disproportionate compared to the original building. It is important, therefore, to consider this issue in terms of the scale, bulk, massing and built form that would result from the changes sought.
  9. The existing dwelling, in its largely original form, is a modest two storey brick-built dwelling of limited width and depth. The single storey rear extension would infill the area to the side of the existing rearward projection. It would not, however, alter the existing buildings lines to the side or rear. Given this fact and its single storey height it would not add substantive bulk or mass to the existing dwelling.
  10. The two storey extension would be of the same depth as the existing main part of the dwelling, with a slightly lower roof ridge. However, as it would be the same width as the existing dwelling it would effectively double the frontage of the host dwelling, adding considerable bulk to the modest proportions and scale of the appeal property. This change would, therefore, result in a materially larger dwelling that would appear twice the size of its original built form.
  11. Accordingly, I conclude that due to both the quantitative increase in size and, in particular, the physical effects of the proposed two storey extension, the proposal would result in a disproportionate degree of change to the original building. It would, therefore, be inappropriate development for the purposes of

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<sup>2</sup> Paragraph 145c).



Policy GBR1 and the Framework referred to above, which is, by definition, harmful to the Green Belt.

*Effect on Openness*

12. The Framework states that the essential characteristics of Green Belts are their openness and their permanence<sup>3</sup>. I have found above that the proposed two storey side extension would add bulk to the host dwelling, although the development would occur within a self-contained residential curtilage, which is bounded on each side by existing dwellings.
13. There is a generous gap between the appeal property and the nearest dwelling, which would largely be retained. I note the appellant's contention that the extension would be seen against a backdrop of development that falls outside the Green Belt. Nonetheless, the appeal site is within the Green Belt and the extent of the main extension, which would double the width of the host dwelling, would result in a reduction spatially to the openness of the Green Belt in this location. As such, there would be some harm to the Green Belt in this regard, to which the Framework indicates that substantial weight should be given<sup>4</sup>.

*Other Considerations*

14. The appellant refers to other considerations in support of the appeal. I acknowledge that the proposed extensions are intended to create additional living space, but these personal circumstances are not sufficient to outweigh the harm to the Green Belt that has been found with regard to the first and second main issues. I accept that the design and materials for the extensions would be of good quality, but similarly this does not outweigh the harm found above.
15. It is also contended that the proposal would better balance the pair of semi-detached dwellings, because of the two extensions that have been undertaken to the adjoining property. I acknowledge that this neighbouring dwelling is considerably larger than the appeal property. However, I am unaware of the detailed reasons why these extensions were permitted or the nature of local development plan policies in place at the time, although I accept that the national policy background might not have been substantively different to now.
16. I am required to consider the current proposal based on its merits and the physical circumstances pertaining to the site currently. Due to the size of the neighbouring property, I consider that the changes that have been undertaken are disproportionate in their own right. Moreover, creating an even larger overall building in the interest of a better visual balance, where this would have the harmful effects to the Green Belt found above, is not sufficient reason to outweigh that harm.
17. Therefore, while I have carefully considered these other considerations they are not a sufficient reason to outweigh the harm to the Green Belt and conflict with national and local policies that I have found would result from the proposal.

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<sup>3</sup> Paragraph 133.

<sup>4</sup> Paragraph 144.

### **Overall Conclusion**

18. The proposal would represent inappropriate development, which is, by definition, harmful to the Green Belt. It would also result in some harm to Green Belt openness in this location.
19. There are no other considerations raised in support of the development that would outweigh the harm identified to the Green Belt. Therefore, very special circumstances do not exist and permission should not be granted as the proposal is contrary to the development plan and to the Framework. Accordingly, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

*J Bell-Williamson*

INSPECTOR



## Appeal Decision

Site visit made on 9 November 2020

**by E Brownless BA (Hons) Solicitor (non-practising)**

an Inspector appointed by the Secretary of State

Decision date: Thursday, 04 February 2021

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**Appeal Ref: APP/J1915/W/20/3251268**

**Land to the rear of The Fox & Hounds Public House, 2 High Street, Hunsdon SG12 8NH**

- 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 James Rix of Rixymash Property Investment Co Ltd against the decision of East Hertfordshire District Council.
  - The application Ref: 3/19/2060/FUL, dated 7 October 2019, was refused by notice dated 17 January 2020.
  - The development proposed is residential development of 3 No 2 bedroom terraced houses with associated parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on:-
  - i) the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the Grade II listed building, the Fox & Hounds Public House, and the extent to which it would preserve or enhance the character or appearance of the Hunsdon Conservation Area;
  - ii) the living conditions of neighbouring occupants with particular regard to privacy, noise and disturbance; and
  - iii) parking and the effect on highway safety.

