



Appeal Decision

Site Visit made on 03 September 2020

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

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Appeal Ref: APP/J1915/W/19/3240071

11 Chestnut Close, BISHOP'S STORTFORD, CM23 3SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Sizeland against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1104/FUL, dated 28 May 2019, was refused by notice dated 16 September 2019.
 - The development proposed is described as erection of 1no. 3 bedroom house with associated parking. Land Adjacent To 11 Chestnut Close Bishops Stortford Hertfordshire CM23 3SY.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not contain a description of development. Therefore, the description of development in the banner above is taken from the Council's decision notice and that quoted by the appellant on the appeal form.
3. Following the recent publication of the Ministry of Housing, Communities and Local Government 2020 Housing Delivery Test (HDT), the parties have been given the opportunity to consider this in relation to the appeal. I deal with this matter in the body of my decision.

Main Issues

4. The main issues are whether the proposed development would preserve or enhance the character or appearance of the Bishop's Stortford Conservation Area and (ii) the effect of the proposed development on the living conditions of the occupiers of No 11 Chestnut Close (No 11) with particular regard to outlook and daylight.

Reasons

Conservation Area (CA)

5. The appeal site forms part of the existing garden area to No 11, an end of terrace dwelling. There is a regular pattern of development along Chestnut Close. This is characterised by the rows of terraces and semi detached dwellings fronting a central island of green space before transitioning to the bungalows arranged around the larger area of green space. The gaps between the end of terrace dwellings and the bungalows together with the open spaces contribute to the spacious and open character of the street scene.

6. The site lies to the western boundary of the CA. The Bishop's Stortford Conservation Area Appraisal and Management Plan (2014) (CAA) indicates the character of this market town is informed by its medieval heritage and the diverse and high-quality built environment including open spaces contribute to the character and visual qualities of the CA. Given the above, I find the significance of the CA, insofar as it relates to this appeal, to be primarily associated with the character and arrangement of the built form.
7. The dwelling would be sited to the side of No 11, currently occupied by the single storey side addition. Given the constrained nature of the plot, the proposed dwelling would be sited tight to the western boundary and in close proximity to No 11. Consequently, the dwelling would appear shoehorned onto the site and cramped within the plot. In addition, the two-storey dwelling would intrude into the visual gap between the terrace and the bungalows, disrupting the spacious character of the street scene.
8. Furthermore, given the proximity of the dwelling to the western boundary, the large flank wall would be dominant and imposing in views from the adjoining public footpath. Overall, the proposal would be prominent and would fail to respect the pattern of development along Chestnut Close. It would not integrate successfully amongst the surrounding built form and would appear out of place in the street scene. It would therefore detract from the character or appearance of the CA.
9. I therefore conclude that the proposal would fail to preserve the character or appearance of the CA. Whilst I find the harm to this designated heritage asset to be on the lower end of the less than substantial spectrum in this instance, it is nevertheless of considerable importance and weight. The National Planning Policy Framework (the Framework) says that such harm should be weighed against the public benefits of the proposal and that great weight should be given to a designated heritage asset's conservation. Whilst the proposal would result in the provision of additional housing, which is a public benefit, it is only for one additional dwelling. Accordingly, the benefits associated with it would be very modest and would not outweigh the harm I have found to the character or appearance of the CA.
10. For the reasons above, the proposal would conflict with Policies DES4 and HA4 of the East Herts District Plan (2018) (District Plan). Together, amongst other matters these seek that development in a CA should preserve or enhance the special interest, character and appearance of the area, development should respect established building lines, layouts and pattern and be of a high standard of design and layout to reflect and promote local distinctiveness.

Living Conditions

11. The side elevation of the proposed dwelling would be sited in close proximity to the boundary with No 11. Given the setback nature of the dwelling beyond the rear elevation of No 11, it would create a large flank wall which would appear imposing and overbearing for the occupiers of No 11 in views from the closest habitable room windows and from their garden. Consequently, it would harm outlook for the occupiers of No 11. In addition, given the above, it would lead to considerable overshadowing and loss of daylight to these habitable room windows. Together, this would not provide a high standard of amenity for existing occupiers and the proposal would be unacceptable.

12. For the above reasons, the proposal would result in harm to the living conditions of the neighbouring occupiers of No 11 with regard to outlook and daylight. Accordingly, the proposal would conflict with Policy DES4 of the District Plan which seeks to ensure that development avoids significant detrimental impacts on the amenity of occupiers of neighbouring properties and ensures that their environments are not harmed by inadequate daylight.

Other Matters

13. The HDT results indicate that there is a positive increase in the Council's Housing delivery figures. Accordingly, this does not materially impact this appeal and Paragraph 11 of the Framework is not engaged.

14. I acknowledge a previous planning permission¹ for a similar scheme opposite the appeal site. However, from my observations on my site visit it appeared this was a larger and wider plot. Even if this is not the case the appeal site is more prominent being adjacent to a public footpath. Accordingly, it would result in a far more cramped and imposing effect in the street scene.

15. In any event, at the time of my visit this permission had not been implemented and was required to be commenced by 3 November 2020. Even if the permission has now been implemented, the scheme was approved under a previous development plan and therefore the planning circumstances are different. Accordingly, for the reasons above it does not persuade me the appeal proposal would be acceptable.

16. Given the harm to the character and appearance of the CA and to the living conditions of neighbouring occupiers, the proposal would not comply with the policies of the development plan when taken as a whole.

Conclusion

17. For the above reasons, the appeal does not succeed.

S Thomas

INSPECTOR

¹ 3/17/1951/FUL



Appeal Decision

Site Visit made on 3 September 2020

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

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/J1915/W/19/3240279

Land to North-east of Winchester Close, Bishop Stortford, CM23 4JQ

- 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 Ser Contractor Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1373/FUL, dated 28 June 2019, was refused by notice dated 24 September 2019.
 - The development proposed is erection of four bed detached house with garage and ancillary private space. Creation of new access and landscape works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the appellant submitted revised drawings which removed the footpath to the south of the proposed dwelling. Whilst third parties have not had the opportunity to comment, given the nature of the changes, I am satisfied that no party would be prejudiced by me taking these into account and therefore I have accepted these.

Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of neighbouring occupiers of Nos 51 and 52 Winchester Close and Nos 32-34 Ashdale.

Reasons

Character and Appearance

4. The appeal site is an area of roughly triangular open space located to the rear of properties along Winchester Close and Ashdale. The open space provides a welcome visual break from the surrounding built form and contributes to the character of this residential area. The general character of dwellings within the immediate vicinity of the site are typically two storey red brick semi-detached dwellings with pitched roofs.
5. The proposed dwelling would visually intrude into this open space and would appear an awkward and fragmented form of development. This would be accentuated by the large catslide roof which would be uncharacteristic of the surrounding built form. Similarly, the proposed render finish would appear stark and out of character with surrounding brick properties. By virtue of the siting and design the proposed dwelling would jar with the surrounding built

form and would disrupt the open character of this green space. When viewed from the surrounding properties and footpaths the dwelling would appear a contrived an incongruous addition, intruding into this area of open space.

6. Whilst I acknowledge the proposed landscape improvement plan will provide some improvements to the remaining area of open space, this would not outweigh the harm the proposed development would cause to its open character.
7. The appellant has submitted an Open Space Assessment which they indicate demonstrates that adequate provision of open space in the locality would remain if the appeal site were developed. However, even if this was the case this would not alter my view that the proposal would result in harm to the character and appearance of the area.
8. For the reasons above, the proposal would be in conflict with Policy DES4 of the East Herts District Plan (2018) (District Plan). Amongst other matters this policy seeks to ensure that development proposals must be of a high standard of design and layout to reflect local distinctiveness. In addition, the policy states that proposals should respect or improve the character of the site and surrounding area in terms of scale, massing, siting, and layout having regard to the design opportunities and constraints of the site.

Living Conditions

9. The proposed dwelling would overlook the rear garden areas of surrounding properties. In respect of Nos 32-34 Ashdale, whilst there would remain sufficient distance between habitable windows, the dwelling would be sited in very close proximity to the rear boundaries of No 33 and 34 Ashdale. Given this relationship, the rear first floor bedroom windows of the proposed dwelling would lead to unacceptable levels of overlooking of the rear garden areas of these properties.
10. With regard to the relationship between the proposed dwelling and Nos 51 and 52 Winchester Close, there would be adequate separation distance to not result in a harmful effect on the occupiers of No 51. However, the bedroom window of the proposed dwelling would overlook the existing habitable room windows of No 52. The separation distance between these windows would be insufficient and would lead to an unacceptable level of overlooking. This would harm privacy for the occupiers of No 52.
11. For the above reasons, the proposal would result in harm to the living conditions of the neighbouring occupiers of Nos 33-34 Ashdale and No 52 Winchester Close with regard to privacy. Accordingly, the proposal would conflict with Policy DES4 of the District Plan. Amongst other matters, this policy seeks to ensure that development avoids significant detrimental impacts on the amenity of occupiers of neighbouring properties and ensures that their environments are not harmed by inadequate privacy.

Other Matters

12. The Ministry of Housing, Communities and Local Government Housing Delivery Test results 2020 indicate that there is a positive increase in the Council's Housing delivery figures. Accordingly, this does not materially impact this appeal and Paragraph 11 of the National Planning Policy Framework (the Framework) is not engaged.

13. As the amended plans remove the footpath from the south of the site the proposal would not give rise to natural surveillance issues and would therefore be acceptable in this regard. Accordingly, there is no conflict with Policy DES5 of the District Plan and Paragraph 95 of the Framework. Nevertheless, this is not a matter on which the appeal turns.
14. I acknowledge the proposal would contribute to the area's housing stock; however, the proposal would provide only one additional dwelling. Accordingly, any benefits that might be associated with it would be very modest and would not outweigh the harm I have found to the area's character and appearance and to the living conditions of existing occupiers. Given this harm, the proposal would not comply with the policies of the development plan when taken as a whole.

Conclusion

15. For the above reasons, the appeal does not succeed.

S Thomas

INSPECTOR



Appeal Decision

Site visit made on 8 April 2021

by **R Bartlett PGDIP URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 May 2021

Appeal Ref: APP/J1915/W/20/3251556

St Michael's Masonic Hall, Springfield Court, Hadham Road, Bishop's Stortford, CM23 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 Trustees of St Michael's Lodge against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2002/FUL, dated 1 October 2019, was refused by notice dated 20 November 2019.
 - The development proposed is Demolition of a Non-Designated Heritage Asset located within a conservation area and the erection of a two storey high building, in the form of a Victorian Villa containing 4no. one bed apartments and 2no. two bed apartments.
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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 Bishop's Stortford Conservation Area and on the living conditions of occupiers of residential properties to the east and west of the proposed new building.

Reasons

Character and appearance

3. The site lies within the Bishop's Stortford Conservation Area (CA) and comprises a late 19th century gothic revival building with a much later single storey flat roof extension to the rear. There is a tarmac driveway to the side of the building and tarmac parking areas to the front and rear. Boundary treatment is a mixture of walls and fencing with some limited vegetation. The building was originally built and used as a chapel to the former Grammar School, which was demolished in the early 1980's and replaced with the three storey flat roofed apartments known as Springfield Court. The former chapel was used as a Masonic Hall from 1934 to 2019 but is now redundant. The surrounding area is predominantly residential and comprises a wide variety of building styles, types, ages, scale and materials.
4. It is undisputed that the existing building is a non-designated heritage asset (NDHA). Indeed the appellants describe the building as this in their description of development on their application form. A heritage asset is by definition, a

- building identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.
5. Paragraph 184 of the Planning Policy Framework (the Framework) states, in relation to all levels of assets, that *"These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations."*
 6. Paragraph 197 of the Framework states that *"In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* In this case it is proposed to demolish the asset in its entirety and accordingly the scale of harm or loss would be substantial, notwithstanding the fact that its existence could be recorded and archived.
 7. In addition to the loss of a NDHA, the site also forms part of a CA, which is a designated heritage asset. There is a statutory duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.
 8. Paragraph 201 of the Framework requires the loss of a building, which makes a positive contribution to the significance of a conservation area, to be treated as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate.
 9. It is acknowledged that not all elements of a CA contribute to its significance, for example the modern apartment buildings located on either side of the appeal site. However, the building in question is accepted by all parties as being a NDHA. It is therefore, by definition, of some significance for its heritage interest. Constructed in 1893 the building is irrefutably historic and historic buildings irrefutably play a large part in making up the character and appearance of the CA. It is my view that the existing building, although not special enough to be listed, does due to its age, design, architectural detailing, materials and condition, make a positive contribution to the character and appearance of the CA. This view is reinforced by the recognition of the building as one which should be protected from demolition on the Bishop's Stortford Conservation Area Appraisal Management Plan (Adopted December 2014) and by the views of the Council's professional officers, consultees and local residents. However, its significance is low, as demonstrated by its non-designated status.
 10. I have had regard to the fact that the existing building is in need of some repair and refurbishment, the cost of which is estimated by the appellant to be £150,000. No evidence has been provided as to how this sum has been reached or what end use it is based upon. Clearly the nature, cost and viability of the works required will be dependent upon the end use/end user(s). The appellants have confirmed that the building is no longer fit for their own purposes and that alternative premises have been found. Permission is not sought for a new Masonic Hall it is sought for residential development and accordingly the cost of renovating the building to meet the needs of the Trust, which no longer exist, is somewhat irrelevant.

