



Appeal Decision

Site Visit made on 25 May 2021

by Mr James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/J1915/W/21/3268346

Land Adjacent to The Cottage, Duck Street, Little Hornead, Hertfordshire SG9 0LZ

- 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 Willan against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1443/FUL, dated 29 July 2020, was refused by notice dated 29 September 2020.
 - The development proposed is the erection of a detached dwelling, relocation of the existing garage, landscaping, parking and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A set of amended plans has been submitted by the appellant as part of the appeal which make some minor amendments to the proposed development. In essence these comprise the deletion of potential overlooking windows on the proposed dwelling's western elevation and the provision of three tandem parking spaces for the existing cottage immediately next to its western elevation. I am satisfied that the amendments do not substantively alter the proposed development and that the appropriate parties have been properly consulted. I have therefore determined this appeal on the basis of the amended set of plans.

Main Issues

3. The main issues are:
 - whether the principle of the proposed development is acceptable in terms of its location;
 - the effect of the proposed development on the character and appearance of the appeal site and the surrounding area;
 - the effect of the proposed development on the living conditions of the current and future occupiers of The Cottage, located to the west of the development site; and
 - the effect of the proposed development on parking provision in connection with The Cottage and the proposed new dwelling.

Reasons

Principle of the proposed development

4. The appeal property is located within Little Hornead, a small hamlet which is designated as Rural Area Beyond the Green Belt in the East Herts District Plan (adopted October 2018) (District Plan). Under Policy GBR2 of the District Plan, limited development which constitutes 'infilling' may be permitted within the Rural Area Beyond the Green Belt, provided it is within a sustainable location and is appropriate to the character, appearance and setting of the site and/or surrounding area.
5. Under Policy VILL3 of the District Plan, Little Hornead is classed as a Group 3 Village. Group 3 Villages are identified in Policy VILL3 as the least sustainable locations for development in the district. However, under this policy, limited infill development in a Group 3 Village which is identified in an adopted Neighbourhood Plan may be permitted, subject to meeting prescribed criteria.
6. Little Hornead is covered by the Buntingford Community Area Neighbourhood Plan (2014 – 2031) (Neighbourhood Plan). Whilst Little Hornead is not specifically named or identified within the Neighbourhood Plan as an area for development, Policy HD1 of the Neighbourhood Plan does permit "*small scale infill development within or immediately adjoining significant existing clusters of development*", subject to meeting other policy requirements.
7. Little Hornead is a small settlement of approximately 16 dwellings, which I agree would constitute a cluster of development for the purposes of this policy. In certain circumstances, infill development could therefore conceivably be permitted within Little Hornead. On the basis that the proposed development is located immediately adjacent to The Cottage which is part of the cluster of dwellings within the hamlet, the proposed development could fall within the remit of 'infilling' as intended by policy HD1, by virtue of its proximity to the dwellings in the existing cluster. Otherwise, as highlighted by the appellant, "*or immediately adjoining*" would have been left out of the policy wording, as infill would not be possible in such locations. However, such infill development will only be permitted within a Group 3 Village where all other requirements of the development plan have been met.
8. Under paragraph 3(e) of Policy VILL3 of the District Plan, infill development which is identified in an adopted Neighbourhood Plan will only be permitted where development does "*not represent an extension of ribbon development*". Little Hornead is made up of approximately 16 dwellings, which are sited along the principal lane which runs through the hamlet in a ribbon formation. The appeal property is the last property on the southern side of the lane in this main cluster. A large open paddock then forms a substantial gap between the boundary of the appeal property and its garden, and the dwellings further down the southern side of the lane. The addition of a dwelling beyond The Cottage would therefore represent an extension of the established ribbon development along Duck Street, which would contravene the requirements of Policy VILL3.
9. The appellant has argued that Policy HD1 of the Neighbourhood Plan allows small scale residential development next to or joined to an existing cluster, even if this results in ribbon development. I cannot accept this position. Policy VILL3 is explicit that any infill development within a Group 3 Village, which includes Little Hornead, must not represent an extension of ribbon

- development. Development can be located next to or adjoining an existing cluster of dwellings, without constituting an extension of ribbon development. It therefore does not follow that the wording in Policy HD1 implies that infill development can be permitted even where it extends ribbon development, just because it is next to or adjacent to an existing cluster of dwellings.
10. The appellant considers the existing garage to be part of a developed frontage and so argues the new dwelling must comprise infill development. However, I agree with the Council that the garage is simply an incidental building to the existing dwelling, which does not somehow establish the site of the proposed new house as an infill plot (notwithstanding the position under policy HD1 of the Neighbourhood Plan). In any case, it would still clearly comprise ribbon development because it would extend development on the south side of Duck Lane in an easterly direction where there is currently no such development.
 11. Policy GBR2 of the District Plan states that limited development which constitutes 'infilling' may be permitted within a Rural Area Beyond the Green Belt, provided it is within a sustainable location. Approximately one third of the district is within the Green Belt, and the remaining two thirds of the district is classified as Rural Area Beyond the Green Belt. As such, the entirety of the district falls within one of these two designations. On the basis that both Policy VILL3 of the District Plan and Policy HD1 of the Neighbourhood Plan do allow for infill development in Group 3 Villages in certain circumstances (which are identified as the least sustainable locations in the district), it follows that infill development cannot automatically be precluded in these locations due to being in an unsustainable location. Otherwise, all infill development within these areas would contravene Policy GBR2 of the District Plan, and therefore be precluded. This would effectively render the content of these policies redundant.
 12. Whilst Group 3 Villages, including Little Hormead, are considered the least sustainable areas for development in the district, for the reasons just discussed, I do not consider that the location of the proposed development should automatically be deemed unsustainable. As the appellant has highlighted, paragraph 78 of the Framework says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Given the proximity of Little Hormead to the larger settlements of Great Hormead, Hare Street and Buntingford, new housing stock within this location can still help to support the vitality of this wider rural area, thereby contributing to its sustainability in this regard.
 13. However, given that Group 3 Villages are identified as the least sustainable locations for development in the district, it is of paramount importance that any infill development within these areas meets all other criteria set out in the development plan, to ensure that development in these locations is as sustainable as it possibly can be.
 14. As already highlighted, the proposed development would extend the established ribbon development along Duck Street, which contravenes the requirements of Policy VILL3 of the District Plan. Due to the conflict with this policy, it follows that I cannot consider that the location of the proposed development to be sustainable, particularly from an environmental perspective.