### Reasons

#### *Heritage assets*

3. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA), requires the decision maker in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the LBA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. The Fox & Hounds Public House (PH) lies towards the centre of the village of Hunsdon and within the Hunsdon Conservation Area (CA). It is a Grade II listed building that occupies a prominent position within the CA and forms part of an

- attractive and historic group of buildings. Despite there being variety within the styles of built form within the CA, properties typically sit comfortably within their individual plots which are generally commensurate to the size of each property.
5. The PH dates from the C17th and is a substantial village house that is noted as probably being the former site of Hykmans. It has seen alterations and the eastern range rebuilt in the C18th with further subsequent alterations and extensions during the C19th. It comprises a public house at ground floor level with living accommodation above. Based on the evidence before me, including the Heritage Statement<sup>1</sup> and my own observations, the significance of the PH as a heritage asset is largely derived from its age, historic use and architectural features. Those features include timber framing, plastered finish, wide cross wing with surviving features of special interest all of which contribute to the significance of the heritage asset.
  6. In addition, the rear garden of the PH is substantial in size and reflects the high social status of the heritage asset, as well as providing a setting for the building which is of significant architectural quality. Other than the car park, which largely retains the open character of the rear garden, and small domestic outbuildings and structures, the garden is undeveloped. The rear garden makes a positive contribution to, and assists in revealing the significance of the heritage asset. The fact that Yewtree House and The Chase were built within the curtilage of the PH and the remaining curtilage is now surrounded by later development adds to its significance. The space also makes a positive contribution to the character and appearance of the CA for the same reasons.
  7. The proposal would introduce a substantial sized group of terraced dwellings with associated domestic paraphernalia into part of the space to the rear of the PH. Their siting in this location would have no regard for the pattern or density of development within the locality. It would reduce the openness of the garden and alter its character and appearance. Despite the appeal site being relatively well enclosed by mature vegetation and fencing, the proposed scheme would appear incongruous particularly when viewed from the PH and its curtilage. It would also remain partially visible to neighbouring dwellings and their gardens and the nearby recreation ground particularly during months when foliage is less dense.
  8. Moreover, the subdivision of the garden in the manner proposed and the introduction of separate and unrelated units of accommodation would diminish its importance as a visual and social setting to the PH. Added to that, the proposal would relocate the area for parking and erode the open space and the established character and appearance of the CA.
  9. I recognise that the proposed dwellings would be positioned to the rear of The Chase, to reduce views of the scheme from the highway. Nevertheless, the proposal would be a distracting intrusion into the space. Albeit additional planting is proposed, it would take time to become established and, in any event, is not permanent. Moreover, screening harmful development in this manner does not make it justifiable.
  10. For the reasons set out above, the proposal would have a negative impact on the setting and significance of the PH and would harmfully erode the

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<sup>1</sup> Heritage Asset Statement prepared by Conservation and Design Consultant Robin Uff, dated August 2019.

established character of the Hunsdon CA. There would be conflict with Policies HA1, HA4, HA7, VILL1, DES3 and DES4 of the East Herts District Plan (2018)(DP) insofar as these policies require development to preserve and where appropriate enhance the historic environment.

11. The harm identified to the setting of the listed building would be less than substantial and accordingly paragraph 196 of the National Planning Policy Framework (the Framework) provides for a balancing exercise to be undertaken between "less than substantial harm" to the designated heritage asset and the public benefits of the proposal.
12. I acknowledge that the appellant would be prepared to remove a number of unsightly outbuildings to the rear of the PH which would be a visual improvement that carries limited weight in favour of the proposal. The proposal would generate temporary economic benefits from the construction of the scheme and further economic benefits from residential use and increased local spend. There would be some social benefits generated from the provision of new housing which would add to the mix and choice of housing within the village. However, given the scale of the proposed scheme the associated public benefits would be limited.
13. Although I have found that the harm to the designated heritage assets would be less than substantial, it is not to be treated as a less than substantial objection. The limited public benefits arising from the proposed scheme, as set out above, would not outweigh the considerable importance and weight to the harm to the heritage assets. I therefore conclude the proposed development would also fail to comply with Section 16 of the Framework.

#### *Parking and highway safety*

14. DP Policy TRA3 sets out that vehicle parking provision associated with development proposals will be assessed on a site-specific basis and should take into account the provisions of the Council's Supplementary Planning Document 'Vehicle Parking Provision at New Development' (SPD). The SPD requires a public house to provide one parking space per every 3m<sup>2</sup> of bar area floor space and one space per every 5m<sup>2</sup> of dining floor space.
15. The scheme would have 22 parking spaces available for the public house on-site with an additional 2-3 spaces provided on-street. It is the Council's case that car parking standards set out above would require a total of 44 general spaces for patrons of the business. This figure is disputed by the appellant. In addition, a further 7 spaces would be required for staff employed by the business and for the occupants of the residential accommodation above. In totality, the Council suggest the provision of 51 spaces.
16. There is clear disagreement between the main parties concerning the amount of floor space and, secondly, whether it constitutes dining floor space in its entirety or a combination of bar area and dining space. I am unable to resolve this matter conclusively upon the limited evidence before me and my observations at the time of the site visit.
17. In any event, even if I were minded to accept the appellant's case, based upon an area of 88m<sup>2</sup> used solely for dining purposes, the proposal would need to make provision for some 17.6 spaces. Add to this figure an additional 7 spaces to take into account of employees and residential occupants of the first floor

accommodation, the required figure would total some 24.6 spaces. This figure would exceed the number of proposed car parking spaces and it would be less than the approximate 24 car parking spaces that currently exist.