11. The building is structurally sound and could be put to a multitude of alternative uses. The evidence before me does not convince me that the building could not be reused either in its current form or with sympathetic alterations or that it would be unviable to do so. There is also no evidence before me to suggest that the building has been marketed.
12. As the building is considered to be of heritage value and makes a positive contribution to the character and appearance of the CA, its loss needs to be balanced against the effect of the proposed new development on the character and appearance of the CA.
13. The front elevation of the proposed replacement building is intended to resemble a Victorian Villa. However, the wide gable front, the roof pitch, the horizontal rather than vertical emphasis of the windows and other architectural design features, or lack of, for example the absence of tall chimneys, would not bear any resemblance to the existing building to be removed or to the other buildings referred to by the appellants. The side and rear elevations of the proposed building would be of no interest at all and the overall scale and form of the building would not reflect the historic character of the site.
14. The increased width of the new building would make it more visually prominent in the street scene than the existing building despite being set well back from the road. Although the existing building is partially screened by overgrown shrubs, these would be removed to make way for the proposed parking bays. The absence of any space between the new building and the Springfield Court apartments, when viewed from Hadham Road, would further erode the historic pattern of development in the area.
15. I acknowledge the other demolition and re-development schemes referred to by the appellants but I do not know the full circumstances of those cases, the justification provided or the policies that were in place at the time of their approval. It is also evident that other historic buildings in the area have been successfully retained and converted into new uses, preserving and enhancing the CA. I have therefore determined this case purely on its own merits.
16. The total loss of the existing NDHA, which is of low significance but makes a positive contribution to the CA, combined with a replacement building that would fail to either preserve or enhance the character and appearance of the CA would in my view result in harm to a designated heritage asset, namely the Bishop's Stortford Conservation Area. This harm would however, be less than substantial given the low significance of the building and the small contribution it makes to the overall significance of the CA.
17. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use. In this case no public benefits have been put forward by the appellants.
18. The proposal therefore conflicts with policies HA1, HA4 and DES3 of the East Herts District Plan (October 2018). These policies collectively seek to ensure that permission is only granted for demolition in conservation areas where the building or structure to be demolished does not make a positive contribution to its character and where the replacement is of high standard of design and layout, which reflects and promotes local distinctiveness. The proposal would

also conflict with the aims of the Framework to conserve and enhance the historic environment.

Living conditions

19. Although the submitted plans do not include a scale drawing showing the proposed building in relation to surrounding residential properties, it is clear that the new building would be much wider, much longer and in parts much higher than what currently exists. The new building would also be much closer to 29A Westfield Road and to Springfield Court than the existing building. Despite not being closer to Hadham Court, which is located on higher ground with the bottom of its ground floor windows being roughly level with the top of the existing flat roof extension of the Masonic Hall, the increased eaves height and the increased length of the building would adversely affect the light to and the outlook from the windows in the eastern side of this building. Gardens to the rear of 29A Westfield Road and Hadham Court would also be directly overlooked by windows in the side and rear elevations of the new building.
20. I acknowledge that there will already be some overshadowing of gardens from existing hedges, however, the height and density of the hedgerow is varied and can be controlled by the residents, unlike the scale and massing of the proposed building, which would be a permanent and solid structure of greater height.
21. Bedrooms are habitable rooms and moreover there is nothing to prevent future owners from swapping which rooms they choose to utilise as living rooms or bedrooms. I therefore give little weight to the appellants argument that bedroom windows would not result in overlooking or loss of privacy.
22. The new building would be set back from the nearest part of the Springfield Court complex and the windows in the eastern side elevation would be fitted with obscure glazing, albeit these would appear to be opening escape windows, which would not be obscure when open. The front elevation windows would not be obscure glazed and although at oblique angles, would be very close to windows in the north and west elevations of Springfield Court. The new building would therefore appear overbearing and would adversely impact upon the outlook of occupiers of the Springfield Court apartments. There would also be insufficient levels of privacy between the existing and proposed apartments and future occupiers of the proposed apartments would have a poor quality outlook due to the amount of obscure glazing and the proximity of adjacent buildings.
23. The proposal would therefore fail to ensure a satisfactory standard of living conditions for future occupiers of the development and for existing and future occupiers of the adjacent residential properties in terms of outlook, light and privacy. The development is therefore contrary to policy DES4 of the East Herts District Plan (October 2018) which requires all development proposals to avoid detrimental impacts on the amenity of occupiers of neighbouring properties and land.

Other matters

24. In addition to the main issues considered above, the council refused permission on the grounds that in the absence of any landscaping details the proposal would be contrary to local plan policy DES3, which relates to the protection of

existing landscaping features. Having visited the site, with the exception of cutting back some shrubs, I cannot see how any existing landscaping would be affected. Had the development been acceptable with regard to the other main issues, a suitable condition could have been imposed to agree details of any new landscaping considered necessary.

25. I note that the Town Council Planning Committee did not object to the proposal, but the Town Council are not the Local Planning Authority (LPA) they are one of many consultees and they do not have the final say on planning decisions. The Town Council committee, unlike an LPA planning committee meeting, which this has perhaps been confused with, would not have been subject to any professional advice or recommendation from the council's planning officers. The absence of an objection from the Town Council and from various other consultees, does not outweigh the statutory duty in the Planning Act to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas or the statutory duty to make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
26. The appellant criticises the accuracy of the CA Appraisal but accepts the building is a heritage asset. The CA Appraisal, whilst re-enforcing the views of all parties that the building is a NDHA, has not been a determinative matter or given significant weight. I would have reached the same conclusion without having any regard to it.
27. The appellant also makes comparisons to other developments in relation to both main issues however I have determined this case on its own merits having regard to its own historic interest, its own contribution to the CA and its own relationship to its own neighbours and surroundings.
28. I acknowledge the additional concerns raised by local residents regarding the increased use of the shared access, insufficient parking, impact on services, disturbance during construction and increased noise and activity, but given my findings on the main issues it is not necessary for me to consider these matters in further detail.

Conclusion

29. For the reasons given above and having regard to all matters raised, the appeal is dismissed.

Rachael Bartlett

INSPECTOR



Appeal Decision

Hearing held on 21 April 2021

Site visit made on 23 April 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2021

Appeal Ref: APP/J1915/W/20/3248614

Agricultural land west of Orchard Road, Tewin, AL6 0HN

- 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 Mark Lloyd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2226, dated 18 October 2019, was refused by notice dated 20 January 2020.
 - The development proposed is described as temporary consent for siting a mobile home for the husbandry of cattle herd.
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Decision

1. The appeal is dismissed.

Application for costs

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

Preliminary Matter

3. The mobile home subject to the appeal is in situ on the site. I am therefore considering the appeal proposal retrospectively.

Main Issues

4. The appeal site is within the Green Belt, so the main issues are;
 - Whether or not the development is inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area; and
 - If the development is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

Reasons

Site and development

5. The appeal site is part of an agricultural unit. It is accessed via a long driveway leading from Orchard Road where the farmyard area sits behind a row of

detached residential properties, with intervening open grassland. There are several public footpaths traversing the wider area.

6. The development subject to the appeal is described as a mobile home and is sited in the south-west corner of the farmyard which also contains agricultural buildings, storage units and other agricultural related paraphernalia. Temporary planning permission of 2 years is sought.

Whether the development is inappropriate development

7. The National Planning Policy Framework 2019 (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a limited number of exceptions as set out in paragraph 145. One of the exceptions referred to in paragraph 145a) is buildings for agriculture and forestry. The appellant considers that the appeal development is a building for agriculture.
8. Although the development is used by staff of the agricultural operation, the evidence is such that its primary purpose is to provide for overnight sleeping, hot-food preparation, washing and the storage of clothes for up to four people. Furthermore, the layout shows a living area, kitchen, shower/wc and three bedrooms. When above matters are considered alongside the appellant's description of development as a 'mobile home' and reference to the unit providing housing 24 hours a day, I consider that as a matter of fact and degree the proposal is not an agricultural building.
9. Therefore, whilst the mobile home may be being used in connection with an agricultural use on the wider site, the unit itself is primarily used for residential occupation. Consequently, I find that it is not a building for agriculture and does not, therefore, accord with the exception under Paragraph 145a) of the Framework and is inappropriate development in the Green Belt. To this extent, the development also fails to accord with Policy GBR1 of the East Herts District Plan (2018) which outlines that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework.
10. It is of note that the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances. I deal with this matter later in the decision.

Openness and purposes of the Green Belt

11. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect. The development is sited away from the existing farm buildings. It is not screened by any significant natural or physical features. The evidence is that the land was previously devoid of any structures or other development and on this basis the mobile home has a greater impact on the openness of the Green Belt in spatial terms. I find that in this instance, given the size and siting of the development the harm to the openness of the Green Belt, from a spatial perspective, is moderate.
12. Through a combination of the lack of any screening and its prominent siting, the mobile home is clearly visible from the public footpath that descends the

hill towards the west of the site. Due to its greater prominence by reason of its size and scale, the mobile home has a moderate impact on the openness of the Green Belt in visual terms. The harm to the openness of the Green Belt from a visual aspect, is moderate.

13. I therefore consider that in considering spatial and visual effects the development causes moderate harm to the openness of the Green Belt. Furthermore, and recognising that the mobile home is amongst other farm buildings and paraphernalia, it has nonetheless been erected on the edge of the site and in doing so has led to some minimal encroachment into the countryside. Therefore, and to a limited extent, the appeal development also fails to assist in safeguarding the countryside from encroachment, one of the 5 purposes of the Green Belt.

Character and appearance

14. The appeal site is located in a relatively open rural setting where there is a pleasant rolling landscape with commanding views. The public footpath to the west of the site descends down the hill between two wooded areas. When viewed from this point, the mobile home is sited in a prominent and elevated position from which it is clearly visible from the footpath. Its siting, away from the agricultural buildings, results in it appearing isolated, and when combined with its overall size, scale and appearance, it appears as an incongruous and intrusive feature in the landscape.
15. Landscape screening, which could be secured by an appropriately worded planning condition, would take time to become established and given the temporary nature of the development it is unlikely to reduce the impact of the development to an acceptable level.
16. I therefore conclude that the mobile home causes significant harm to the character and appearance of the area. It is therefore contrary to Policy DES4 of the East Herts Local Plan (2018) which requires, amongst other things, that development respects or improves the character of the site and the surrounding area. It also fails to accord with paragraph 170(b) of the Framework which states that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other considerations

17. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
18. The appellant considers that the mobile home is required to provide a staff facility and allow for overnight stays most importantly during calving, which it is claimed requires an on-site presence 24 hours a day. I do not doubt that in the interests of animal welfare a staff presence during calving would be of assistance during these times. Calving is, however, a temporary activity. Indeed, at the hearing I heard that calving took place for 6-7 weeks and that this could be 2 to 3 times a year.
19. It was outlined during the hearing that the very nature of calving brings an element of uncertainty as to the length of time a permanent staff presence is

- required. I accept that it is difficult for the appellant to provide definitive timescales, however it is clear to me that the need for a permanent staff presence is occasional at best. The appellant suggested that a one-bedroom caravan would probably be sufficient to achieve the aim of having a permanent staff presence at these times and I consider this demonstrates that there are likely to be alternative means of providing the necessary facility without a fixed mobile home being installed at the site.
20. I also observed on my site visit that parts of the existing buildings on the site were underutilised, and appeared capable of being adapted or altered to include a specific area to provide the facility which the appellant has outlined is required, negating the need for a mobile home to be sited on the land.
21. At the hearing, the appellant also outlined that a member of staff is required to be on site daily to feed the chickens. On my site visit, I observed that this is a relatively small element of the operation. I do not consider that feeding chickens reasonably justifies a requirement to have a permanent mobile home on the site.
22. A permanent residential presence at the site clearly provides benefits to the efficiency of the enterprise by removing the need for the appellant and other workers to undertake repeat trips between homes and the holding. In this regard, there would be some convenience during calving time. It does not, however, follow that this justifies the permanent positioning of the mobile home.
23. In addition to occasional overnight stays, the mobile home serves to provide a facility for workers to rest and eat in. I am not persuaded that opportunities to make use of what appears to be underutilised space in existing buildings for occasional facilities for staff has been properly explored and where harm to the openness of the Green Belt and the character and appearance of the area would have the potential to be less harmful in relative terms.
24. Although temporary consent is sought for the mobile home, I do not consider that this justifies the harm that I have identified. Indeed, a two-year period is not an insignificant period of time.