For this reason, the proposed development would conflict with Policy GBR2 of the District Plan.

Character and appearance

15. Little Hornead is a small rural settlement of approximately 16 dwellings, sited in a ribbon formation along Duck Street, which is the main road which runs through the hamlet. The dwellings vary in size, appearance and style, but are generally consistent in height.
16. The proposed two-storey dwelling is of a size and scale which is commensurate with its surroundings. Its barn-style appearance has been designed sympathetically, using a mix of natural and traditional materials which would complement the dwellings already located within the hamlet. Whilst the principal entrance to the property is located on the side elevation, I do not consider that this design feature would be visually harmful in the context of other properties along the road. As highlighted above, the style and design of properties within the hamlet varies considerably and whilst the front entrance of many of the dwellings do indeed face the road, this is not true of all the them. Similarly, the fenestration of properties along the road is mixed.
17. The dwelling would be sited within land which is currently used as a domestic garden in conjunction with The Cottage. Whilst I appreciate the erection of a dwelling would result in some loss of green space, the curtilage of The Cottage is of sufficient size to ensure that ample garden and amenity space would be retained for both properties, without causing significant harm to the rural character of the street scene and surrounding area. Appropriate landscaping to protect and enhance the rural and green nature of the site could also be secured by condition.
18. However, as set out above, the new house would comprise ribbon development contrary to District Plan Policies VILL3 and GBR2. As such it would harm the character and appearance of the area, since ribbon development is specifically discouraged. Consequently, it cannot be said to make the best use of land by respecting or improving upon the character of the site and the surrounding area in terms of siting and layout, as required by sub-paragraph (a) of District Plan Policy DES4

Living Conditions

19. The original plans showed a dual window at ground level and a Juliet balcony at first floor level on the western elevation of the proposed dwelling. One of the Council's reasons for refusal concerned the effect of the proposed development on the privacy of the occupiers of The Cottage, as the windows and balcony on this elevation of the dwelling would overlook the private garden space currently enjoyed by this property.
20. The amended plans submitted with this appeal have removed both the ground floor windows and Juliet balcony at first floor level from the western elevation of the proposed dwelling. As such, the proposed development would no longer impact on the privacy enjoyed by the garden of The Cottage in this regard. The proposals would therefore comply with Policy DES4 of the District Plan, which ensures new development avoids significant detrimental impact on the privacy of neighbouring properties.

Parking Provision

21. The Council's third reason for refusal concerned a lack of detail provided with the original application to demonstrate adequate parking provision for The Cottage. The appellant's amended set of plans has now incorporated 3 off-street tandem parking spaces immediately to the west of The Cottage, situated in the location of the existing garage. I see no reason why this amendment would be unacceptable, since the Highway Authority has been re-consulted by the appellant and I have seen no objection from it to such an arrangement here.
22. I am therefore satisfied that the proposals would provide sufficient off-street parking to serve both The Cottage and the new dwelling. The development would therefore be consistent with Policy TR3 of the District Plan, which requires adequate car parking arrangements to be integrated as a key element of design within development proposals.

Other Matters

23. I acknowledge the appellant's comments regarding the benefits of the proposals, specifically in terms of the contribution that the dwelling would make both to the Council's housing stock and to the vitality of nearby settlements. However, these benefits do not outweigh the harm that would be caused by the conflict with policies GBR2 and VILL3 of the District Plan.

Conclusion

24. The proposed development would extend the established ribbon development along Duck Street, which would be contrary to Policies VILL3 and GBR2 of the District Plan for the reasons set out above. Consequently, I conclude that the appeal should be dismissed.

James Blackwell

INSPECTOR



Appeal Decision

Site visit made on 9 June 2021

by Roy Merrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2021

Appeal Ref: APP/J1915/X/21/3269842

5 Mayflower Close, Hertingfordbury, Hertford SG14 2LH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr J Havard against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1009/CLXU, dated 29 May 2020, was refused by notice dated 2 September 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is Use of the land to the east of the existing dwelling house as residential garden land.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the extent of the existing use which is found to be lawful.

Application for costs

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

Reasons

3. Uses and operations are lawful at any time if no enforcement action may be taken in respect of them, whether because they did not involve development or require planning permission or because the time for enforcement action has expired (s191(2)). In this case, the appellant seeks to rely on the period of time over which the use has continued.
4. In cases where there is a dispute as to whether a material change of use has occurred it is necessary to ascertain the correct planning unit, as it is the planning unit against which the question of a material change of use would need to be judged. The planning unit is usually the unit of occupation, unless a smaller area can be identified which is physically separate and distinct, and/or occupied for different and unrelated purposes; the concept of physical and functional separation is key.
5. If I find that the dwelling and appeal site form a single residential planning unit, it is necessary to consider whether, on the balance of probability, the use

of the land within the appeal site for purposes incidental to the use of the dwelling, has continued for a period of ten years or more prior to the date of the application, therefore from at least 29 May 2010, so as to be immune from enforcement. The onus is on the appellant to demonstrate that, on the balance of probability, the use has continued for the aforementioned ten-year period.