18. Taking into account all of the evidence before me, whilst the figure would not be significantly below the maximum number of general spaces required, it would nonetheless be insufficient. Additionally, no designated parking space for disabled users is provided which adds to the inadequate parking provision.
19. It is suggested that 2-3 spaces would be available on-street. However, from my site visit it appeared that there was already substantial competition for on-street parking within the village. In addition to nearby residential properties there were also a number of other businesses in the vicinity that make use of on-street parking. Whilst I appreciate that my site visit provided only a snapshot of parking and highway conditions, there was nothing to suggest that what I saw was untypical. The absence of adequate off-street customer parking would be likely to lead to inappropriate parking within the highway which would lead to vehicle manoeuvres and congestion which would unduly compromise the free and safe flow of traffic and pedestrian safety.
20. There is an absence of any clear evidence to demonstrate satisfactory circulation of traffic around the site and the ability to manoeuvre for parking taking into account clearance distances between parked vehicles. As a result, the inadequate design, layout and functioning of the car parking spaces of the scheme would be likely to cause the need for additional on-street parking.
21. For the reasons set out above, I conclude that the proposal would not provide a satisfactory layout and adequate parking and thus would be likely to have a harmful effect on highway safety. Thus, it would conflict with DP Policy TRA3 and the Council's SPD insofar as these require new development to provide parking to meet the needs of future occupiers and users.

#### *Living conditions*

22. The rear gardens of Nos 1 and 2 Dunston's Road adjoin the boundary of the appeal site. Existing planting along the site boundary largely screens views from the appeal site towards the neighbouring dwellings. Nonetheless, some gaps within the vegetation allow for glimpsed views. This position would be likely to increase during the winter months when foliage is less dense.
23. However, the rear elevations of the proposed dwellings would be orientated at an angle to Nos 1 and 2 and given that their rear gardens are relatively long, there would be some degree of separation. In addition, as there is already some degree of mutual overlooking between houses and gardens in this area, I conclude that any harm to privacy would be limited.
24. The proposed scheme would be positioned in close proximity to the rear boundary of The Chase. However, it is located close to existing sources of noise and disturbance from the use of the car park, the accessway and the outdoor seating and play area. The residential use of the appeal site would be unlikely to generate such significant levels of activity, beyond that which is already experienced, that would be harmful to the living conditions of neighbouring occupiers.
25. Although the proposed car parking area would be positioned closer to and adjacent to the shared boundary with Yewtree House, the Council have

provided very limited evidence as to why they consider that the proposal would expose residents to a greater amount of noise and disturbance than they currently experience. I acknowledge that some noise would be generated by vehicles parking close to the common boundary, however, the existing use of the site is likely to be noisy. In addition, Yewtree House has a sizeable rear garden with a buffer being provided by existing mature and dense vegetation along the boundary. As a result, assessing the scheme against the existing and proposed site circumstances, I am not persuaded that the proposal would lead to an increase in noise and disturbance to such an extent that it would adversely affect the living conditions of neighbouring residents.

26. For the above reasons, I conclude that the proposal would not have an unduly unacceptable effect upon the living conditions of neighbouring occupiers by way of noise and disturbance. Consequently, the proposal would accord with DP Policies VILL1 and DES4 insofar as these policies require development not to be significantly detrimental to the amenity of neighbouring occupiers.

### **Other Matters**

27. Housing growth within a Group 1 village is in principle acceptable. The scheme would not cause undue harm to the occupants of neighbouring dwellings with regard to outlook and loss of light. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal. Closure of the children's play area does not justify the scheme.
28. My attention has been drawn to similar developments nearby<sup>2</sup>. However, there is little information relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
29. The proposal would make efficient use of the land, reduce financial liabilities of the appellant and ensure, despite the pandemic, the long-term use of the PH and its associated economic and social benefits. However, there is little evidence before me to demonstrate that the PH business is not presently viable. I attach moderate weight to these matters.
30. The Council are presently able to demonstrate a five-year supply of housing land. The appellant has drawn my attention to the Housing Delivery Test: Action Plan dated July 2019. However, even if housing delivery has fallen short of requirements as set out by the appellant, I have found less than substantial harm to heritage assets that is not outweighed by the public benefits of the scheme including the provision of three houses. Policies within the Framework for conserving and enhancing the historic environment therefore provide a clear reason for refusing the development proposed.

### **Conclusion**

31. I have found that there would be no adverse harm to the living conditions of neighbouring occupiers. Nevertheless, the harm to heritage assets and parking and highway safety are decisive. Accordingly, the appeal is dismissed.

*E Brownless* - INSPECTOR

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<sup>2</sup> 27 High Street, Nos 69 and 71 High Street, Chestnut Close.





## Appeal Decision

Site Visit made on 2 September 2020

by **S Thomas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 15 February 2021**

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**Appeal Ref: APP/J1915/D/19/3241083**

**Home Farm, 76 Bramfield Road, Datchworth, SG3 6RZ**

- 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 Chris Bullock against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1581/HH, dated 26 July 2019, was refused by notice dated 20 September 2019.
  - The development proposed is two storey side extension with dormers.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - (ii) the effect of the proposal on the openness of the Green Belt; and
  - (iii) whether any 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

3. Paragraph 144 of the Framework states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

### *Inappropriate Development*

4. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework outlines that the construction of new buildings should be regarded as inappropriate development. Exceptions include the extension or alteration of a building provided that it does not result



in disproportionate additions over and above the size of the original building. The relevant development plan policy that deals with development in the Green Belt is Policy GBR1 of the East Hertfordshire District Plan (2018) (DP). This is consistent with the Framework.