Other Matters

25. The appellant has referred to a development allowed on appeal where the Inspector considered the application was 'appropriate' development in the Green Belt. I have not been provided with a copy of the appeal decision or any other details in relation to that case in order to give it significant weight as part of the determination of this appeal. I have, in any event, considered the appeal on its own individual planning merits.

Planning Balance and Conclusion

26. As per my reasoning above, I have found that the development constitutes inappropriate development in the Green Belt which is a matter to which I afford substantial weight in the planning balance. In addition, moderate harm has been caused to the openness of the Green Belt and some limited harm in respect of countryside encroachment. There is also significant harm caused to the character and appearance of the area.

27. I accept that there is some convenience associated with having the appeal development as close as possible to the agricultural enterprise, but in this case, and for the reasons outlined, there is not sufficient justification before me to justify allowing a non-agricultural building on the site. I therefore conclude that the identified harm to the Green Belt by way of inappropriateness, and the other identified harm, is not clearly outweighed by other considerations as to amount to the very special circumstances to justify the development.

28. Therefore, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Michael Rosen G A Design

FOR THE LOCAL PLANNING AUTHORITY:

Ms Ashley Ransome East Hertfordshire District Council

OTHER INTERESTED PARTIES:

Keith St Pier Tewin Parish Council

Caroline McFarlane Tewin Parish Council



Costs Decision

Hearing held on 21 April 2021

Site visit made on 23 April 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2021

Costs application in relation to Appeal Ref: APP/J1915/W/20/3248614 Agricultural land west of Orchard Road, Tewin, AL6 0HN

- 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 Mark Lloyd for a full award of costs against East Hertfordshire District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for temporary consent for siting a mobile home for the husbandry of cattle herd.
-

Decision

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

The submissions for Mr Lloyd

2. The costs application was submitted orally at the hearing. The applicant considers that the Council has behaved unreasonably insofar that it refused planning permission. The applicant also considers that the siting of a mobile home had previously been verbally agreed with the Council. The applicant, in their costs application, also referred to how they thought the appeal would be determined in the normal way, by which they meant the written representations procedure.

The response by East Hertfordshire District Council

3. The Council responded by saying that without a written application for costs, they had no comment to make other than that they considered they did not act unreasonably.

Reasons

4. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
5. The PPG states that "*where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application*".

6. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the East Herts District Local Plan (2018) that the development would conflict with. This reason has been adequately substantiated by the Council in its Officer Report, Appeal Statement and at the Hearing.
7. On the matter of pre-application discussion, early engagement, as paragraph 39 of the Framework points out, has the potential to improve the effectiveness of the planning system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community. However, judging the relevance and applicability of 'in-principle' pre-application advice and whether to act on it remains the responsibility of the applicant. The Council was not bound to determine the application in accordance with any pre-application advice it had given and, on further detailed consideration of the submitted application, found that it could not be substantiated. No evidence was submitted in the appeal of any previous discussions. However, and while I have no reason to doubt that discussion did take place, this in itself does not mean that the Council acted unreasonably in refusing planning permission and after considering the information that accompanied the planning application.
8. I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the development which justified its decision. The applicant had to address those concerns in any event.
9. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense. I find nothing to suggest that a decision was not reached on the basis of the planning merits of the development.
10. On the matter of the appeal procedure not being as per requested, or assumed, by the applicant, The Planning Inspectorate (PINS) may, if it is considered necessary, determine that the appeal should follow a different procedure. In this case, it was necessary for me to test the evidence by questioning the main parties and that could only occur at a hearing. This is not therefore a reason to award costs and, in any event, the choice of procedure was made by PINS and not the Council.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Therefore, a full award of costs is not justified.

A M Nilsson

INSPECTOR



Appeal Decision

Site visit made on 8 April 2021

by R Bartlett PGDIP URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/J1915/W/20/3261881

Land opposite 23 Tatlers Lane, Aston End, SG2 7HL

- 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 Brad Kelly, Probuild Ltd, against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0278/FUL, dated 11 February 2020, was refused by notice dated 24 April 2020.
 - The development proposed is the erection of a single self-build bungalow and basement, with associated landscaping and parking.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area;
 - 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; and
 - Whether the proposal would result in significant harm to biodiversity.

Reasons

Inappropriate development

3. Policy GBR1 of the East Herts District Plan (October 2018) (EHDP) states that planning applications within the Green Belt will be considered in line with the National Planning Policy Framework (the Framework). Paragraph 145 of the Framework states that new buildings should be regarded as inappropriate development in the Green Belt. One of the exceptions to this includes limited infilling in villages.

4. The village of Aston is some distance from the site. Aston End, is considered by the council to be a hamlet as opposed to a village. I observed on my site visit that the proposed dwelling would not be isolated and despite being located outside of any defined development limits, it would be in a sustainable location, adjacent to a built up area and with good access to a range of services and facilities. To my mind the area is more akin to a village or edge of town than a hamlet and a limited infill development in this location would not conflict with the general spirit or aims of the Framework.
5. The site comprises a long narrow parcel of land, which runs parallel to the eastern side of Tatlers Lane. There are very few dwellings on this side of the Lane and those that do exist are traditional cottages, sited with their gable ends facing the road and gardens running parallel to it. Around the bend, to the east, there are a couple of large detached dwellings, which are set well back from the road. To the rear of the site, there is a large domestic timber outbuilding with a shallow pitched roof, in what appears to be part of the garden to no. 28 Tatlers Lane. The opposite side of the road is more built up, comprising a linear frontage of bungalows and dormer bungalows, sited quite closely together, with parking at the front.
6. Although the proposal for a single dwelling would meet the test of being limited, given its siting, which would be substantially forward of no. 28 Tatlers Lane, in front of its domestic garden and outbuilding and to the end of the garden of no. 30 Tatlers Lane, it would not to my mind constitute infilling, which is commonly defined as the filling of a gap in an otherwise built up area. I concur with the appeal decision¹ referred to by the appellant, which states that what would or would not constitute limited infill, will vary on a case by case basis. In this case I find that the frontage is not built up and the gap between properties to either side of the site is substantial.
7. I therefore conclude that the proposal would not be infill and would be inappropriate development, which, according to paragraph 143 of the Framework, is by definition harmful to the Green Belt. Consequently the proposal would also be in conflict with Policy GBR1 of the EHDP.

Openness

8. Paragraph 133 of the Framework states that openness and permanence are essential characteristics of the Green Belt. The fundamental characteristic of openness is the absence of buildings. The construction of a dwelling on the site would impact on openness by introducing built development where there currently is none. Although the harm from a single dwelling would be quite modest, paragraph 144 of the Framework requires that substantial weight is given to any harm to the Green Belt.

Character and appearance

9. The appeal site comprises an undeveloped parcel of land. The appellant's Ecological Survey, the council's case and various consultation responses appear to concur with the view that the land is an orchard albeit many of the former trees have been removed and the grass appears to be mown regularly. The remaining trees and hedges within and around the site make a positive contribution to the rural character of the area.

¹ APP/B1930/W/19/3225543

10. The dwelling proposed is a very modern passivhaus. Its siting would be at odds with dwellings to the north west, which have their gable ends to the road, and with the dwellings to the east, which are significantly set back from the road frontage. In contrast the proposed dwelling would have its longest and highest elevation situated close to the front hedge, which isn't particularly high. The dwelling would therefore be visually prominent and would detract from the very rural character and appearance of the site and its immediate surroundings on what is a narrow country lane.
11. I acknowledge that the scale of the dwelling would not be significant in comparison to that of other dwellings in the area, that much of it would be hidden below ground and that it would be of commendable sustainable design and construction. It would nevertheless detract from the open and rural character of the area. Given its proximity to the site boundary it would not blend into the landscape or be well screened. It is also unclear from the submitted plans whether or not the hedgerow would need to be removed in order to achieve appropriate visibility from the access. Traffic surveys submitted with the appeal confirm that traffic speeds and volumes are low. The local highway authority has not commented on this evidence, which did not form part of the original application. I noted during my site visit that although there were very few car movements, there were many pedestrians and cyclists using the road, which is very narrow and has no footpaths or verges. Visibility therefore remains important and the removal of the hedge would further erode the rural character of the area.
12. The proposed development would therefore conflict with Policy VILL3(III) of the EHDP, which requires all development to be in keeping with the character of the village and not to result in the loss of significant open gaps that contribute to the form and/or setting of the village.

Other considerations

13. Very special circumstances to justify inappropriate development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. I acknowledge that the dwelling would be a self-build for the appellant and that it would be highly sustainable. I also acknowledge that there is growing demand and support for self-build plots and for more sustainable homes such as the one proposed in this case. However, there is no compelling evidence before me to demonstrate that such dwellings need to be located on greenfield sites in the Green Belt. These are not very special circumstances upon which the development could be justified and could very easily be repeated, resulting in a proliferation of sustainable and/or self-build dwellings in the Green Belt, which would undermine its purpose to keep land permanently open and undeveloped. It would also somewhat undermine other fundamental principles of sustainable development. I am advised that the appellant has added himself to the council's self-build register and consequently he will be advised of any suitable plots that become available in the future.
15. The appellant has referred me to two other appeal decisions. In each of these cases it is apparent that the appeals were allowed on the basis that they met the criteria of being limited infilling and as such were not inappropriate development in the Green Belt. They were not allowed on the grounds that

they were inappropriate and that being self-build or carbon free dwellings would outweigh the harm to the Green Belt.

Harm to biodiversity

16. The council's second reason for refusal stated that the proposed development would result in the loss of irreplaceable habitat on a site designated as a Priority Habitat of Principle Importance as a traditional orchard. I have not been provided with any evidence of the sites formal designation. Usually, such sites would be identified and designated in the council's local plan in accordance with paragraphs 171 and 174(a) of the Framework. The documents referred to by the council describe different types of priority habitats, but do not designate specific sites.
17. Whilst there is evidence that a number of fruit trees have been removed from the site in recent years, there is nothing before me to suggest that their removal was unlawful, that the trees formed part of an ancient woodland, were veteran trees or were protected. On the contrary, a previous Arboricultural Report dated 2015, confirmed that 12 of the 13 fruit trees were of low quality and value. 7 of these trees were subsequently removed.
18. I can only make my decision based upon the site as it currently exists. There is nothing before me to suggest that the proposed development, which is modest in scale, would result in the loss of any further trees that are protected or to explain what significant harm to biodiversity would result from the development that could not be mitigated by appropriate conditions. I note that there is one young tree that would be relocated and that some crown lifting would be undertaken to the group of Ash trees on the boundary. The required work would not result in the irreplaceable loss of a traditional orchard. There is no reason why appropriate mitigation and biodiversity net gains cannot be provided on adjacent land in the appellants ownership, in addition to on site. Granting permission would enable biodiversity net gains to be conditioned whereas I am very conscious that in dismissing the appeal there is no way of securing any replacement tree planting or biodiversity improvements.
19. Based upon the updated Arboricultural Impact Assessment and Ecological Statement, together with the recommended mitigation measures set out within these documents, I find that the proposal would not result in significant harm or irreplaceable loss of any designated habitat.
20. In the absence of any evidence of the site being designated as a nature conservation site or irreplaceable habitat, I find no conflict with Policy NE1 of the EHLP or with paragraph 175(c) of the Framework.