The Planning Unit

6. From my visit it was evident that the appeal site constitutes an extensive and roughly rectangular parcel of land to the side and rear of the dwelling. It predominantly comprises a uniformly mown, open grassed area, with intermittent features including some garden furniture, a small vegetable garden and mature tree planting along the lengthy eastern boundary. There is a centrally placed shed which contains gardening equipment and machinery and there are some sporadic flowered borders.
7. The grounds of the property are demarcated by timber ranch-style boundary fencing. Whilst the part of the garden immediately behind the dwelling appears enclosed with the house by fencing and vegetation, this is not to the extent that it is completely segregated from the broader property. The appeal site is presented 'seamlessly' as part of this broader area of land, with which it has been mowed as a single entity and which can be distinguished from the rougher grass in the less well-maintained agricultural fields to the north.
8. A path leads from the immediate rear garden to the aforementioned shed. It seemed to me, from my visit, that there was an absence of any significant system of enclosures, sub-dividing areas within the property into clearly defined distinctive and different uses. The appeal land is easily accessible from the rear of the dwelling and there is a strong sense of continuity of the residential use over the appeal site.
9. In terms of the unit of occupation there is no dispute that the dwelling and appeal site fall within a single ownership. It seems to me, from my visit, that there is a functional relationship between the dwelling and the wider property, including the appeal site, for the enjoyment of recreation associated with the dwelling, including the growing of flowers and vegetables and general relaxation.
10. As a matter of fact and degree, the residential use appears to be physically and functionally integrated between the dwelling and the appeal site. As such I conclude that the appeal site and the broader property form a single residential planning unit.

Continuity of Residential Use

11. I therefore turn to the question of whether the residential garden use of the appeal site can be said to have continued for the requisite immunity period. In support of the application the appellant has submitted several statutory declarations, including from himself as the present owner of the property; from the previous owners and from neighbouring residents.
12. The appellant's declarations confirm that he has owned the property, including appeal site since August 2018; that when he purchased the land the appeal site was clearly a mowed and maintained garden with a vegetable patch and landscaped flower beds and that these works have since been maintained as such.

13. Declarations from the previous owners, confirm that they occupied the property between 1996 and 2018, having purchased the appeal site land around 2002, and also having maintained it before this time. They refer to the planting of wildflower areas and a vegetable garden and maintaining residual areas of land by mowing the grass, throughout the time that they owned it. Reference is made to one of the main reasons for the appeal land having been acquired as the provision of more space for children to play in, and also to trees on the land being maintained on an annual basis for safety reasons; to a regular supply of produce from the vegetable garden and to undertaking maintenance of the land to secure continued uninterrupted long range views. The land is claimed to have been used for regular family gatherings, and a 2009 photograph of a wedding reception being held there, with landscaping features apparent, is provided. Brambles along the eastern boundary of the site were apparently kept under control in order to aid fruit gathering.
14. The aforementioned actions are indicative of continued use of the land. The continuous use of the land as a garden for recreation purposes is also corroborated by declarations from neighbouring residents. Additionally three aerial photographs of the site, dating from 2001, 2008-10 and 2015/16 have been included with the appellant's and previous owners' declarations. The photographs, would appear to support the claim that mature trees have been present on the site, at least over the immunity period; also that historically, the appeal site was more unkempt in appearance than is the case today, and that over time the site has become progressively more manicured and looked after.
15. Given that any person who lies about the information contained in a sworn statement could be prosecuted for the crime of perjury, and if convicted may have to pay significant fines or be sentenced to time in prison, I give the information provided therein significant weight.
16. The Council's officer report referred to the site being used historically for allotments and suggested that part of the site is still 'designated' as agricultural land, although the nature of this designation is not made clear. The Council considered that the appellant's evidence did not meet the standard of proof required to demonstrate lawful use as garden land, on the basis of insufficient evidence of continuous use over the area in question.
17. I am mindful that planning practice guidance states "*In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.*"
18. For the reasons given above, whilst the information provided is not as detailed as it could be regarding the historic use of specific parts of the site, I consider that a credible explanation for the purpose and continuity of use of the land has been set out. I consider it more likely than not that the appeal site has continued to be used for garden purposes over the requisite immunity period. I find the evidence to be sufficiently precise and unambiguous, in the absence of any significant contradictory evidence, to justify the grant of a certificate on the balance of probability.

19. I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use of the land to the east of the existing dwelling house as residential garden land was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Roy Merrett

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 29 May 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability the land has continued to be used for garden purposes for the requisite 10-year immunity period and this is therefore the lawful use of the land.

Signed

Roy Merrett
Inspector

Date: 12th July 2021

Reference: APP/J1915/X/21/3269842

First Schedule

Use of the land to the east of the existing dwelling house as residential garden land.

Second Schedule

Land at 5 Mayflower Close, Hertingfordbury, Hertford SG14 2LH

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 12th July 2021

by **Roy Merrett Bsc(Hons) DipTP MRTPI**

Land at: 5 Mayflower Close, Hertingfordbury, Hertford SG14 2LH

Reference: APP/J1915/X/21/3269842

Scale: Not to scale





Costs Decision

Site visit made on 9 June 2021

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2021

Costs application in relation to Appeal Ref: APP/J1915/X/21/3269842 5 Mayflower Close, Hertingfordbury, Hertford SG14 2LH

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J Havard for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for Use of the land to the east of the existing dwelling house as residential garden land.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 030 of the Government's Planning Practice Guidance (PPG)¹ advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 047 of the PPG states that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. Examples of unreasonable behaviour include a lack of co-operation with the other parties.
4. Paragraph 048 of the PPG advises, in relation to enforcement proceedings, that local planning authorities must carry out adequate prior investigation, and are at risk of an award of costs if a more diligent approach could have avoided the need for an appeal. Reference is made elsewhere to the supply of relevant information at the appeal stage that could have been provided at the application stage as being unreasonable.
5. Paragraph 049 of the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. It sets out that examples of unreasonable behaviour include a failure to produce evidence to substantiate refusal reasons and failing to follow well established case law.
6. The appellant's case is that the Council has failed to be transparent about and substantiate the reasons for the application being refused; has misrepresented the extent and quality of its evidence; has failed to supply when requested to do so alleged contradictory information used, and has applied insufficient