5. The appeal property is a substantial detached dwelling. The original dwelling had a floorspace of approximately 118sqm, however it has been subject to a number of additions, including a single storey front and side extension, single storey rear extension, dormer, front extension, and porch. I understand that the cumulative extensions to the property represent an increase in floorspace over the existing dwelling of approximately 139.1%. The appeal proposal would increase this figure to approximately 185%. Clearly, the additions to the property have substantially altered the form and size of the original dwelling. The appeal proposal would increase the size further and would result in a disproportionate increase in the size of the original dwelling.
6. The appellant does not dispute that previous extensions have increased the size of the dwelling. Given the existing additions to the original property, and that the additional floorspace of 55 sqm proposed by the appeal would in itself amount to an approximate 46% increase over the original floorspace, the further increase in the size of the development would cumulatively amount to a disproportionate addition to the size of the building. The proposal would fail to accord with Paragraph 145 (C) of the Framework and would therefore represent inappropriate development in the Green Belt. The proposal would therefore also conflict with Policy GBR1 of the DP.

#### *Openness*

7. Paragraph 133 of the Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. It indicates that openness is an essential characteristic of the Green Belt. Whilst there is no definition of 'openness' it can be taken to mean an absence of buildings or other forms of development. Openness can have both a visual and spatial dimension.
8. The appeal property is located amongst an area of development along Bramfield Road. The spacious grounds and the surrounding open fields contribute to the visual and spatial openness of the Green Belt. The proposed extensions would increase the footprint and volume of the dwelling as well as its scale and mass creating a horizontal emphasis to the front elevation. By increasing the scale massing and size of the building it would reduce spatial openness to some extent.
9. Whilst there would be limited visibility of the extension from the main road it would be experienced visually from surrounding properties particularly the residential property and garden to the north and would be likely visible from surrounding fields. Whilst the site would retain spacious gardens and views through the site, the increased massing of the property would increase its bulk. This would reduce the level of spaciousness on the site and lead to an, albeit limited, reduction in visual openness. Although the reduction in spatial and visual openness would be limited and localised, the proposal would fail to preserve the openness of the Green Belt.

### *Other Considerations*

10. I acknowledge that the proposal would be of a suitable design. However, I do not agree that the additional bulk and resulting horizontal emphasis to the front elevation would improve the appearance of the property. I also note the proposal would be acceptable in relation to parking and effect on neighbouring occupiers. However, the absence of harm in this regard is a neutral matter. Similarly, whilst nearby properties have benefited from large extensions, I am not aware of the particular planning circumstances, nor how these relate in terms of proportionate increases over the original dwelling.
11. I note there was a large agricultural building at the site as part of the previous Mushroom Farm. It is not clear when this was demolished. In any event, whilst removal of this building would have increased openness at the site, my assessment of openness relates to the how the proposed development relates to the original building which is the subject of the appeal. As such, this does not weigh in favour of the proposed development.
12. In addition, the appellant refers to a theoretical possibility, using permitted development rights to provide an additional 45 sqm of floorspace. Even if I were to accept this was the case, he indicates this would not amount to good design. Consequently, as I am not convinced the appellant would pursue such a scheme, I do not consider this a genuine fallback position. Accordingly, I attach limited weight to this in favour of the proposed development. Finally, whilst permitted development rights could be restricted to prevent future extensions to the dwelling, I accord this benefit limited weight.

### *Green Belt Balance*

13. Substantial weight must be given to the harm to the Green Belt due to the inappropriate nature of the proposed development and the, albeit, limited harm that this would cause to openness. On the other hand, the other considerations identified above attract limited weight in favour of the proposed development. Therefore, I find the other considerations in this case do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal would conflict with Policy GBR1 of the DP and the Framework.

### **Conclusion**

14. For the above reasons, the appeal is dismissed.

*S Thomas*

INSPECTOR



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## Appeal Decision

Hearing Held on 3 February 2021

Site visit made on 3 February 2021

**by John Morrison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 February 2021**

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**Appeal Ref: APP/J1915/W/20/3249086**

**Greenleys, Slough Road, Allens Green CM21 0LR**

- 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 Stuart Hicks against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1492/FUL, dated 16 July 2019, was refused by notice dated 24 September 2019.
  - The development proposed is described as the demolition of an existing barn, nissen huts and hard standing. Construction of five detached dwellings. Construction of associated access roads and landscaping.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. There are four main issues. These are a) The principle of the proposed development with specific regard to its location and access to services; b) whether or not the proposed development would represent the unacceptable loss of an employment use; c) whether or not the proposed development would provide an acceptable housing mix; and d) the effect of the proposed development on the character and appearance of the area.

### Reasons

#### *The Principle of Development*

3. The appeal site is on the edge of Allen's Green, a rural hamlet to the north west of Sawbridgeworth. It consists mainly of dwellings set back from and facing the three roads that form it. A village hall sits on the opposite side of Slough Road to the appeal site and there is a public house a short distance to the north east. As a small settlement largely bereft of services it seems sufficiently clear that incumbent occupiers have to travel from Allen's Green to access them. This would likely be to High Wych, Sawbridgeworth and Bishop's Stortford. Between them, these settlements offer a wide range of education and employment opportunities, health care, retail and leisure facilities on which occupiers would rely day to day.
4. I agree with the appellant that, with regard to travelling to High Wych and Sawbridgeworth, the distances would be eminently possible by bicycle. That

said, the roads around Allen's Green are narrow and rural without street lighting in the main and they do not have segregated foot or cycle ways. I could not agree therefore that accessing services by bicycle would be particularly desirable. Notwithstanding the fact that this option would not be practical for either parents with young children or those less able bodied. It was also established at the hearing that Allen's Green is not connected to the wider area by public transport nor a practically usable public rights of way network.