Conclusion

21. The dwelling would not constitute infilling or comply with any of the other exceptions for new buildings in the Green Belt. It would therefore be inappropriate development, which is harmful by definition. In addition I have found that the development would be harmful to the openness of the Green Belt and to the character and appearance of the area. The other considerations put forward by the appellant in support of the development do not amount to very special circumstances and do not clearly outweigh the substantial weight I must give to the harm to the Green Belt and the other harm I have identified.

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Bartlett

INSPECTOR



Appeal Decision

Site Visit made on 6 April 2021

by L Fleming BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2021

Appeal Ref: APP/J1915/W/20/3261657

35B Bull Plain, Hertford, SG14 1DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Dawe against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0626/HH, dated 17 March 2020, was refused by notice dated 23 September 2020.
 - The development proposed is proposed two storey extension and new bi-folding vehicle access gates.
-

Appeal Ref: APP/J1915/Y/20/3261661

35B Bull Plain, Hertford, SG14 1DX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr M Dawe against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0627/LBC, dated 17 March 2020, was refused by notice dated 23 September 2020.
 - The works proposed are proposed two storey extension and internal alterations to convert kitchen into lounge.
-

Decision - Appeal A

1. The appeal is dismissed.

Decision - Appeal B

2. The appeal is dismissed.

Procedural Matters

3. Both appeals relate to the same scheme under different but complimentary legislation, I have therefore dealt with them together in my reasoning.
4. I have taken the description of development for both appeals from the Council's decision notices as these more accurately describe the proposals.
5. The appeal site visit was arranged as access required. However, the appellant did not attend. I was therefore unable to enter the appeal property and was unable to assess the effect of the proposed internal alterations. However, for the reasons that follow I was satisfied I was able to see everything I needed to determine the appeals and proceeded on an unaccompanied basis. Had I been

able to enter the appeal property this would not have altered the outcome of the appeals. I am satisfied that no party has been prejudiced by my approach.

Main Issue

6. The main issue in both appeals is whether the proposed development/works would preserve the grade II listed 35B and 35C Bull Plain or its setting and any features of special architectural or historic interest that it possesses and whether the scheme would preserve or enhance the character or appearance of the Hertford Conservation Area.

Reasons

Significance

7. The appeal property is one of a pair of semi-detached 18th century dwellings with 20th century alterations, known as the grade II listed 35B and 35C Bull Plain, which are within the Hertford Conservation Area (CA).
8. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be given to the desirability of preserving a listed building or its setting and any features of architectural or historic interest it possesses. The same act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Furthermore, paragraph 193 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
9. 35B and 35C Bull Plain is two storey, timber framed, weatherboarded with a concrete tiled roof. Its main front elevation has scattered timber casement windows, which afford views out onto small private gardens and the River Lea. The rear elevation of No 35B is stepped, creating a narrower section of the building with a lower ridge line. The space between this part of the building and Bull Plain is in use as parking and gardens.
10. The appeal site boundary with Bull Plain is marked by timber fencing and gates which extend along the footway up to Folly Bridge over the River Lea. Insofar as is relevant to the appeals, the significance of 35B and 35C Bull Plain derives from its modest scale, its positioning and orientation in relation to the River Lea and Folly Bridge, and its simple traditional architectural detailing.
11. The CA covers a large part of the town including its commercial centre and some of its residential suburbs. The appeal site is located within the Central Historic Core which the Council's Conservation Area Appraisal (CAA)¹ notes contains historic buildings dating from the 12th century. It also recognises the importance of the river features on the edge of the area and associated open spaces. Therefore, insofar as is relevant to both appeals, I find the significance of the CA derives from the architectural detailing and the layout of the traditional buildings within it including their relationship with the River Lea.

¹ Hertford Conservation Area Appraisal and Management Plan, East Herts District Council 2017

Effect on 35B and 35C Bull Plain and the Hertford Conservation Area

12. The proposed fencing and gates would replace existing fencing and gates. The proposed car parking space and new cobbled area would blend into the context. These elements would not harm and would have a neutral effect on the historic fabric of the listed building and features of architectural or historic interest it possesses and its setting and would preserve the character and appearance of the CA.
13. However, the extension would extend at two storeys at roughly 45 degrees into the space between the listed building and Bull Plain. Although joined by a single storey zinc and glazed link, the remainder of the proposed extension would be tall, wide and deep. Even though set down into the plot through its scale it would dominate the appearance of the listed building, particularly when approaching the appeal site from the north.
14. Furthermore, the proposed angled extension partly in front of the main front elevation and into the space to the side of the listed building would complicate its otherwise simple appearance harming its setting. Therefore, through its scale and positioning the proposal would diminish the modesty and simplicity of the grade II listed building failing to preserve its historic architectural detailing and its setting, harming its significance.
15. Moreover, the proposed awkward and overly dominant extension, into the space between the listed building and Bull Plain would be prominently located next to Folly Bridge on a main route through the CA and would be widely visible from the riverside. Thus, irrespective of whether the CAA, identifies any important views in the vicinity of the site or notes the appeal property, the harm I have identified to the historic architectural detailing of a traditional building within the CA and its setting would also therefore fail to preserve or enhance the character or appearance and harm the significance of the CA as a whole.

Planning and Heritage Balance

16. The combined harm I have identified to the significance of the designated heritage assets would be less than substantial. In which case paragraph 196 of the Framework requires it to be weighed against the public benefits of the proposals, including where appropriate, securing optimum viable use.
17. The proposals would improve the living conditions for the occupiers in terms of additional internal living space. However, this is largely a private benefit and would be insufficient to outweigh the great weight I must attach to the harm I have identified to the designated heritage assets.
18. In reaching these conclusions I have also noted the positive comments of Hertford Town Council. However, overall, I find the proposed development/works would fail to preserve the grade II listed 35B and 35C Bull Plain or its setting and any features of special architectural or historic interest that it possesses and would fail to preserve or enhance the character or appearance of the CA contrary to the respective sections of the Act and the Framework.
19. For the same reasons both appeal proposals would also conflict with the development plan, particularly Policies DES4, HOU11, HA1, HA4 and HA7 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 CA and are of a scale, proportion, form, height, design and overall character that accords with and complements the parent building and the surrounding area.

Conclusion

20. For the reasons given above and taking into account all other matters raised, I conclude that both appeals should be dismissed.

L Fleming

INSPECTOR



Appeal Decision

Site visit made on 4 January 2021

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th April 2021

Appeal Ref: APP/J1915/W/20/3258799

Land adjoining Spring Paddocks, East End, Furneux Pelham, Hertfordshire SG9 0JT

- 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 Collins against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0705/FUL, dated 23 March 2020, was refused by notice dated 18 June 2020.
 - The development proposed is described as 'erection of three-bedroom dwelling and cart lodge'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a three-bedroom dwelling and cart lodge at Land adjoining Spring Paddocks, East End, Furneux Pelham, Hertfordshire SG9 0JT, in accordance with the terms of the application, Ref: 3/20/0705/FUL, dated 23 March 2020, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue in this appeal is whether the appeal site is a suitable location for the proposed development, with particular reference to the spatial strategy for housing in the development plan.

Reasons

3. Policy DPS2 of the East Herts District Plan 2018 (DP) sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy.
4. Policies VILL 1-3 categorise the villages in the district into three groups depending on their size and the facilities and services available. The amount of development directed to each village flows from the group it is put in, with Group 1 villages likely to see more growth than Group 2 and 3 villages.
5. Furneux Pelham is a Group 2 village where limited infill development is permitted subject to criteria. However, the appeal site is located outside the settlement boundary of this village and is separated from it by open intervening countryside comprised of fields and hedges. As such, the appeal site is not within Furneux Pelham.

6. Instead, the appeal site is on the periphery of the small loose knit but discernible hamlet of East End, which is focussed on a small green in the vicinity of East End House. East End is therefore a Group 3 village because it is a settlement that is not identified as either a Group 1 or 2 village. Policy VILL3 of the DP permits limited infill development in Group 3 villages if identified in an adopted Neighbourhood Plan (NP). I have not been directed to any adopted NP and therefore the proposal does not glean support from Policy VILL3.
7. However, the appeal site is located in the Rural Area Beyond the Green Belt (the 'Rural Area') and therefore Policy GBR2 is relevant. It lists several types of development that will be permitted in the Rural Area in addition to that set out in the VILL policies, provided they are compatible with the character and appearance of the area. The Council have not alleged that the proposal would harm the character and appearance of the area and I see no reason to disagree. The types of development permitted by Policy GBR2 include limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations. There is an open grass paddock to the east of the appeal site and therefore the proposal would not amount to infilling.
8. In considering whether the appeal site is previously developed land (PDL), the Council have directed me to the definition of PDL in the National Planning Policy Framework (the 'Framework'). This defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land. The appeal site used to be part of a touring caravan site, but there is nothing of substance before me to suggest there were any permanent structures associated with this use. Therefore, the evidence before me indicates the previous use did not involve PDL.
9. The appeal site became residential garden following the grant of planning permission. An outbuilding has been constructed on this land and sits adjacent to the appeal site, the western boundary of which follows no physical feature. The appeal site is closely mown grass surrounded by, and including, ornamental planting and fencing. It has the appearance of a domestic garden indistinguishable from the original garden of Spring Paddock. The appeal site is therefore attached to/near the house, in the same ownership as it and together they form one enclosure. As such, the appeal site is part of the curtilage of Spring Paddock, which is a permanent building.
10. In reaching this view I have considered the Council's submissions in respect of *Dyer v Dorset CC*, where the curtilage of a residential property was described as a small area forming part and parcel of the house which it contained or to which it was attached. The garden of Spring Paddock, including the appeal site, is not a large parcel of land and is not of an unusual size for a dwelling in a rural setting or of an extent untypical of the area and hamlet. It is also attached to and about Spring Paddock, which it contains. The garden area, including the appeal site, can therefore be considered to form part of the curtilage of the dwelling for the purposes of my assessment when having regard to the legal case referred to by the Council.
11. The Council have stated that although on the periphery of a hamlet, the appeal site is not in a built-up area. I share this view because there are fields and paddocks immediately adjoining most of the boundaries of Spring Paddock. There is no contradiction in my finding that East End is a settlement but not a

- built-up area, because the latter to my mind is a settlement type with a denser, more tight-knit pattern of development than is evident in East End.
12. The significance of the above is that the appeal site is land within the curtilage of a permanent building and is therefore PDL. The site's current use and status as residential garden land does not prohibit this finding because the definition of PDL in the Framework states that it is only residential gardens in built up areas that are excluded from the definition of PDL.
 13. Thus, the acceptability of the proposal in the context of Policy GBR2 turns on whether the appeal site is in a sustainable location. I take this to mean 'sustainable' with reference to the accessibility of services and facilities rather than a wider definition of sustainability, which could include economic and social matters. This is because the DP, when read as a whole, particularly with reference to Policy TRA1, seeks to locate development in places which enable sustainable journeys to be made to key services and facilities.
 14. The appeal site is about 0.8miles from the village hall and the Brewery Tap Public House, which includes a shop. The former hosts several community events. The core of Furneux Pelham is about a mile away from the appeal site and includes various facilities including a primary school and church. Thus, the facilities are not so far away as to preclude regular walking as a travel option. That said, some facilities, particularly those in Furneux Pelham, are towards the upper end of what could be considered a reasonable walk, especially when considering the return journey. There is no pavement connecting the appeal site and these facilities but that is not unusual in a rural area where traffic speeds and volumes would be lower.
 15. Importantly, the walking route is attractive and subject to a 30mph speed limit so future residents of the proposal would not be inherently discouraged from walking due to the nature of the pedestrian environment taken with the proximity of the services. This would also encourage cycling as a possible option, although I accept not everyone would have the proficiency, fitness and confidence to travel by this mode of transport. There is also the option to walk about 0.2miles to the nearby bus stop, where a bus service to Royston and Bishops Stortford can be accessed.
 16. Thus, future occupants of the appeal property need not be entirely car reliant as there are realistic and convenient options to travel by other modes. In this respect, and bearing in mind that opportunities to maximise sustainable transport will be more inherently limited in rural areas, the proposal would enable future occupants to capture health benefits from sustainable travel and it would have lower carbon emissions derived from transport than a more remote dwelling. Overall, the proposal would be in a sustainable location and would adequately balance rural growth and sustainable transport.
 17. In conclusion, although the proposal does not glean support from Policy VILL3 it otherwise adheres to Policies DPS2 and GBR2 of the DP, being a proposal on previously developed land in a sustainable location. The appeal scheme would therefore be in a suitable location when applying the spatial strategy in the development plan.