¹ Reference ID: 16-030-20140306

- weight to the various sworn statements provided. It says that based on the balance of probability the Council should have approved the certificate of lawfulness.
7. The key advice regarding the determination of this type of application is set out within national planning practice guidance. This states that *"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."*²
 8. The Council set out in its officer report that from the various information available including its own records, plans and aerial photographs, it considered only a small portion of the site (within the central area) to have been used continuously as part of the garden for the requisite immunity period. The report referred to this conclusion being based on evidence of structures, activity and formal elements of landscaping.
 9. The appellant has referred to the extent of the Council's evidence being misrepresented. Whilst, with the exception of aerial photographs, the Council did not explicitly set out the historic records on which its judgement was based, this appears to have been implied through reference to knowledge about the historic use of the site not being for garden purposes, but rather as agricultural land. I am not therefore persuaded that the Council has acted unreasonably in terms of misrepresenting evidence.
 10. Although the Council did not provide an appeal statement, it seems to me that it was entitled to rely on its officer report assessment. The various information provided in support of the application, including sworn statements, was acknowledged, however the Council concluded that this was insufficient to demonstrate continuous use across all of the land in question. I am not persuaded that this finding is consistent with the suggestion that the appellant has been accused of providing untruthful information.
 11. As set out in the main decision, I did not concur with this assessment and by contrast gave significant weight to the sworn statements provided. However the Council's interpretation was a matter of judgement and although the appellant suggests that a finding in favour of the application should have been inevitable, I am not persuaded that the position was incontrovertible. Indeed I referred in my decision to the information provided not being as detailed as it could have been regarding the historic use of specific parts of the site.
 12. Notwithstanding this, a difference in judgement about the precision and ambiguity of the evidence does not amount to unreasonable behaviour. Nor am I persuaded from the representations that the Council's judgement with regard to continuous use would fail to follow established case law.
 13. It is unclear why the Council was seemingly reluctant to disclose the information on which its decision was based. However, had it been more transparent about this information earlier in the process and had it engaged in more detailed dialogue with the appellant, I am still not persuaded that this

² Reference ID: 17c-006-20140306

would inevitably have led to the Council's concerns being overcome, thereby resulting in a favourable decision and the avoidance of the appeal process.

14. I am not certain what the Council meant by referring to a lack of evidence of 'progressive' use. However even if this questionable term had not been used, it seems to me that the substance of the Council's decision would have remained unaltered.
15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Roy Merrett

INSPECTOR



Appeal Decisions

Site visit made on 24 March 2021

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th June 2021

Appeal A: APP/J1915/D/20/3263083

Keepers Cottage, Knights Hill Farm, Westmill, Buntingford, Herts SG9 9LX

- 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 Claire Davey against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1566/HH, dated 20 August 2020, was refused by notice dated 22 October 2020.
 - The development proposed is a new gable end roof (1.5m in length) to garage and replacement of a window to side elevation of garage with replacement matching fenestration.
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Appeal B: APP/J1915/Y/20/3263078

Keepers Cottage, Knights Hill Farm, Westmill, Buntingford, Hert SG9 9LX

- 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 Mrs Claire Davey against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1567/LBC, dated 20 August 2020, was refused by notice dated 22 October 2020.
 - The works proposed are a new gable end roof (1.5m in length) to garage and replacement of a window to side elevation of garage with replacement matching fenestration.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for a new gable end roof (1.5m in length) to garage and replacement of a window to side elevation of garage with replacement matching fenestration at Keepers Cottage, Knights Hill Farm, Westmill, Buntingford, Herts SG9 9LX in accordance with the terms of the application, Ref: 3/20/1566/HH, dated 20 August 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: Block Plan @ 1:500, Front and Side Elevation – Existing, Rear and Side Elevation – Existing, Proposed Rear Elevation Shown Over Existing Roof Line, Proposed Rear Elevation – Showing New Roof Line, Proposed Front Elevation – Showing New Roof Line, Proposed Side Elevation Showing New Gable End and Rectangular

Casement Black Timber Window and Proposed New Window for Gable End.

- 3) No development shall commence until details and samples of the materials to be used in the construction of the external surfaces of the new gable end roof hereby permitted have been submitted to and approved in writing by the local planning authority. These shall include the proposed new window for the gable end and other external facing materials. The development shall be carried out in accordance with the approved details and samples.
- 4) No development shall take place until a scheme for the protection of all retained trees, shrubs, natural and historic features during the course of site works shall have been submitted to and approved in writing by the local planning authority. Such scheme shall be in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) and no development shall commence until all trees, shrubs, natural and historic features to be protected are fenced off in accordance with the approved scheme. Such fencing and protection shall be maintained during the course of works on site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall be placed in the protected area during site works.

Appeal B

2. The appeal is allowed and listed building consent is granted for a new gable end roof (1.5 m in length) to garage and replacement of a window to side elevation of garage with replacement matching fenestration at Keepers Cottage, Knights Hill Farm, Westmill, Buntingford, Herts SG9 9LX in accordance with the terms of the application Ref: 3/20/1567/LBC, dated 20 August 2020 subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) No works shall commence until details and samples of the materials to be used in the construction of the external surfaces of the new gable end roof hereby permitted have been submitted to and approved in writing by the local planning authority. These shall include the proposed new window for the gable end and other external facing materials. The works shall be carried out in accordance with the approved details and samples.
 - 3) No works shall take place until details of the design of the new and/or replacement timber frame including details of specific dimensions at a scale of not less than 1:5, details of the timber to be used and the method of jointing or connecting the timber, shall have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
 - 4) The materials to be used for making good disturbed internal or external surfaces shall be of matching composition, form and finish to those of any adjoining original fabric.

Preliminary Matter

3. I have taken the description of the proposed development and works from the Council's decision notices because it more succinctly and accurately describes the scheme before me.
4. As the proposal relates to a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). In addition, when considering whether to grant listed building consent I have had special regard to the provisions of section 16(2) of the Act.

Main Issues

5. With respect to both appeals the main issue is whether the proposal would preserve a Grade II listed building, Keepers Cottage, and any of the features of special architectural or historic interest that it possesses.