5. With this in mind, it seems likely that future occupiers of the appeal site would have to rely on the use of the private car to access essential services. This is the least sustainable travel option.
6. The Local Plan<sup>1</sup> identifies Allen's Green as a Group 3 village. Moving on from the above and in keeping with the plan's commitment to encourage sustainable patterns of new development, Policy VILL3 establishes (in terms of development in group 3 villages) that limited infill development identified in an adopted Neighbourhood Plan (NP) will be permitted. As a scheme for five dwellings I would not define the appeal proposals as limited. As the redevelopment of a site on the edge of the settlement, I would also not consider the proposed development to constitute infill. In any case, the appeal site is not identified in a NP.
7. Whilst part of a village, the appeal site is also in an area of the district identified as the rural area beyond the Green Belt. Policy GBR2 sets out development that may be acceptable in this area. Amongst other things, it identifies that limited infilling or the partial or complete redevelopment of previously developed sites may be appropriate.
8. I could agree that, based on discussion at the hearing and the written evidence, at the very least half of the appeal site could be considered as previously developed land. That said, GBR2 goes on to state that the development of such should be in sustainable locations where appropriate to the character, appearance and setting of the site. I shall come onto an assessment of the appeal scheme in the context of the character and appearance of the area as part of another main issue but taking into account my earlier findings, I would not consider the appeal site to be a sustainable location.
9. Considering the principle of the appeal scheme acceptable would therefore, taking into account my findings on this main issue, amount to encouraging unsustainable patterns of development. This would be contrary to the aims of the policies I have cited above and not reduce the need to travel and encourage such by sustainable means as advocated by the Framework<sup>2</sup>.

### *Employment Site*

10. The appeal site consists of four Nissen hut style buildings and a barn type building. The complex was, up until 2018, home to three small businesses operating small scale manufacturing and storage. The site was purchased by the current owners in 2017. During this process a survey revealed there was significant amounts of asbestos in the fabric of the Nissen huts. On this basis, the decision was taken to serve notice on the occupant businesses. They

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<sup>1</sup> East Herts District Plan 2018

<sup>2</sup> The National Planning Policy Framework 2019

vacated in early 2018. Some of the site was historically connected with agriculture. The appeal site is not allocated or designated as an employment site in the development plan.

11. Amongst other things, Policy ED1 of the Local Plan presumes against the loss of employment sites, stating that development causing such will only be permitted subject to certain criteria. Whilst specifying a proportionate approach should be taken for a non designated employment site, schemes need to demonstrate that the retention of the site or premises for use classes B1, B2 and B8 has been fully explored without success. In addition, they should consider whether improvements to the existing site/premises would make it more attractive to alternative B1, B2 or B8 uses. Evidence of a period of marketing of at least 12 months must be provided. Furthermore, consideration needs to be given to the retention of the B1, B2 or B8 use through a partial conversion to a non-employment generating use and a proposal should not prejudice the continued viability of existing employment areas, existing operational employment sites and neighbouring uses.
12. It seems sufficiently clear that, with the appeal site being stand alone, that a proposal for its redevelopment would not prejudice the continued viability of existing areas or neighbouring uses which, in the case of the latter, are predominantly residential in any case.
13. The appellant has undertaken some marketing of the premises albeit I have not seen precise details of the methods or materials therefore or what the marketing entailed precisely. I appreciate that it is unlikely one could market premises that were unsafe for occupation, but this would not necessarily prevent one from advertising a site for sale or rent as a going concern that required redevelopment. This does not appear to have happened as far as I can see.
14. Some work was done on the valuation of the appeal site, looking at the cost of the refurbishment of the buildings and the complete redevelopment of the site for commercial use. Whilst both assessments came out at negative values they were limited in their scope and relied on a comparison of developing small single units for a narrow end use. Whilst I understand to an extent the reasons why the assessments took the route they did, little consideration appears to have been given to the range of uses referred to in Policy ED1.
15. Limited consideration has been given to the partial redevelopment of the site. There was discussion at the hearing of the constraints of the site's size and how some employment uses may not be compatible with residential uses. Be this as it may, there would be a large number that would be. Notwithstanding that there was, up until recently, an extant planning permission for the change of use of the barn type building on site that the appellant advised they would have 'made work' with the employment use of the site if it had been implemented. This scheme has since been resubmitted for prior approval.
16. It seems sufficiently clear that any future use would probably have to replace the existing buildings given the nature and extent of the asbestos in them, but that is not to necessarily say the site could not continue as one for employment. Indeed, limited consideration appears to have been given to uses that may give rise to higher possible rental/sale yields such as, for example, live work units. Or a more detailed exploration of how a higher sales or rental value may affect the viability of a redevelopment scheme. I have also not seen

any compelling evidence that the site could not be put to use as one single enterprise as opposed to a number of small units which is what the valuation exercises focussed on.