Other Matters

18. Reference has been made to an appeal decision at Green Farm in East End (Ref. APP/J1915/W/19/3236599). I am not party to the evidence before the Inspector and therefore I have arrived at my own conclusions for the reason given. That said, the Green Farm site is located further away from facilities such that walking is unlikely to be a realistic alternative to car travel. Moreover, the Inspector also found harm to the character and appearance of the area. As such, due to these differing circumstances, there was a clear conflict with Policy GBR2 of the DP. This decision is not therefore, a material consideration that leads me to a different conclusion.

Conditions

19. I have considered the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of precision that the proposal is implemented in accordance with the submitted plans. In the interests of safeguarding the character and appearance of the area it is necessary to secure details of refuse facilities and landscaping. It is also necessary to safeguard the approved and existing landscaping.
20. In order to adhere to the specific requirements of the development plan it is necessary to secure details of sustainable construction, an electric vehicle charging point, high speed broadband and water use. In the interests of enhancing biodiversity it is necessary to secure details of habitat boxes/structures. A plan is required to ensure enforceability. In the interests of highway safety, it is necessary to secure off road parking and manoeuvring space prior to occupation as well as adequate visibility splays. In respect of the latter I have altered the condition because it has too flaws - it requires works to the satisfaction of the Highway Authority rather than just the local planning authority and 'to the authority's satisfaction' is an imprecise term.
21. As the appeal scheme would have ample off-road parking it is not necessary to secure the use of the garage for vehicle parking. Any commercial activity of the garage which is of note would likely require planning permission and therefore it is unnecessary to impose a condition preventing such a use. Although in an area of archaeological significance I have not been presented with substantive evidence to suggest the proposal would likely prejudice as yet unknown archaeology and I have seen no comments from the Historic Environment Unit. Thus, it has not been demonstrated that an archaeological condition is necessary. The external materials to be used are listed on the elevations so it is unclear what further details the Council are seeking and therefore a materials condition is unnecessary

Conclusion

22. The proposed development would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this decision.
2. The development hereby approved, including the external materials to be used, shall be carried out in accordance with the following approved plans: UK Map Centre Site Plan at a scale of 1:1250 and Drawing No 384.01A, 384.03 and 384.02.
3. Prior to the completion of foundations, details of the design and construction of the dwelling to demonstrate how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in the winter to reduce energy demand and reduces water demand, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
4. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.
5. Prior to the first occupation of the dwelling, details of the precise access arrangements, parking areas and driveway, including visibility splays onto the C13, the materials to be used and the means to prevent surface water entering the highway shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the access arrangements, parking areas and driveway have been constructed in accordance with the approved details.
6. Prior to first occupation of the dwelling, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
7. Prior to the first occupation of the dwelling, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the

development should be implemented in accordance with the approved details.

8. Prior to the first occupation of the dwelling, all hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
9. Prior to the first occupation of the dwelling, an electric vehicle charging point for the dwelling shall be provided and retained thereafter.
10. Prior to the first occupation of the dwelling, the provision of high-speed broadband internet connections to the development shall be provided and shall be made available for use prior to first occupation of the residential unit to which it relates.
11. Prior to the first occupation of the dwelling, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
12. Prior to the first occupation of the dwelling, a plan shall be submitted including the location and details of habitat boxes/structures to be installed, for the written approval of the Local Planning Authority, and the works shall be carried out in accordance with the approved plan unless otherwise agreed in writing by the LPA.
13. Prior to first occupation of the dwelling, facilities for the storage and removal of refuse from the site shall be provided, in accordance with details having been submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.



Appeal Decision

Site Visit made on 20 April 2021

by **R Sabu BA (Hons), BArch, MA, PgDip ARB RIBA**

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/J1915/W/20/3264733

Tree Heritage, North Road, Hertford SG13 8EQ

- 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 Edward Pearce against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0713/FUL, dated 6 April 2020, was refused by notice dated 10 June 2020.
 - The development proposed is the redevelopment of the site, including demolition of existing buildings and erection of 6 dwellings, associated 14 off-street car parking spaces and altered access and provision of informal open space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Section E of the appeal form indicates that the description of development has changed from that stated in the application form to include reference to the number of parking spaces. I have therefore used this description in the header above.
3. I note the reference to garages in the Council's report. However, from the wider evidence, the Council have correctly assessed the scheme on the basis of the submitted drawings and description of development. Therefore, the reference appears to be an error and the Council has not behaved unreasonably in this respect.

Main Issues

4. The second reason for refusal relates to biodiversity. The appellant submitted additional information in this respect as part of the appeal and the Council has stated that it considers the second reason for refusal to be overcome. From the evidence before me I see no reason to disagree. Therefore, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies including the effect on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriateness

5. The appeal site is situated in the Metropolitan Green Belt. Paragraphs 143 and 145 of the National Planning Policy Framework (Framework) indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development is one of the listed exceptions.
6. Since the site is occupied by existing buildings, it constitutes previously developed land. However, the issue of whether the development would be inappropriate in the Green Belt will be determined by my conclusion on the effect on Green Belt openness.
7. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
8. The proposed dwellings would have a combined footprint significantly larger than that of the existing building on the site. Moreover, the proposed single storey houses would have a ridge height higher than the highest existing building on the site. As such, the scheme would adversely affect the spatial openness of the site.
9. Given the low height of the existing buildings, and the siting of the smaller outbuildings at the periphery of the plot, the site appears open and spacious. While there are trees and vegetation around the boundaries, there are nevertheless glimpses of countryside beyond with views available across large parts of the site.
10. I note that the massing of the scheme would appear as several separate units, rather than a larger mass as existing, and that the proposed dwellings would be located towards the centre and front of the site with the lower bungalows closer to the highway. I also acknowledge that the proposed materials would reflect the traditional materials used on buildings in the area. In addition, a large portion of the site would be turned from hard landscaping to open meadow land.
11. However, since the massing of the proposed buildings would be significantly greater in footprint and height compared to the existing buildings, the views across the site and to the countryside beyond would be significantly reduced. I note the findings of the Visual Impact Report. However, while the trees and vegetation along the boundaries of the site would partially restrict wider views of the scheme, the screening would be reduced during winter months and the height of the two storey dwellings in particular would be visible from across Waterford Marsh. The coniferous trees along the boundary with the road would restrict some views of the scheme. However, the massing and height of the proposal would be visible from the approaches from the north and south. Therefore, both the spatial and visual openness of the Green Belt would be significantly harmed by the proposal.

12. I acknowledge the evidence regarding current commercial activity and movements on the site. The proposal would also be likely to result in a significant number of vehicular movements to and from the site, albeit residential in nature rather than commercial. However, even if the proposal resulted in a lower frequency of vehicular movements and the vehicles were generally smaller, given the significantly increased massing of the proposed buildings compared with existing, the scheme would nevertheless harm the visual openness of the Green Belt contrary to the aims of the Green Belt policy.
13. Consequently, the proposal would have an adverse effect on the openness of the Green Belt and would therefore be inappropriate development in the Green Belt in the terms of the Framework, specifically paragraph 145(g) and none of the other exception criteria apply. Therefore, it would conflict with Policy GBR1 of the East Herts District Plan October 2018 (DP) which relates to the Green Belt.

Character and appearance

14. The site is surrounded on two sides by green, undeveloped land with further fields across the highway and some sporadic housing nearby. Given the functional agricultural appearance of the buildings on the site, together with the existing commercial use, the site is in keeping with the surrounding rural setting.
15. The proposal would not only introduce new dwellings, but also significant areas of formal road and driveways, and domestic paraphernalia that would urbanise the site and substantially alter the landscape setting. As such, while part of the site would be converted to meadowland, given the increase in built development on the site, the scheme would constitute encroachment into the countryside.
16. I note that the proposed materials, forms and cul-de-sac layout of the dwellings may reflect that of existing houses in the wider area. I also acknowledge the proposed fencing around the gardens and landscaping around the road edge. In addition, I note the Landscape Character Assessment Supplementary Planning Document September 2007 (SPD). However, given the encroachment into the countryside that would result from the amount, massing and scale of the scheme, these matters do not override the harm identified.
17. Consequently, the proposal would harm the character and appearance of the area. Therefore, it would also conflict with DP Policies DES2, DES3 and DES4 which together seek development that would protect or enhance the landscape character of the area. It would also conflict with the Framework in this respect.

Other Considerations

18. Subsequent to the refusal of this scheme by the Council, a proposal for five single storey dwellings on the site was granted planning permission. Given the recentness of the permission, it appears likely that the scheme would be implemented should this appeal fail. As such it forms a fall-back position.
19. Since the fall-back scheme consists of fewer dwellings, a smaller combined footprint and would be single storey, their impact on Green Belt openness would be significantly less than the proposal subject of this appeal. As such, the fall-back scheme would not weigh in favour of the proposal.

20. I acknowledge the evidence relating to the development at Sacombe Road, the construction of which was underway at the time of my site visit. However, that scheme appears to have been based on planning permission granted in 2013 under a previous development plan. In addition, it is sited some distance from the appeal site, adjacent to two roads and near other dwellings such that direct comparisons cannot be made with the appeal scheme in terms of openness or character and appearance. In any event, each case must be determined on its own merits.
21. I note the evidence in terms of the sustainability of the location, However, any lack of harm in this respect does not carry weight in favour of the proposal.
22. The scheme would result in an increase in biodiversity net gain in habitat and hedgerow units. A significant portion of the site would also be turned from hardstanding to open meadowland. I also acknowledge the environmental credentials of the proposal as set out in the Sustainability Statement. The proposals would align with the aims of the SPD in this particular respect and I therefore attribute these points moderate weight in favour of the scheme.
23. The Green Belt policies in the Framework provide a clear reason for refusing the development proposed. Therefore, regardless of the Council's position in terms of housing land supply, the presumption in favour of granting planning permission in those circumstances found in paragraph 11(d) of the Framework does not apply.

Conclusion

24. 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 the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances given that those benefits are reasonably modest commensurate to the modest scale of the development proposed.
25. For the reasons given above the appeal should be dismissed.