Reasons

6. The appeal building is a two storey T-plan detached Grade II listed building, which was listed in January 1984 and as an early nineteenth century or earlier house. The property was renovated in 1913 as indicated by the heraldic date panel over the main front door. The property has roughcast external walls, probably on a timber frame and the upper part is red tile hung with decorative panels of scalloped tiles. The roof is also banded with red scalloped tiles. It has particularly tall octagonal red brick chimneys; two on each end and three on the rear wing. The main frontage of the house is symmetrical with two windows to each floor and a central timber door. There are small gables over the first floor windows. The windows are three light flush casements with Gothic cast iron casements. The main central front door is panelled with two bullion lights and a heavy doorcase with carved trusses to a small flat hood.
7. It is my understanding that the property was remodelled in 1998 and a timber clad garage was added in 2006, which is linked to the main house via a single storey glazed walkway. The low hipped roof of the garage was specifically designed to ensure that the structure remained subservient to the original building and did not encroach or obscure the space between the house and the garage.
8. The property has undergone alterations and extensions in the past, including in 1913 when it was being used as a gamekeeper's cottage for the Coles Park Estate which I understand was broken up in the 1950s when individual estate buildings and houses were sold. The particular interest of the property is as an isolated former gamekeeper's cottage associated with the wider estate, surrounded by relatively open fields and woodland accessed by a single lane. Furthermore, the original building possesses several features of special architectural quality and interest, including decorative tiled upper walls, decorative tiled roof, prominent decorative chimneys, symmetrical frontage to the main house frontage and gables above the first floor windows.
9. The proposal is to remove the southern hipped roof of the existing garage to create a full height gable end facing the southern boundary of the property. The gable would be finished in black weatherboard to match the rest of the external walls of the garage. A new window on the south west elevation of

- the new gable would be in hard wood timber within a 20mm clear double glazed unit to the same specification of some windows on the rear elevation of the garage. The appellant states that main objective of the proposal is to provide additional ventilation to the space above the garage and a more usable means of escape. It would also alleviate existing problems with water ingress which the appellant states is exacerbated by the existing hipped roof arrangement and triangular shaped south west facing window.
10. I understand that the garage extension was designed to complement the style of the original house and to appear subservient to, and visually separate from, the listed house. The bulk and massing of the garage, with a shorter ridge than would otherwise be achieved, therefore reduces the potential harmful effect of a single large structure.
 11. The proposed roof form would be much simpler than the more complex roof form that would remain on the north east side of the garage. I noted at my site visit that there is a predominance of simple standard gable end features in the locality rather than the design of roof that has been incorporated onto the modern garage extension. Indeed, the main altered house has mainly simple gable features on the front and side elevations rather than complex hipped arrangements that are on the garage.
 12. The Council argues that the proposal to raise one end of the garage to a full gable would be unsymmetrical and out of keeping with the host dwelling and the garage, particularly when considering that the two existing ends create a distinctive, sympathetic and subservient aspect when viewed in tandem with the listed house. In my view, occupying a relatively large footprint, the existing black weatherboard garage is a highly prominent structure adjacent to the original house and rather dominates views of the property from the adjacent rural lane. It contrasts greatly with the form and design of the original house and its materials are stark in relation to the pale render, red brick and red tiles of the house. I can see that the proposal would slightly increase the overall bulk and massing of the garage structure, but not to a significant degree. The existing roof form of the garage contrasts with the host house and does not correspond well to other buildings in the locality, whereas the proposed gable would be more in keeping with the dominant roof form on the original house. Whilst the proposal may unbalance the roof of the garage itself and harm its symmetry, I do not agree that the addition would be harmful to the host building as a whole.
 13. Instead, I consider that it would rebalance the overall composition of the garage and host house together, creating a well-balanced and complementary roof form. The new gable would sit comfortably with other parts of the property's roof and would be seen against the existing main south west gables of the main house. In addition, the space between the main house and the modern garage would be retained, leaving the intended space between the main house and the ancillary garage structure. As such there would not be harm to the historic or architectural integrity of the original listed building.
 14. Given the above, I conclude that the proposal would preserve the special interest of the Grade II listed building. This would satisfy the requirements of the Act, the Framework and would not conflict with Policies HA1, HA7, DES4

and HOU11 of the East Herts District Plan October 2018. Among other objectives these policies seek to ensure that proposals preserve and where appropriate enhance the historic environment of East Herts and proposals that would lead to substantial harm to the significance of a designated heritage asset will not be permitted unless it can be demonstrated that the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Alterations to listed buildings will only be permitted where the proposal will not have any adverse effect on the architectural or historic character or appearance of the building or its setting. In addition, all development proposals must be of a high standard of design and promote local distinctiveness and extensions and alterations to dwellings should be of appropriate size, scale, mass, form, siting, design and materials. As a result, the proposal would be in accordance with the development plan.

Conclusions and Conditions

15. For the above reasons and having regard to all other matters raised I conclude that, subject to conditions, the appeals should be allowed.
16. I have considered both the wording and grounds for the conditions suggested by the Council in accordance with the tests set out in the Framework.

Appeal A

17. In addition to the standard time limit condition, a condition requiring the development to be carried out in accordance with the plans is necessary to ensure that it is implemented as approved.
18. A condition requiring the submission of samples and the use of materials is necessary to ensure that the appearance of the construction of the new gable end roof is of a suitable high standard.
19. In order to protect trees, hedges and other features and to ensure the continuity of the amenity value afforded to them a condition relating to the protection of such features, in accordance with an agreed scheme, during the period of site works and building operations is required.
20. Since detailed drawings of the new window, including materials and finishes, have been submitted with the application at a scale of 1:20 with a window profile at a scale of 1:1, I do not consider a condition requiring such details is required in this case.

Appeal B

21. In addition to the standard time limit condition, a condition requiring the works to be carried out in accordance with the plans is necessary to ensure that it is implemented as approved.
22. A condition requiring the submission of samples and the use of materials is necessary to ensure that the appearance of the construction of the new gable end roof is of a suitable high standard.
23. To sure the special architectural and historic interest of the building is maintained, details of the works associated with the timber frame are required, including specific dimensions, details of the timber to be used and the method of jointing or connecting the timber. In order to preserve architectural detail a

condition requiring the making good of any disturbed surfaces is also necessary.

24. Since detailed drawings of the new window have been submitted with the application at a scale of 1:20 with a window profile at a scale of 1:1, including materials and finishes I do not consider a condition requiring such details is required.