17. It may well ultimately be that the appeal site is unsuitable for a future employment use when taking into account the location of it. I am also aware, as I have mentioned above, that ED1 advocates a proportionate approach to the loss of non designated employment sites. However, and even taking this into account, I feel that attempts to satisfy its requirements have fallen short of its expectations. Particularly since the policy is worded to infer a presumption in favour of the retention of employment sites unless it can otherwise be proven. In regard to this main issue therefore, I find that the appeal scheme would represent the unacceptable loss of an employment site. Contrary to the aims of Policy ED1 of the Local Plan as I have identified them.

#### *Housing Mix*

18. The appeal scheme would provide five dwellings. Two would be five bed, two four bed and one three bed. Policy HOU1 of the Local Plan sets out the Council's expectations in regard to ensuring an appropriate mix of housing tenures, types and sizes in order to create mixed and balanced communities appropriate to local character. Account needs to be taken of the latest Strategic Housing Market Assessment (SHMA) and any other up to date evidence.
19. The Council's most recent SHMA dates from 2015. The evidence base for which revealed something of a higher need for three and four bed dwellings over five and two bed. It is the Council's view that since the proposed development appears to provide predominantly for four and five bed dwellings then it would be contrary to HOU1.
20. I disagree. Firstly, it seems clear that HOU1 requires a mix of dwellings and I am satisfied that in providing three different types in a small development the appeal scheme achieves that objective. Secondly, Allen's Green is a small but diverse settlement in terms of property type, size and even design with a mix of large detached dwellings and contrasting smaller terraced examples. Plot size and space provision also vary substantially across the range. Again, three different property types and sizes in the proposed development would, in regard to this matter alone, sit appropriate with the character of types in the area. Thirdly, whilst HOU1 cites the most recent SHMA it strikes me from the language in the policy that its findings do not necessarily have to be slavishly followed if I can borrow the words of the appellant. In any event it seems, in regard to the SHMA specifically, that the proposed development would 'take account' of its findings given that it would provide three dwellings out of the two highest need categories (three and four bed). Granted, the higher percentage need would appear, from the Council's evidence, to be for three bed but in even providing one, I feel sufficient 'account' has been taken of the SHMA's findings.
21. Moving on, I am mindful that the Council's most recent SHMA is approaching six years old and consequently I am unsure as to how up to date its findings on market need for three bed dwellings are and specifically any effect new planning permissions in that period have had thereon.



22. Taking all of these matters into account I feel that the proposed development would provide an acceptable housing mix to ensure a mixed and balanced community. Thus, I find no conflict with Policy HOU1. The aims of which I have set out above.

*Character and Appearance*

23. The appeal site is an irregular land parcel that fronts onto Slough Road. It comprises four Nissen hut style buildings and a barn type building. They are all single storey. There is some hardstanding around the buildings and the rear extent of the site opens up into a grass field stretching north. An L shape arrangement of tall mature leylandii trees line the north and eastern elevations of the Nissen huts. Beyond the trees the site is laid to grass and some further hardstanding. Allen's Green is a small but diverse settlement in terms of buildings. A distinct rural character dominates the landscape and where built development occurs it is concentrated on main road frontages and is of single tier depth.
24. The proposed development would provide five detached and not insignificantly sized dwellings. Whilst this would not be an issue in and of itself in the context of the built form of the settlement generally, together they would exude a semi urban quality which would jar slightly with the prevailing rurality of the wider area. That said, the evolved and slightly hotchpotch built up nature of the site as it stands is the current situation and to my mind a development of well-designed dwellings with formalised curtilages and gardens would be a noticeable improvement visually.
25. Even so, I share the Council's concerns in regard to the plot that would be located to the north of the site. It would be of the backland type which would not be reflective of the settlement's characteristic grain. This two tier depth would stand out unacceptably. I see that attempts have been made to emulate an agrarian building but for me the rear plot leans too far to a unique dwelling design with distinctly un agricultural proportions, lacking the traditional simplicity of a converted barn. Its situation would be noticeably detached from the main group and as such it would detract from the togetherness of the development as a whole, making it appear isolated.
26. The building would be to the rear of the site and thus semi screened by the frontage buildings and any additional landscaping. However, the new access point and substance of the driveway would allude to its presence in the street scene. In any case, a reduction in the effect of the building on the appearance of the area would not accordingly reduce how it would affect the character of the area in built form terms.
27. Whilst I appreciate that the leylandii trees are not native and could be removed without the express permission of the Council, for me they contribute positively to what is a verdant street scene which includes a number of other stand alone trees and frontage hedges. Their loss to facilitate the main body of the appeal scheme in the frontage dwellings would therefore be a shame and reduce the natural green quality of the immediate area.
28. The appeal scheme would therefore, for the reasons I have set out, cause harm to the character and appearance of the area. Such that it would conflict with Policy DES4 of the Local Plan which seeks to ensure, amongst other things,

that new development should be of a high standard of design and layout to reflect and promote local distinctiveness.