R Sabu

INSPECTOR



Appeal Decision

Site visit made on 4 May 2021 by Thomas Courtney BA(Hons) MA

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2021

Appeal Ref: APP/J1915/W/21/3267611

34 Hertford Road, Great Amwell, SG12 9RX

- 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 Minides against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1973/FUL, dated 12 October 2020, was refused by notice dated 7 December 2020.
 - The development proposed is the demolition of existing double garage and erection of new detached dwelling and outbuilding, along with associated landscaping.
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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 Issue

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

Reasons for the Recommendation

4. The appeal site accommodates a two-storey detached dwelling located on the northern side of Hertford Road, although it is accessed via Stanstead Road (B1502). The existing host property lies within a substantial plot and features a large garage, a small outbuilding on the eastern boundary, and a swimming pool. The existing dwelling is set-back from the road allowing for a large area of hardstanding and gravel to the front. The plot's boundaries accommodate mature trees and shrubs giving the site a sylvan character.
 5. The site is located in an established residential area characterised by large detached properties of varying architectural styles. The houses along Hertford Road are staggered and set-back from the road with landscaped front gardens and driveways. The two neighbouring properties to the east of the appeal site (Nos. 32 & 30 Hertford Road) lie in close proximity to each other with minimal separation space. More conventional separation distances between properties characterise the rest of the northern side of Hertford Road. In my view, the appeal site and the immediate surrounding area is typified by an agreeable
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- sense of spaciousness reinforced by the existing visual gap between No.34 and No.32.
6. A previous application for the erection of a new detached dwelling was refused by the Council in June 2020 (*LPA ref 3/20/0835/FUL*). The current proposal is broadly similar in respect of the overall design although the scale and height of the proposed dwelling has been slightly reduced.
 7. Whilst there is no solid coherent design character within the area and no consistent building line on the northern side of Hertford Road, most properties in the vicinity feature hipped roofs, projecting bay windows and dormers, appearing as conventional 20th Century suburban-type housing. The proposed dwelling would feature steep pitched double front gables and vast areas of glazing, appearing as a chalet-type dwelling. I find the proposed contemporary design would jar with the surrounding architectural context and the general roof structure would appear incongruous in light of the two prominent front gables and central crowned section. Although I note the maximum height of the roof would be acceptable, I disagree that it is a traditional design as has been contended by the appellant.
 8. The proposed dwelling would also appear unduly bulky in this location and would have a considerably larger footprint than the host property. I find it would have a dominant effect on No.34 and appear obtrusive in its context. I have had regard to the appellant's table which compares footprints and building-to-plot ratios in the vicinity. Whilst the appellant opines that the table demonstrates the proposal would sit comfortably within the plot, it confirms that the proposed dwelling would have a larger footprint and exceed the building-to-plot ratio of the closest properties on Hertford Road. It would thus appear out of scale with the adjacent properties.
 9. The proposed development would not possess a generous spacing to either side of its flank elevations. Instead, it would significantly reduce the visual gap between the host dwelling and No.32 thus eroding the sense of spaciousness which typifies this part of the western end of Hertford Road. Whilst I accept the principle of a new dwelling in this location and the sub-division of the plot, the scale and mass of the proposed dwelling would be excessive, and the resultant building would adversely impact the streetscene.
 10. My attention has been drawn to other developments on Hertford Road and in the wider vicinity. Whilst I am mindful that each proposal should be assessed on its own merits, these developments are seemingly not comparable to the proposal as they are either extensions to existing properties, new-builds that are appropriately distanced from neighbouring dwellings such as at Nos. 8 & 10 Gypsy Lane, or a replacement dwelling such as at No. 50 Pepperhill. The developments referred to therefore do not lend any significant positive weight to the proposal.
 11. The proposed development would result in a bulky and unduly prominent dwelling which would adversely impact the character and appearance of the area. It would therefore conflict with Policies DES4, HOU11 and VILL2 of the East Hertfordshire District Plan 2018 which together aim to ensure proposals are well-designed and reflect local distinctiveness.

Other Matters

12. Whilst I acknowledge the proposed development would provide adequate living conditions for future occupiers and would satisfy the level of accommodation required by the appellants, this does not outweigh the permanent harm to the character and appearance of the area I have identified. Furthermore, whilst I have had regard to the appellant's contention regarding the possibility of undertaking extensions to the existing property as permitted development, there is no evidence or basis from which to conclude that this is a likely scenario to which any weight should be attached as a fallback position.
13. The appellants consider the proposal would deliver a long-term efficient home of sustainable design with excellent energy credentials far exceeding minimum building standards, however I have not been provided with evidence to attest to this assertion. I note that reference is made to the south-facing glazing allowing for passive solar gain however no other environmentally sustainable measure is put forward. I am therefore not satisfied the proposed dwelling would constitute the claimed energy-efficient housing resulting in net environmental gain.
14. Whilst I sympathise with the appellant's claim regarding the Council's behaviour during the application process, this has had no bearing on my assessment of the proposed scheme which has focused on the planning merits of the proposed development.

Recommendation

15. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

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

Martin Seaton

INSPECTOR



Appeal Decision

Site visit made on 8 April 2021

by **R Bartlett PGDIP URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/J1915/W/20/3259032

Falkland, 70A High Street, Buntingford, Hertfordshire, SG9 9AH

- 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 Richard J and Mr Paul T Borsberry against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0901/FUL, dated 7 May 2020, was refused by notice dated 9 July 2020.
 - The development proposed is erection of two detached houses and double garages and associated external works and soft landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - Existing trees that contribute towards the character and appearance of the Buntingford Conservation Area;
 - Biodiversity; and
 - Highway safety with particular regard to parking, turning and the storage of refuse.

Reasons

Trees and Conservation Area

3. The site lies within the Buntingford Conservation Area (BCA). Accordingly the removal of or works to trees within the site require consent. The proposal seeks to remove one tree and to pollard two others. The council, despite finding that the trees on the site as a whole contribute towards the amenity of the BCA, has not made a Tree Preservation Order (TPO). Based upon the evidence before me and my own observations on site, I would concur that the trees at risk of harm from the development do not appear to be of sufficient quality to warrant a TPO.
4. The trees are visible in public views from the access road to the site, the footpath to the north and from Bridewell Close to the east. Some appear more visually pleasing than others and some may well benefit from being replaced with alternative species. However, as a group, the trees add value to the character and appearance of the BCA.

5. Neither party has provided me with any professional assessment of the existing trees setting out their species, age, quality, condition, remaining lifespan or root protection areas. Nor have any management or mitigation measures been submitted. Although relevant development plan policies permit the removal of trees subject to suitable replacement planting, given the limited information before me, I cannot be sure that more trees than suggested would not be harmed by the proposed development.
6. The appellant has submitted a plan that identifies the location of the existing trees to be retained, the trees and hedging proposed to be removed and pollarded and some new tree and hedge planting, comprising a mixture of Beech and Ash. However, little or no consideration has been given as to how the retained or replacement trees would successfully co-exist with the proposed development. Given the proximity of the trees proposed to be retained and planted, to the proposed dwellings, it is likely that many of these could be harmed during construction and the laying of services or could come under pressure to be felled by future occupiers of the houses.
7. There is a statutory duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.
8. I therefore conclude that in the absence of an arboricultural survey and detailed landscaping plan to demonstrate that the removal or replacement of the trees would preserve or enhance the long term character and appearance of the BCA and to demonstrate that the development would not increase pressure to remove further trees from the site due to their impact on the living conditions of future occupiers of the proposed dwellings, the proposal conflicts with policies HA4 and DES3 of the East Herts District Plan (October 2018). These policies require new developments in conservation areas to preserve or enhance their character and appearance and to demonstrate how they will retain, protect and enhance, or suitably replace, existing landscape features of amenity value.

Biodiversity

9. The site currently forms part of a large domestic garden, which is lawned and contains a variety of shrubs, mature trees and hedge planting. The proposed development would result in a large proportion of the garden being replaced by two substantial dwellings, two detached double garages and an extensive area of hard surfacing. Whilst there is no evidence to suggest any protected species would be harmed or that an ecological survey is necessary for such a small scale proposal, the uncertainty about the long term future of the trees makes it difficult to balance the true biodiversity losses and gains. An arboricultural survey and detailed landscaping scheme would have assisted in this matter. As already mentioned above, it is considered likely that more trees than predicted by the appellant are likely to be lost as a result of root damage during the construction phase and/or as a result of pressure from future occupiers. Accordingly the level of enhancement required to compensate for these losses would potentially be greater than that put forward in the submitted plans and Design and Access Statement.
10. I therefore conclude on this matter that insufficient information has been provided to demonstrate that the proposal would comply with policy NE3 of the East Herts District Plan (October 2018) or policy HD5 of the Buntingford

Community Area Neighbourhood Plan (2014-2031). These policies seek to ensure that development enhances biodiversity, creates opportunities for wildlife and minimises the loss of garden space, which would be harmful to its ecological or landscape value.

Highway Safety

11. Based upon the plan included at Appendix C of the appellant's statement, each of the dwellings would have parking for 4 cars, that is assuming the garages were each used to park 2 cars and a car was parked on the drive, which would restrict turning. I have not been provided with a copy of the council's parking standards SPD or the age and status of that document. However, details of that guidance are included in the council's report. Policy T1 of the Neighbourhood Plan requires 4 bedroom houses to have a minimum of 4 parking spaces. It specifies that for a garage to be classed as a parking space it should be at least 3m wide by 6m long. Based upon this the garages proposed could only realistically be classed as providing one parking space each.
12. Due to the dwellings taking up the width of the plot and the detached double garages being located in front of them, there is very little space for manoeuvring. I acknowledge that a turning head is proposed and that traffic at the end of the cul-de-sac would be very limited, however, vehicles having to reverse out of the plots and manoeuvre in the turning head, which is very close to living room windows in the existing bungalow, is far from ideal. There is also no space for visitor parking, albeit the site is in an accessible location close to the town centre and off-site parking is available nearby.
13. I note the comments about fire appliance access but this is a matter for building regulations and my understanding is that alternative solutions are available such as installing sprinkler systems. According to the submitted Design & Access Statement such a system would be installed in each of the new dwellings.
14. Refuse storage would be provided on each of the plots and there is also space available, approximately half way down the access road, that is within the appellant's ownership and could be used as a collection point on collection days. If this collection point is too far from the High Street, then future residents would have to wheel their bins the full length of the road. This is far from ideal but is typical in historic locations with narrow roads that are unsuitable for refuse vehicles. It would be an inconvenience to future residents but this is not a new cul-de-sac development and based upon my observations on site other residents in this area successfully manage to do the same. The access road is flat and well surfaced and the bins are wheeled. Collections presumably only occur every one or two weeks. Although the pull distance may be slightly further than recommended this would not to my mind justify the refusal of much need new housing. There is no evidence before me to suggest that the appellants bin storage proposals would be detrimental to highway safety or would warrant the refusal of this particular development.
15. Taking all matters into consideration, I conclude that given the constrained nature of the site and its access, the parking and manoeuvring space proposed would not be satisfactory and would conflict with policy T1 of the Buntingford Community Area Neighbourhood Plan (2014-2031).

Conclusion

16. For the reasons given above the appeal is dismissed.

Rachael Bartlett

INSPECTOR



Appeal Decision

Site Visit made on 20 April 2021

by R Sabu BA (Hons), BArch, MA, Pg Dip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/J1915/W/20/3264828

Jenningsbury Farm, London Road, Hertford SG13 7NS

- 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 Martin Berry against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0975/FUL, dated 11 August 2020, was refused by notice dated 6 October 2020.
 - The development proposed is erection of new detached stable block.
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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 having regard to the revised Framework and any relevant development plan policies including the effect on openness; and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriateness

3. The Framework establishes that new buildings within the Green Belt are inappropriate with a number of exceptions. Paragraph 145(b) of the Framework provides the exception of the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
4. Paragraph 146 of the Framework states that engineering operations are not inappropriate development in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land it.
5. The proposed development would be for the construction of stables and the addition of hardstanding which would fall under outdoor sport and recreation and engineering operations respectively and may not be inappropriate subject to the facilities preserving the openness of the Green Belt which is assessed below.

6. The stable block would introduce built development on land that is currently undeveloped. Therefore, while the size of the existing manege would reduce, it would diminish the spatial openness of the Green Belt. The site is open and in keeping with the adjacent open countryside. The stable would be sited near the western side of the site, adjacent to the boundary. While the hedges along the boundary may screen the development to an extent and the stable may not be visible from the highway or neighbouring properties, the views from the open countryside across the site to the existing buildings nearby would be restricted by the proposal. As such, while I acknowledge that the building has been reduced in size from the previous application, the stable block would adversely affect the visual openness of the Green Belt.
7. The proposed hardstanding would not include development above ground level and given that the area would be for the use of horses, the hardstanding would not affect the openness of the Green Belt.
8. Consequently, the proposed development would not preserve the openness of the Green Belt and would therefore be inappropriate development in the terms of Policy GBR1 of the East Herts District Plan October 2018 which relates to development in the Green Belt and would conflict with the Framework in this particular regard.

Other considerations

9. I acknowledge the reduction in trips by private vehicle that would result from the relocation of the horses from their current location to the appeal site. While I note the cumulative distance, time and cost of travelling by private vehicle that would be reduced, this would not provide significant benefits in terms of environmental sustainability and I attribute this benefit limited weight in favour of the scheme.
10. The presence of horses on the site may attract visitors to the adjacent holiday lets which would contribute to the local economy. Given the limited number of holiday lets on the site, any benefit in this regard would also be likely to be limited. While I acknowledge the evidence with regard to the Covid-19 pandemic, this is a temporary situation which is not to form the basis for planning decisions made for long-term public interest. As such I attribute this point limited weight in favour of the scheme.
11. I note the evidence with regard to the need for the stables at the appeal site for security and welfare reasons including use of the existing manege for exercising the horses. While I note the evidence in this respect, similar circumstances are likely to be experienced by other horse owners and similar rural uses in the Green Belt, such that they can carry only limited weight in assessing whether very special circumstance existing in the terms of the Framework.

Conclusion

12. 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 the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The

substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.