A A Phillips

INSPECTOR



Appeal Decision

Site Visit made on 12 July 2021

by **B Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal Ref: APP/J1915/D/21/3270241

36 Sayesbury Road, SAWBRIDGEWORTH CM21 0EB

- 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 Brian Smith against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1876/HH, dated 29 September 2020, was refused by notice dated 1 February 2021.
 - The development proposed is for the creation of a hardstanding vehicular access and dropped kerb.
-

Decision

1. The appeal is allowed and planning permission is granted for the creation of a hardstanding vehicular access and dropped kerb at 36 Sayesbury Road, Sawbridgeworth CM21 0EB in accordance with the terms of the application, Ref 3/20/1876/HH, dated 29 September 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 02, 03 and 04.

Main Issue

2. The main issue is the effect of the proposed development on highway safety, with particular regard to safe access and egress.

Reasons

3. Sayesbury Road is a residential street. It is straight and relatively wide, with a 30mph speed limit. On-street parking around the appeal site is unrestricted. As such, the road accommodates on-street parking, whilst still allowing two cars to pass each other safely. Around half of the dwellings in the street include on-plot parking, without the benefit of on-plot turning areas. Many of these take the form of parallel parking spaces, located in front of dwellings, within narrow areas of hardstanding. Although, these areas may have been subject to historical planning decisions, they nevertheless form part of the highway context. As a result, manoeuvring into and out of parking spaces, similar to that proposed, is an established characteristic of the area.
4. Policy TRA2 of the East Herts District Plan (2018)(DP) requires development proposals to ensure that a safe and suitable access can be achieved for all users. Furthermore, Policy TRA3 of the DP requires car parking to be integrated as a key element of design. The appeal site would enable the proposed

arrangement to accommodate a parallel parking space. No 38 has a dropped kerb and hardstanding to its front and side. It has a similar plot size and space around the dwelling. Similar to the appeal site, it can accommodate parking either in front or alongside the dwelling.

5. The proposed scheme would enable a car to be parked to the side or front of the dwelling. The hardstanding and associated parking areas would integrate well with the host dwelling and the surrounding streetscape. If a car were parked to the side, it would be parked perpendicular to the highway, a feature common to many plots. Furthermore, the proposed parking area would be of sufficient size for a vehicle to park fully off the highway, in either location, without over-sailing the footpath. Therefore, the dimensional requirements of the County's vehicle cross-over guidance would be excessive within this context.
6. The highway is straight and flat without substantive distractions or obstructions that might hamper access and egress. In mind of the limited speed of approaching cars, other road users would have ample opportunity to react to a vehicle reversing onto or off of the appeal site. Therefore, whilst recognising the concerns raised by the Highway Authority, the proposal would allow a vehicle to enter and exit the site in a safe manner, without detriment to highway safety. Consequently, the proposal would accord with policies TRA2 and TRA3 of the DP.
7. Although not requested by the Council, in line with the National Planning Practice Guidance, the standard conditions have been applied with respect to commencement period and approved plans for clarity.
8. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed and planning permission granted.

B Plenty

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.
-

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 12 July 2021

by **B Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th July 2021

Appeal Ref: APP/J1915/D/21/3270158

45 Dane Park, BISHOP'S STORTFORD CM23 2PR

- 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 P Keating against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2098/HH, dated 26 October 2020, was refused by notice dated 21 December 2020.
 - The development proposed is part single, part two storey rear extension and loft conversion, involving raising of roof ridge.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area, and
 - The effect the proposed extension on the living conditions of neighbouring occupiers of Maze Green Road with particular respect to privacy.

Reasons

Character and appearance

3. Dane Park is a residential through-road. The appeal site is adjacent to a corner plot, which is itself on the corner of Dane Park and Maze Green Road. The design of local housing is relatively diverse, although in form this predominantly consists of two-storey detached dwellings. The appeal dwelling is a largely simple form with a regular and simple form. In terms of form, scale and design the appeal dwelling accords with the predominant character and appearance of housing in the area.
4. The proposed rear extension would extend the host dwelling at three levels. The second-floor element would add substantial bulk to the dwelling above the existing eaves and ridge line of the roof. Furthermore, the new pitched roof elements would be far shorter than the roof of the existing house, due to the limited space between the proposed eaves and ridge. This would emphasize the mass of the second-floor element forming a stark addition and unwieldy side elevation. The size of the plot means that the dwelling could readily accommodate the additional footprint. However, the effect of the increased mass would be dominant at first and especially second floor level. This would unbalance the appearance of the dwelling and substantially undermine its simple form.

5. Due to the relationship of the appeal site to the corner plot, its south facing side elevation would be especially prominent in views from the highway over the garden of No 60. The proposal would be obtrusive in these open and prominent views from the public realm. During my visit, I did not observe extensions locally that were similar in form, scale or design. As a result, the proposed extension would not reflect the local pattern of development. Accordingly, the proposal would also be discordant with the predominant character of the wider area.
6. Some local properties have been extended. However, in contrast to the proposal, these additions are of limited scale and of designs that complement their host dwellings. Moreover, whilst local house-types are diverse these maintain and accord with the general street character of two-storey development and a largely consistent pattern of development. Therefore, although the proposal would consist of matching materials, this alone would not enable it to integrate well with the surrounding area.
7. As a result, the proposal would not accord with policies DES4 and HOU11 of the East Herts District Plan (2018)(DP). These seek, among other matters, for development to reflect and promote local distinctiveness and to be of a scale and mass that would be subservient to the host dwelling.