### **Other Matters**

29. As I have alluded to above, the appeal site was previously home to three small businesses. This would have involved journeys to and from it in the form of staff, deliveries and visitors. There was discussion at the hearing as to whether the appeal site is, or was, a destination in its own right, attracting journeys to and from it and thus some form of 'trade off' against the fact that the same would occur from a development of dwellings. This would be true to a point. Insofar as one could legitimately argue that a commercial use or uses would be as locationally unsustainable as a residential one.
30. That said, it would depend entirely on what business or businesses were located at the appeal site as some would generate more journeys than others. One would therefore have to know what was to be located there to be able to make a meaningful comparison. I am also mindful of the fact that the site is limited in terms of the size of business or businesses that could operate from it. Leaning me towards concluding that five dwellings could potentially generate more journeys than small commercial operation. In any case, one could argue that an employment use would be more beneficial to the rural economy in the longer term than a development of private dwellings. This could, if one were balancing factors of harm vs benefit, be worthy of some weight
31. There is mention in the written evidence of the increasing use of electric bikes and the fact that, over the next 10-15 years more people will use electric cars. Even if this is the case, I could not ascribe these matters more than moderate weight since one could not enforce a requirement for a future occupier to own either an electric bike or car, even if a condition was imposed to require the installation of charging points and other infrastructure. In any case, these matters do not, at least for the time being, have sufficient an effect on the fundamental principles of the spatial spread of development and specifically ensuring it is located close to services to reduce the need to travel and the reliance on the private car.
32. I note that the larger settlements I have referred to in my findings on the first main issue do have access to public transport but it remains that to get to that, occupiers would still likely have to rely on the use of the private car for the reasons I have given.
33. The appeal site is located opposite two grade II listed buildings. These being the barn and farmhouse at Dukes Farm. Intrinsicly linked to an agricultural past, the setting of these buildings is noticeably rural, with open and undeveloped fields stretching to the north and south. The proposed development would run against this but then it would represent the redevelopment of a site that, for the most part, is already developed and as such the existing situation in terms of the presence of built form would not change dramatically. In addition, the dwellings would be set well back from the road edge to prevent crowding of the buildings and allow them space to be appreciated for what they are. Indeed, their close inter relationship would not be impinged upon by what would be a noticeably separate development of detached dwellings where some landscaping could be provided on the road edge to reflect the prevailing rurality of the area and the setting of the buildings. I do not therefore see that the appeal scheme would adversely



affect the setting of the grade II listed buildings. Accordingly, there be no conflict with section 16 of the Framework in this regard.

34. The appellant has suggested there would be some benefits to the appeal scheme. Economically, the proposed development would support jobs in the construction industry. There would also be expenditure from future residents going forwards. However, I am mindful that the sustaining of employment would be short term and the expenditure of occupiers would, for the reasons I have set out above, be likely directed further afield. In addition, the scheme would lose an employment site which would have the potential to sustain jobs and generate money for the local economy in itself so there is something of a neutral effect here. Occupiers could help sustain the local public house, but this cannot be guaranteed and in any case I am not advised if the business is in immediate need of additional support to survive.
35. The provision for housing would be positive although I have not been advised as to there being a housing undersupply on the Council's part. Indeed, the Council's development plan is only two years old.
36. The appeal scheme would not give rise to any adverse effects in terms of the living conditions of neighbours, the safe use of the highway, ecology and a number of other matters. These are however a lack of harm as opposed to a benefit. With this and the above in mind, I could attach some weight to the benefits of the proposed development but not such that they would be sufficient to outweigh the harms and conflicts with the development plan that I have found, to which I attach substantial weight.

### **Conclusion**

37. I have found in the appellant's favour with regard to the third main issue but this and the compliance with the development plan in that regard would amount to a lack of harm which, by definition, cannot be used to weigh against it. It would therefore be insufficient, in light of the other harms I have found, to make the proposed development acceptable. Harms that would result in multiple conflicts with the development plan. It is for these reasons that the appeal is dismissed.

*John Morrison*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

- Mr Stuart Hicks Appellant
- Ms Katrina Hulse BA (Hons) MA PgDipLaw MRTPI Agent
- Mr Stuart Wighton BA (Hons) BArch RIBA Architect

### FOR THE LOCAL PLANNING AUTHORITY:

- Miss Eilis Edmonds MAURP BA (Hons) East Hertfordshire Council

### INTERESTED PARTIES:

- Miss Karen Davis Local Resident
- Mr Brian Sullivan Local Resident



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## Appeal Decision

Site visit made on 2 September 2020

by **S Thomas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

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**Appeal Ref: APP/J1915/D/19/3239359**

**8 Raffin Close, Datchworth, SG3 6RP**

- 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 Sanjay Patel & Hema Sheorain against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1097/HH, dated 6 June 2019, was refused by notice dated 1 August 2019.
  - The development proposed is ground floor front extension, and addition of one new rooflight on first floor existing side roof plane.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. During the course of the appeal the appellant's have submitted an Arboricultural Implications Assessment<sup>1</sup> to address the Council reason for refusal 2 in respect of a tree of amenity value. The evidence indicates this tree has subsequently had a Tree Preservation Order placed upon it. The Council has had the opportunity to comment on this. Accordingly, I do not consider any party would be prejudiced by me accepting this document and it has informed my decision on the appeal.
3. The Council's concerns relate to the ground floor extension. No objection has been raised to the proposed addition of one new rooflight and this is not a matter of dispute between the parties. I have assessed the appeal on that basis.