13. For the reasons given above the appeal should be dismissed.

R Sabu

INSPECTOR



Appeal Decision

Site Visit made on 23 March 2021

by R Sabu BA(Hons), BArch, MA, PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 12th April 2021

Appeal Ref: APP/J1915/W/20/3264227

Land to the rear of No 2 Rectory Lane, Watton At Stone SG14 3SG

- 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 R Pearce against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1381/FUL, dated 17 July 2020, was refused by notice dated 23 September 2020.
 - The development proposed is demolition of half of existing garage and erection of two-bedroom chalet bungalow with parking spaces.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The area surrounding the appeal site is characterised by dwellings with long rear gardens that give the area a pleasant spacious feel. The appeal site is currently undeveloped aside from an existing garage and is located between the rear of two existing gardens. It would be accessed via an existing sloping access road with single storey garages opposite. While the dwelling at No 2 Rectory Lane (No 2) has been extended, the extensions are single storey and sited close to the host building such that the spacious quality of the area is retained. There are a number of outbuildings within the neighbouring gardens, however, these are generally of a small scale such that they appear to be part of domestic garden paraphernalia and are in keeping with the spacious character of the area.
4. The proposal would introduce a dwelling with private amenity space that would be significantly smaller than that of the neighbouring properties. Therefore, while I note that the design has been amended following a previous application, the proposed dwelling would appear overly large for the size of the plot, harmfully departing from the prevailing spacious pattern of development.
5. While the area to the front of the dwelling would be somewhat restricted, it would be roughly similar in size to other properties in the area and this particular aspect of the scheme would therefore not cause an adverse effect on the character of the area.

6. However, the proposed dwelling would also have accommodation in the roof space such that its overall height would be significantly higher than the nearby garages. Given the slope of the access road, the site lies at a lower ground level than the properties in Rectory Lane and Glebe Close. As such, given the resulting views from across the rear gardens of neighbouring properties, this would further reduce the spaciousness of the area.
7. I acknowledge the comments of the Inspector for the case at Station Road. However, limited further details are such that I am unable to make a direct comparison with the appeal scheme in terms of character and appearance. In any event, each case must be determined on its individual merits.
8. Consequently, the proposed development would unacceptably harm the character and appearance of the area. Therefore, it would conflict with Policies VILL1 and DES4 of the East Herts District Plan October 2018 which seeks, among other things development that would be in keeping with the character of the village and promote local distinctiveness.

Other Matters

9. I acknowledge concerns regarding the service provided by the Council, property value, precedent and an existing extension to No 2, However, I have necessarily determined the appeal based on its planning merits.
10. I note concerns regarding the demolition of the existing garage including asbestos and structure, access to the nearby garages, privacy and light to No 4 Rectory Lane. I also recognise that the proposal would contribute a dwelling to the local housing supply and the government's objective of significantly boosting housing supply including the associated social and economic benefits. Furthermore, I note the evidence regarding the accessibility of the location. In addition, the site is not within a designated area such as Green Belt or Conservation Area. However, since the contribution to housing supply would be limited and given the significant harm to the character and appearance of the area identified above, this matter has not altered my overall decision.

Conclusion

11. For the reasons given above, the proposal would conflict with the development plan and in the absence of any material considerations to indicate otherwise it should be dismissed.

R Sabu

INSPECTOR



Appeal Decision

Site visit made on 11 May 2021

by **David Spencer BA(Hons) DipTP MRTPI**

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

Decision date: 27th May 2021

Appeal Ref: APP/J1915/W/21/3266467

Land adjacent Twyford Orchard, Pig Lane, Thorley CM22 7PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Brian Pigott against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1794/OUT, dated 11 September 2020, was refused by notice dated 16 November 2020.
 - The development proposed is construction of 2 No. Green Energy Efficient Bungalows, with garages and demolition of existing workshop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline form with all matters reserved. The Local Planning Authority (LPA) made its decision on this basis and so shall I.

Main Issues

3. The appeal site is located in the Green Belt and so the main issues are:
 - i) whether the proposal represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
 - ii) the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - iii) the effect of the proposal on the character and appearance of the area; and
 - iv) if the proposal is inappropriate development, whether any 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

Inappropriate Development

4. The National Planning Policy Framework (NPPF) reiterates that the Government attaches great importance to Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently

open. The Green Belt boundaries in East Hertfordshire have been considered relatively recently as part of the District Plan process and are therefore up to date and consistent with national policy. Policy GBR1 of the East Herts District Plan October 2018 (the EHDP) confirms that development proposals will be considered in line with the provisions of the NPPF.

5. The construction of new buildings are to be regarded as inappropriate development in the Green Belt, although exceptions are identified at paragraph 145 of the NPPF. These include, amongst other things, limited infilling, either in villages (paragraph 145, criterion e) or in qualified circumstances on previously developed land (paragraph 145, criterion g) and the replacement of an existing building (paragraph 145, criterion d).
6. The appeal site is in the parish of Thorley at the southern fringes of Bishop's Stortford. In several locations, including Thorley Street to the west of the appeal location, parts of Thorley parish are now effectively encompassed within the wider built-up fabric of the town. This includes the location of the recent dwelling adjacent to Laburnum Cottage on Thorley Street which was allowed on appeal¹ and a scheme approved by the LPA on land opposite Laburnum Cottage². Former Green Belt land in Thorley parish has been released through local plan allocations and is now extending development south to the St James' Way bypass road as a sustainable extension to the south of Bishop's Stortford. The character of this part of Thorley parish is changing, but this is occurring some distance from the appeal site and generally to the west of Thorley Street.
7. The appeal site is a short distance to the east of Thorley Street on Pig Lane, a generally rural road skirting through countryside to the south of Bishop's Stortford. Despite the proximity of Bishop's Stortford, the predominant character is the rural valley of the River Stort, including open land to the west, north and south of the appeal site. Development, including the host dwelling at Twyford Orchard, is generally scattered along Pig Lane, either side of where the lane crosses the River Stort. This smattering of development is not identifiable as a scale of rural settlement comparable to a village. Nor due to its degree of separation is it part of the wider settlement of Bishop's Stortford. These are material differences to the circumstances found elsewhere in Thorley by my colleague in the decision adjacent Laburnum Cottage³. Accordingly, the appeal proposal would not represent infilling in a village (or similar settlement) in the terms envisaged by paragraph 145(e) of the NPPF.
8. The appellant submits that the railway line immediately to the west of the site would provide for containment as a recognisable infill site. From my observations, the railway bridge on Pig Lane provides a discernible point where development to the north-west of the bridge, including the Haslemere Industrial Estate, clearly demarcates the edge of Bishop's Stortford. Elsewhere, the railway at this point passes through valley countryside, including the large tract of open land, south of Pig Lane and west of the railway extending over to Thorley Street / London Road. Notwithstanding the overhead catenary and pedestrian footbridge to the south, the railway is not an uncharacteristic feature in the countryside and generally has a low profile at this point. I generally find the railway to be a weak edge or defining point for containing the extension of development into countryside at the appeal

¹ APP/J1915/W/18/3192897

² LPA reference 3/20/1370/FUL

³ APP/J1915/W/18/3192897, paragraph 8

- location. Consequently, the appeal proposal would not represent identifiable infilling within a built settlement.
9. The NPPF at paragraph 145 criterion g) also provides an exception for development that would not be inappropriate where it would result in limited infilling or the partial or complete redevelopment of previously developed land. This is caveated where it would not have a greater impact on the openness of the Green Belt than the existing development.
 10. The appeal site is predominantly a large area of garden laid out to lawn bounded by mature trees and other vegetation. There is no dispute, due to its location, that the appeal site is technically previously developed land. However, for the reasons stated above, due to the prevailing open character of land to the south, west and north of the appeal site, the proposed development would not constitute limited infilling.
 11. There is a sizeable workshop/ outbuilding constructed of blockwork with sheet roofing. The footprint of the building is comparable to that of a small dwelling, but it has a low profile with a particularly shallow pitch to the roof. It is not particularly conspicuous from within Pig Lane. As an outline proposal with all matters reserved there are very few details on the potential layout, scale and design of the two proposed dwellings. Whilst the description of what has been applied for is "bungalows", the application form indicates at least 4 bedrooms in both dwellings, which on the 0.15 hectare site would likely result in a significant net increase on the footprint, scale, height and massing of built form compared to the existing low profile workshop building. It would also be reasonable to assume various domestic boundary treatments, garages and other paraphernalia associated with the proposed two dwellings would further impact on openness. Overall, there would be a greater impact on the openness of the Green Belt when compared to the existing structure. I therefore find that the exception at NPPF paragraph 145 g) would not apply.
 12. The NPPF at paragraph 145 criterion d) also identifies that the replacement of a building would not be inappropriate development in Green Belt provided the new building is in the same use and not materially larger than the one it replaces. As set out above, I share the LPAs reasonable assessment (detailed in the officer report) that the two four-bedroom bungalows applied for would result in a materially larger expanse of built form compared to the existing workshop building. Accordingly, the exception at NPPF paragraph 145 d) would not be met.
 13. I therefore conclude that the appeal proposal would represent inappropriate development in the Green Belt. The NPPF at paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Accordingly, the appeal proposal, by virtue of comprising inappropriate development, would be at odds with Policy GDR1 of the EHLP and paragraph 145 of the NPPF.

Openness and Green Belt Purposes

14. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the NPPF is to keep land permanently open. This openness is an essential characteristic of the Green Belt and has both spatial and visual aspects. Paragraph 134 of the NPPF sets out the purposes of Green Belt, including

amongst other things, checking the unrestricted sprawl of large built-up areas and safeguarding the countryside from encroachment.

15. The appeal site is predominantly a large area of open garden which seamlessly blends in to adjoining countryside, particularly to the woodland and vegetation to the south. The site is only separated by the railway line from wider open land to the west and similarly by the relatively narrow Pig Lane to a large open field to the north. The appeal site is part of the wider, open countryside of the River Stort valley in this part of the Green Belt.
16. As set out above, the extent of proposed development, notwithstanding the presence of the existing outbuilding would significantly reduce the spatial openness of the Green Belt at the appeal location. Notwithstanding the degree of screening provided by mature trees and enclosures along the site boundary to Pig Lane, the harmful loss of openness of the Green Belt at this location would be perceptible from within Pig Lane, particularly in winter months and from the existing access to the site. Consequently, the appeal proposal would be experienced as harmful ribboning of development along Pig Lane, detrimentally encroaching into the countryside and harmfully impacting on Green Belt purposes related to openness.
17. I therefore conclude that the appeal proposal would result in an inevitable loss of Green Belt openness and would impact on the purposes of including the land within the Green Belt. Therefore, it would be contrary to the relevant Green Belt guidance within the NPPF and in turn, Policy GBR1 of the EHDP.

Character and Appearance

18. As set out above, the appeal site, despite the relative proximity to Bishop's Stortford, is not in character and appearance terms part of the wider urban conurbation. The small cluster of development to the east of the appeal site around the junction with Twyford Bury Lane comprises of well-established traditional farm buildings, cottages and converted outbuildings characteristic of small groups of buildings in the countryside. The appeal proposal would have a limited relationship to this smattering of buildings and would extend the built form to encroach into what is a verdant countryside gap to the south-east of Bishop's Stortford. The loss of the gap would create a longer stretch of development along Pig Lane, harmfully detracting from the open, rural surroundings on this southern edge of Bishop's Stortford.
19. I therefore conclude that the appeal proposal would harmfully erode the countryside character at the appeal location. In terms of countryside location and impact on character it would not comprise of the type of infilling development envisaged by the EDHP or the adopted Bishop's Stortford – All Saints, Central, South and Part of Thorley Neighbourhood Plan 2016-2032 (the Neighbourhood Plan) as being appropriate to sustainably meet housing needs. The proposal would therefore conflict with Policy DPS2 of the EHDP and Policy HDP1 of the Neighbourhood Plan. It would also fail to accord with NPPF paragraph 170(b) which recognises the intrinsic character and beauty of the countryside.

Very Special Circumstances?

20. The NPPF advises at paragraph 144 that substantial weight should be given to any harm to the Green Belt. It goes on to state that '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.