Living conditions

8. The appeal site is located on a hill. As such, 60 to 54 Maze Green Road (and houses beyond) recede downhill from the appeal site. Also, the garden of the host dwelling slopes gradually from its rear patio area, falling by around one metre, to its rear boundary. The appeal dwelling is therefore above the ground floor level of houses that are around the corner, with a first-floor bedroom window of the host dwelling enabling some views towards neighbouring rear gardens. This view is accentuated by the evident change in levels.
9. During my visit I observed the appeal site from the rear gardens of 56 and 54 Maze Green Road (No 56 and No 54). The garden of No 56 is terraced with a raised area at its rearmost section used as a patio area. The plot shares its rear boundary with a side boundary of the appeal site. The rear garden of No 54 is largely flat and shares part of its side boundary with the rear boundary of the appeal site. There are two trees on the west boundary of this neighbouring plot, which provide some albeit limited, screening of the appeal site.
10. The proposal would include rear facing windows at second floor and at first floor that would be closer to both of the gardens of No 54 and 56. These windows are large and would serve bedrooms. Although, primarily affording views to the rear of the plot, these would enable clear views into large areas of neighbouring rear gardens that would have a material impact on their occupiers enjoyment of their gardens. Due to their height at second floor, the size of the windows and the proposed use of the rooms the extent of overlooking would be substantial. This effect would be increased due to the local change in levels, the absence of screening and the proximity of the dwelling to the side boundary.
11. Consequently, the proposal would result in a significant loss of privacy, leading to a demonstrably adverse impact on the living conditions of neighbouring occupiers. Accordingly, the proposal would fail to satisfy policy DES4(c) of the DP, which requires development, inter alia, to ensure that the privacy of occupiers of neighbouring properties are not harmed.

Other Matters

12. Planning permission has been given¹ for a part single-storey, part two-storey rear extension. This is similar to the proposed extension at ground and first floor level but excludes the second-floor element of the scheme. It has eaves and a ridge line that aligns with the existing dwelling and therefore complements the design of the existing building. This is therefore substantially different to the proposed scheme in terms of design and with respect to the extent of overlooking capable towards neighbouring gardens. This has therefore had only a limited bearing on my consideration of the merits of the proposal.

Conclusion

13. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

B Plenty

INSPECTOR

¹ Planning Application Reference: 3/21/0007/HH



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24TH JUNE 2021

Appeal Ref: APP/J1915/X/21/3269301

42 Church Road, Little Berkhamsted, Hertford, SG13 8LY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mike Harris (Islandbridge Properties Limited) against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2103/CLXU, dated 27 October 2020, was refused by notice dated 23 December 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is of a building incidental to the occupation of the dwellinghouse.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Reasons

2. The main issue is whether the Council's refusal to issue a certificate of lawfulness was well-founded. The use is lawful if no enforcement action can be taken in respect of it and provided it does not contravene the requirements of any enforcement notice then in force.¹ No evidence was submitted regarding an enforcement notice relating to this property at the time of the application during the appeal.
3. In order to succeed in this appeal the appellant must show that the building is within the curtilage of a dwellinghouse (i.e. 42 Church Road) and has been used for a purpose incidental to the enjoyment of that dwellinghouse. The burden of proof is on the appellant. If a local planning authority has no evidence itself, nor from others, to contradict or otherwise make the appellant's version of events less than probable, provided the appellant's evidence alone is sufficiently precise and unambiguous, the appeal should be allowed and the LDC granted. The test to be applied in weighing the evidence is on the balance of probabilities.
4. The appellant's case is that the building is within the residential curtilage of 42 Church Road and in fact pre-dates the host bungalow. I am unclear about the

¹ Section 191(2) of the 1990 Act.

current ownership of the appeal property but that is not relevant for the purposes of the appeal. An affidavit provided by Anthony Catt, the previous owners' son states that he has been familiar with the property since around 1988 and that the building was used from that time, and including during the last 10 years, for purposes incidental and in association with the occupation of the host dwellinghouse. The affidavit goes on to state that the use of the building subject to the LDC application included the storage of cars, the storage of tools and machinery related to the property and the garden as well as a greenhouse. Mr Catt states that all uses were incidental to the family's enjoyment of the dwelling. An incidental activity for the purposes of s55(2)(d) is not part and parcel of a primary use but functionally related to that residential use. The activities described by Mr Catt are functionally related to the use of the dwellinghouse and fall within the meaning of incidental for these purposes.

5. The Council's reason for refusal was that insufficient evidence was provided to demonstrate on the balance of probabilities that the existing outbuilding at 42 Church Road has been used as incidental to the main dwellinghouse for a period of not less than 10 years prior to the date of submission. However, this was not the correct test as the use of any buildings or land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such shall not be taken to involve development of the land.² There is no requirement for a particular period of use (although Mr Catt provided evidence of the incidental use well in excess of a 10 year period).
6. The Council did not provide its own evidence during the course of this appeal to contradict the appellant's case, and in particular no information to contradict the sworn evidence of Mr Catt. Several interested parties, residents of neighbouring properties, have made representations regarding the appeal but the information that they have provided does not make the appellant's version of events less than probable. The interested parties refer to the building as a garage or outbuilding and their primary concern seems to be regarding the potential change of use of the building to a separate unit of living accommodation, not a matter which is being considered in this appeal. Neither the Council nor the interested parties have provided any evidence or details regarding the building being used separately and in a way that was not incidental to the host property.
7. The photographs and plans of the building are consistent with the description of use provided by the appellant. It is not in issue that the building is within the curtilage of 42 Church Road, and the photographs and plans support this view. The outbuilding is large, including when compared with the host dwellinghouse, but that is not enough in itself to suggest that it was not used as described by Mr Catt.
8. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a building incidental to the use of a dwellinghouse was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Zoë Franks

² Section 55(2)(d) of the Town and Country Planning Act 1990

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 27 October 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and hatched green on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The building is within the curtilage of the dwellinghouse at 42 Church Road and is used for purposes incidental to the enjoyment of that dwellinghouse.

The use does not contravene the requirements of any enforcement notice in force.

Signed

Zoë Frankš

Inspector

Date 24TH JUNE 2021

Reference: APP/J1915/X/21/3269301

First Schedule

Use of a building for purposes incidental to the enjoyment of the dwellinghouse at 42 Church Road.