### Main Issues

4. The main issues are:
  - (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - (ii) the effect of the proposal on the openness of the Green Belt;
  - (iii) the effect of the proposal on a protected tree; and

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<sup>1</sup> Roavr Environmental – Arboricultural Implications Assessment – 8 Raffin Close

- (iv) whether any 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**

5. Paragraph 144 of the Framework states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

### *Inappropriate Development*

6. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt. Exceptions include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The relevant development plan policy that deals with development in the Green Belt is Policy GBR1 of the East Hertfordshire District Plan (2018) (DP). This is consistent with the Framework.
7. The appeal property is a detached bungalow with a converted roofspace. Over time the property has benefitted from a number of extant additions including single storey rear extension, single storey front extension, raising the roof and front and rear dormers. Whilst a garage and conservatory were also added, these have been subsequently demolished. Nevertheless, these are not relevant as I am only assessing the impact of the appeal proposal, cumulatively with the extant increases to the size of the original property.
8. The appellants drawing<sup>2</sup> indicates the original footprint of the dwelling was 77.68m<sup>2</sup>. A front extension of 18.8m<sup>2</sup> and a rear extension of 27.8m<sup>2</sup> were added to the property. Based on these figures this would result in an approximate 60% increase in the size of the original dwelling. The proposed ground floor extension would add a further 14.8m<sup>2</sup> (excluding the existing porch canopy of 9.2m<sup>2</sup>). This would lead to an approximate 79% increase over the size of the original dwelling which would be a substantial increase. In addition, the dormer windows would have added additional size to the property.
9. The cumulative impact of the extant extensions and that proposed in this appeal would lead to disproportionate additions to the size of the original building. Therefore, this would fail to accord with Paragraph 145 (C) of the Framework. Accordingly, the proposal would represent inappropriate development in the Green Belt which is by definition harmful to the Green Belt. The proposal would therefore also conflict with Policy GBR1 of the DP.

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<sup>2</sup> Site Plan – Original extended footprint Drawing No 8RC-500 Rev 01

### *Openness*

10. Paragraph 133 of the Framework states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
11. The appeal property is located within a pocket of residential development set amongst open fields. The appeal property has a generous undeveloped gravelled frontage. Whilst modest, the front extension would comprise two pitched roof elements and would introduce additional bulk and mass to the front of the property and increase the built form, thus having a spatial impact.
12. Whilst I note the property is located toward the end of Raffin Close and benefits from vegetation screening, the spacious frontages contribute to the openness of the Green Belt in this location. The additional bulk, albeit limited proposed to the front of the dwelling would be experienced visually from the street. As such, the front projection would impinge into the open frontage to the front of the property and lead to a reduction in visual openness.
13. Although the reduction in spatial and visual openness would be limited and localised, nevertheless, it would lead to limited harm to the openness of the Green Belt.

### *Protected Tree*

14. The protected beech tree is a prominent feature of visual interest and forms part of a network of trees and landscaping that makes an important contribution to the local landscape character of the area.
15. The technical report provided by the appellants' demonstrate that the large beech tree (T5) already has restricted growth due to the presence of existing hard surfacing within the appeal site and the existence of the old conservatory base between the trunk and the proposals. Having considered the report and observed the relationship with the tree on site, I have no reason to take a different view. I am satisfied therefore that this report is sufficient to demonstrate no harm would occur to the tree.
16. For the reasons above, I do not find the proposal would cause harm to the protected Beech tree (T5). Therefore, the proposal would be consistent with Policy DES3 of the DP. Amongst other matters this policy seeks that development must demonstrate how they will protect landscape features which are of amenity value.

### *Other Considerations*

17. I acknowledge the proposal would be of an acceptable design and would not result in harm to the character and appearance of the area. In this regard I note the letters of support from neighbours. However, I do not share the view that the ground floor extension would improve the appearance of the property and the street scene. I note the proposal would not result in harm to the protected tree. However, these matters would need to be acceptable in any event and therefore are not benefits in favour of the proposal. I therefore attach no weight to these issues in favour of the proposed development.

18. I have considered the personal circumstances of the appellants' in respect of the identified need for the extension. Whilst this is a benefit that weighs in favour of the proposal I am not persuaded otherwise that a more suitable means of reconfiguring or extending the property exists in a way that would achieve this aim rather than the need for a front extension. Accordingly, I only attach moderate weight to this benefit.
19. I recognise that there are neighbouring dwellings which have been extended. However, I do not have the full details of these extensions or the change in size compared to the original dwellings to compare to the appeal proposal. Similarly, the appellant refers to development approved in the local area which they state was on a larger scale than that proposed. Whilst this maybe the case, the full details of this are not before me and I cannot assess its relevance to the appeal before me. Accordingly, this does not weigh in favour of the proposed development.

#### *Green Belt Balance*

20. Substantial weight must be given to the harm to the Green Belt due to the inappropriate nature of the proposed development and the limited harm that this would cause to openness. However, the other considerations identified above attract only moderate weight in favour of the proposed development. Consequently, I find the other considerations in this case do not clearly outweigh the harm to the Green Belt that I have identified. Accordingly, the very special circumstances necessary to justify the development do not exist. The proposal would therefore conflict with Policy GBR1 of the DP and the Framework.

#### **Conclusion**

21. For the above reasons, the appeal is dismissed.

*S Thomas*

INSPECTOR