21. The appeal proposal would provide two additional dwellings. There is no evidence before me that the current housing land supply in the District is failing to meet housing needs following the relatively recent adoption of the District Plan. The contribution of two additional dwellings in meeting housing needs would be very modest in any event. The proposal is described as green energy efficient bungalows but as an outline application with no details, there is very little before me to ascertain the standard of dwellings sought and to what extent they would go beyond current construction standards.
22. The appellant has directed me to other developments that have occurred in Thorley over recent decades. For some of the developments elsewhere to the east on Pig Lane there is little information regarding the circumstances or policy framework within which these developments were consented. As such they do not provide a precedent or basis for justifying the appeal proposal. Elsewhere, as set out above, the developments referenced on Thorley Street are within an area which is becoming increasingly consolidated within the built-up fabric of a wider Bishop's Stortford. This significantly limits comparison with the more rural circumstances at the appeal location where the appeal site is part of a remaining countryside gap at the edge of the River Stort valley. In particular, the recent dwelling allowed on appeal adjacent to Laburnum Cottage relates to a modestly sized infill plot between two existing dwellings. These circumstances are materially different to the appeal site and so do not provide a comparable basis to justify the harms that would arise from the appeal proposal.
23. For the reasons set out above I give only limited weight to the benefits of two dwellings and their uncertain green credentials. Accordingly, these considerations do not clearly outweigh the harms that I have identified. Overall, very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

24. For the reasons given above, the proposal would be contrary to the development plan, taken as a whole, which would not be outweighed by any other material considerations, including the absence of objection from Thorley Parish Council, and so the appeal is therefore dismissed.

David Spencer

Inspector.



Appeal Decision

Site visit made on 12 May 2021

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 28th May 2021

Appeal Ref: APP/J1915/D/21/3268442

46 Warwick Road, Bishops Stortford CM23 5NW

- 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 Robert Westcott against the decision of East Hertfordshire District Council.
 - The application Ref:3/20/1883/HH, dated 29 September 2020, was refused by notice dated 27 November 2020.
 - The development proposed is described as "demolition of single storey lean to garage and rebuilding of new side extension with slightly larger footprint. Addition of solar panels to rear roof, repointing to front elevation and re-cladding of rear dormer. New windows to side elevation".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the whether the proposal preserves or enhances the character or appearance of the Bishop Stortford Conservation Area (CA).

Reasons

3. Warwick Road is a tree lined, leafy avenue with dwellings set back from the road to either side and characterised by being two stories with double pitch roofs and, in the main, with walls of red brick. No.46 Warwick Road has the above characteristics. The side of Warwick Road which includes the appeal building is located within the CA. The aforementioned attributes add positively and distinctively to the special significance of the CA when considered as a whole.
4. No.46 Warwick Road has, to the side of it, a single storey garage with a mono pitch roof. The garage door and the area immediately above it towards the roof are white, contrasting with the main red brick dwelling. Behind the garage is a two-storey outrigger.
5. The proposed development would involve the demolition of the single storey garage and its replacement with a part single/part two storey side extension. The local planning authority's objection (LPA) concerns the proposed cladding, the overall shape of the extension and the inclusion of a front facing window at first floor level.
6. The side extension would have mainly a double pitched roof though a small part would have a flat roof. It would all be set down below the existing ridge

and I find that as its general shape would be subordinate to the existing building it would not be out of keeping with it and to this extent the character and appearance of the CA would be preserved.

7. The proposal would be to clad the side extension in vertical timber boarding. The aim would be to use a material which would be an obvious contrast with the appearance of the existing dwelling so as to form a clear and distinct addition.
8. However, while such an approach might be an appropriate design concept in some areas, in this instance where the use of red brick is a unifying factor, I find that the use of vertical boarding would not be a material common to the area and would introduce a building element which would adversely affect the general uniformity of the character and appearance of the CA.
9. Furthermore, the proposed extension would include a relatively large window on its front elevation and whilst the existing building has windows on the same elevation, the proposed window would not reflect those by its out of keeping shape and style. For these reasons, I find that the proposal would not preserve the character and appearance of the area including the CA.
10. In the context of paragraph 196 of the National Planning Policy Framework 2019 (the Framework), I find that the harm that would be caused to the significance of the CA would be less than substantial. However, there are no identified public benefits which would outweigh the less than substantial harm.
11. I conclude that the proposed development would not accord with the heritage or design requirements of policies DES4, HOU11 and HA4 of the East Herts District Plan 2018 which require new development to promote local distinctiveness and to preserve or enhance the character or appearance of the area. The proposed development would also be contrary to chapter 16 of the Framework which promotes the same aims.

Conclusion

12. For the reasons outlined above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

Steven Hartley

INSPECTOR



Appeal Decision

Site Visit made on 23 March 2021

by R Sabu BA (Hons), BArch, MA, Pg Dip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2021

Appeal Ref: APP/J1915/D/21/3267274

26 New Road, Hertford SG14 3JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Helen Ellis against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2070/HH, dated 21 October 2020, was refused by notice dated 8 January 2021.
 - The development proposed is described as, 'We would like to return the house façade to its original brick façade to match our adjoining neighbours house by using brick slips'.
-

Decision

1. The appeal is allowed and planning permission is granted for change of front elevation from render to brick at 26 New Road, Hertford SG14 3JL in accordance with the terms of the application, Ref 3/20/2070/HH, dated 21 October 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, site plan, MA097.01.02.
 - 3) No development shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.

Preliminary Matters

2. I note the description of development in the application form and appeal form. However, I have used the description from the decision notice in the decision above as it more accurately and concisely describes the proposal.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of Hertford Conservation Area (HCA).

Reasons

4. The site lies within HCA, the significance of which in the evidence of historic vernacular architecture. The appeal property is a semi-detached dwelling which has been previously extended and altered. It therefore now has a rendered front

elevation and UPVC windows which give the building a more modern character than the adjacent dwelling which has original brickwork and timber sash windows resulting in a historic character and appearance. The appeal property also has a side extension that lacks the horizontal feature and corner brick pier of the host building and adjacent property. Notwithstanding the more modern appearance, given the variety of materials in the area including render, the appeal dwelling provides a neutral contribution to the character and appearance of the HCA.

5. The proposal consists of using brick slips on top of the existing render to give the appearance of a brick façade. The appellant has indicated that the bricks would match the bricks of the adjacent property. The brick slips would be likely to have a relatively new appearance and would protrude a noticeable distance in front of the facade of the adjacent dwelling as well as along the line where the existing extension meets the host building.
6. However, notwithstanding the protrusion of the proposed brick slips, the proposal would echo the traditional materials of the area and would be in keeping with the external materials of the adjoining building, albeit the façade would have a newer appearance. Therefore, since the existing extension and modern windows have altered the appearance of the appeal building to result in a more modern character, the proposal would at least preserve the current character of the host building.
7. While I note alternative schemes presented by the appellant, I have necessarily assessed the proposal subject of the appeal application.
8. Consequently, the proposal would preserve the character or appearance of HCA. Therefore, it would not conflict with Policies HA1, HA4 and DES4 of the East Herts District Plan October 2018 which together seek developments that preserve the historic environment and character and appearance of the area and a high standard of design.

Other Matters

9. I acknowledge the concerns of the neighbouring occupier including those regarding the party wall line, shared gutter and damage to the adjoining building. However, the proposal does not include the removal of the existing render. In addition, some of these matters are covered by legislation outside of the planning acts and I have assessed the proposal as presented for appeal against its planning merits-which these matters are extraneous to.

Conditions

10. The standard time related condition and specifying plans are necessary in the interests of certainty. In addition, a condition relating to external materials is necessary to safeguard the character and appearance of the area and needs to be a pre-commencement condition as it would affect the early stages of construction.

Conclusion

11. For the reasons given above the appeal should be allowed.

R Sabu INSPECTOR



Appeal Decision

Site visit made on 12 May 2021

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 28th May 2021

**Appeal Ref: APP/J1915/D/21/3270175
2 Harvest Close, Spellbrook CM23 4RE**

- 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 Richard Painter against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2185/HH, dated 6 November 2020, was refused by notice dated 18 January 2021.
 - The development proposed is described as *the 'creation of a 7.5m x 3.5m garden room and combined shed allowing a minimum of 2 metre distance from any boundary'*.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. On 15 January 2021, the local planning authority (LPA) issued a purported Approval Notice for the appeal proposal, though the Notice contained a reason for refusal. A corrected Notice, containing the same reason for refusal and with the same application number was issued by the LPA on the 18 January 2021.
3. Neither the LPA nor the appellant has disputed the veracity of the second Notice. The appeal is submitted based upon the refusal Notice and I have determined the appeal accordingly.

Main Issues

4. The main issues are (i) whether the proposal is inappropriate development in the Green Belt, (ii) the effect of the proposal upon the openness of the Green Belt and (iii) if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances to justify development.

Reasons

Whether inappropriate development

5. Policy GBR1 of the East Hertfordshire District Plan 2018 (DP) states that proposed development in the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (the Framework).
6. Paragraph 143 of the Framework (2019) states that '*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*' while paragraph 145 states that '*a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.*'
7. Paragraph 145 does, however, list certain exceptions, including '*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*'. However, the proposed development would be sited approximately 14 metres from the rear of the main dwelling and with a clear visual separation, I consider that it could not be considered to be an extension or alteration to the original building. The proposed development does not conform with any of the other exceptions.
8. The appellant refers to a recent planning approval for a rear extension to a neighbouring property of a size considerably greater than the proposed development. However, the latter, for the reasons stated above, cannot be considered to be an extension and where therefore, the Green Belt exception relating to house extensions does not apply.
9. The appellant also refers to other outbuildings in the immediate area. However, I have no information before me relating to them. In any event, I have considered the appeal on its individual circumstances.
10. I therefore conclude that the proposed development would amount to inappropriate development in the Green Belt and would therefore be contrary to policy GBR1 of the DP and to the Framework. This is a matter to which I afford substantial weight in the planning balance.

Openness of the Green Belt

11. A fundamental aim of Green Belt policy, set out in paragraph 133 of the Framework, is to keep land permanently open. A consideration of openness includes an assessment of both spatial and visual matters.
12. The proposed building would have a floor area of approximately 32 square metres and would be sited against the rear garden boundary of the appeal property and adjoining an existing agricultural building of a greater size and height. It would not be highly visible from the public realm and by its siting and size I find that it would contribute modest harm to the openness of the Green Belt in visual and spatial terms.
13. Overall, I conclude that there would be modest harm to openness of the Green Belt, contrary to policy GBR1 of the DP and to the Framework.

Other Considerations

14. The appellant is an asthmatic and has type 2 diabetes and he considers that the outbuilding is required for daily exercise on various pieces of gym equipment for reasons of personal well-being and to lessen the impact on NHS

resources. However, I have no detailed information before me to show why such activities cannot be undertaken in the main house or as to the extent of the appellant's medical condition.

15. I note the appellant's preference to having an office that is separate from the main house, so that there is differentiation between work and home life. However, this preference has to be weighed against the substantial harm that would be caused to the Green Belt if the appeal were to be allowed. Furthermore, and subject to any extension to the existing dwelling not being disproportionate to the original building, it may be possible to accommodate the appellant's accommodation requirements in such a way that they remain separate from all other existing domestic facilities. On the evidence that is before me, I cannot be certain if such a possibility has been explored by the appellant.
16. I have taken account of the Human Rights Act 1998 (HRA) in relation to the appellant's medical condition, but for the reason stated above, I find that the personal circumstances of the appellant do not clearly outweigh the harm to the Green Belt. For the same reasons, I find that the medical condition of the appellant, when considered against the Public Sector Equality Duty in section 149 of the Equality Act 2010, is insufficient to outweigh the harm I have found would be caused to the Green Belt. In this case, a refusal of planning permission is a proportionate and necessary approach given the clear harm that would be caused to the Green Belt.
17. While the facilities of the proposed outbuilding may be offered for use by neighbours, and whilst one neighbour has written with no objections to the proposed development, these are not matters which would clearly outweigh the harm to the Green Belt.

Planning balance and conclusion

18. I have found that the proposed development would be inappropriate development in the Green Belt which is a matter to which I afford substantial weight in the planning balance. I have also concluded that the harm to the openness of the Green Belt would be moderate. I conclude that the weight to be given to the Green Belt harm arising from the proposal would not be outweighed by any identified considerations sufficient to demonstrate very special circumstances to justify the development.
19. Therefore, I conclude that the appeal should be dismissed.

Steven Hartley

INSPECTOR