Second Schedule

Land at 42 Church Road, Little Berkhamsted, Hertford, SG13 8LY

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated:

by Zoë Franks, Solicitor

Land at: 42 Church Road, Little Berkhamsted, Hertford, SG13 8LY

Reference: APP/X/J1915/X/21/3269301

Scale: Not to scale





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: 12 July 2021

Appeal Ref: APP/J1915/D/21/3268935

The Old Granary, Lane End, Green End, Ware, SG12 0NX

- 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 T. Percival against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2169/HH, dated 31 October 2020, was refused by notice dated 7 January 2021.
 - The development proposed is the raising of roof, addition of dormers and single storey extension to existing garage to provide annexe.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

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

Main Issues

3. The main issues are
 - Whether the use of the proposed annexe would accord with the Council's Housing Policies;
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on the living conditions of the neighbouring occupants of 'Mulberry House', having particular regard to outlook and light.

Reasons for the Recommendation

4. The appeal site accommodates a two-storey dwelling known as 'The Old Granary' and a pitched roof garage which also serves as a home office. The site is situated within a small rural settlement characterised mostly by large detached dwellings of varying design, traditional cottages and farm buildings.
 5. The existing outbuilding is set-back from the road and lies to the north west of the host property, its northern side elevation abutting the southern boundary fence of the neighbouring property known as 'Mulberry House'. The appeal
-

property and outbuilding sit within a relatively large plot with open countryside to the west.

Use of the annexe

6. Policy HOU13 of the East Herts District Plan (the 'Local Plan') sets out that the scale of an annexe should not dominate the existing dwelling and the accommodation should be the minimum level required to support the needs of the occupant.
7. The Council has accepted that the annexe building would be located close to and be well related to the main dwelling, being accessible by way of a short pathway. The proposal would therefore fulfil the requirements of part (a) of Policy HOU13.
8. The appellant has submitted that the scale of the annexe is necessary in order to accommodate the needs of an elderly relative. It has been highlighted that the needs of the future occupier would be supported by the extended family and they would be able to assist with childcare for the extended family. Furthermore, it is contended that the space has been designed to provide sufficient space for arts, crafts and hobbies, as well as to allow a degree of independence.
9. I accept it is reasonable to allow for the expectation that the proposed lounge would be used as a ground floor bedroom in the future, but I am not satisfied this justifies the significant scale of the annexe. The overall size of the accommodation for a single person appears excessive, particularly given the not unreasonable expectation of a definable inter-relationship between the accommodation and the occupation and use of the annexe in connection with the main dwelling. The provision and formation of two first-floor double bedrooms only serves to strengthen the conclusion of disproportionality given the indicated sole occupancy.
10. I therefore find the development would conflict with part (b) of Policy HOU13 which states that residential annexes will be permitted where they provide the minimum level of accommodation required to support the needs of the occupant.

Character and appearance

11. The character of the area is defined by low-density housing set amongst warehouse-like farm buildings, large gardens, and modest pitched outbuildings and garages. The area has a bucolic atmosphere reinforced by a pleasant sense of spaciousness between buildings.
12. The proposed enlargement of the outbuilding would result in a considerably large annexe with two first floor bedrooms. Whilst I acknowledge that the plot is spacious and the development would be designed with sympathetic materials, I find that the scale of the resultant annexe would be excessive in light of its considerable depth and height. Given its size, it would not appear sufficiently subservient to the host property and instead would be read as a new separate dwelling. In my view, it would appear as an obtrusive and bulky structure which would visually compete with the host dwelling.
13. Furthermore, the proposed annexe would feature prominently within the street scene given its scale and the resultant height of the roof. It would reduce the

visual gap between the host property and the neighbouring Mulberry House, and thus adversely impact the streetscene and open character of the area.

14. Policy HOU13 of the Local Plan sets out that the scale of an annexe should not dominate the existing dwelling. However, in this instance the development would be out-of-scale with the adjacent host dwelling and would appear bulkier than other outbuildings in the vicinity. It would also erode the sense of spaciousness which typifies the area.
15. I therefore find the development would harm the character and appearance of the surrounding area and conflict with policies GBR2, HOU11 and DES4 of the Local Plan which together seek to ensure proposals are well designed and contribute positively to the character and appearance of the surrounding area in which they lie. It would also conflict with Policy HOU13 of the Local Plan.

Living conditions

16. Given the positions and orientations of the buildings, the enlarged annexe would marginally reduce the amount of light received by the patio area to the rear of Mulberry House. However, having had regard to the proposed height of the roof and the distance between the annexe and the rear windows of Mulberry House, I do not find these windows would suffer any significant loss of light as contended by the Council. The minimal reduction in light to the rear patio, therefore, would not unacceptably harm the living conditions of the neighbouring residents.
17. Similarly, the development would not appear so obtrusive from the rear elevation and garden of Mulberry House that it would unacceptably disrupt the outlook or living conditions of the occupiers. The common boundary features numerous mature trees and bushes which would contribute to an adequate amount of screening.
18. Overall, I conclude there would be no unreasonable impact on the living conditions of the neighbouring occupiers of Mulberry House with regards to loss of light or outlook. The development therefore accords with policy DES4 of the Local Plan which aims to ensure proposals are well-designed and do not harm the amenity of occupiers of neighbouring properties.

Planning Balance and Recommendation

19. Although I find the proposal would not harm the living conditions of the neighbouring occupiers, this does not outweigh the conflict with the Council's Housing Policies and the harm the development would cause to the character and appearance of the area.
20. For the reasons given above and having had regard to all other matters raised, I conclude that the proposed development would conflict with development plan taken as a whole, and recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

21. 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 18 June 2021

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal Ref. APP/J1915/D/21/3270070

3 Nelson Street, Hertford SG14 3AG

- 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 Barney & Charlotte Cringle against the decision of East Hertfordshire District Council.
 - The application ref. 3/20/2174/HH, dated 3 November 2020, was refused by notice dated 21 December 2020.
 - The development proposed is described on the application form as "*First floor side extension/part infill*".
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Decision

1. The appeal is allowed and planning permission is granted for "*First floor side extension/part infill*" at 3 Nelson Street, Hertford SG14 3AG in accordance with the terms of the application ref. 3/20/2174/HH, dated 3 November 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans numbered 242-01, 242-02, 242-010, 242-011, 242-012, 242-013, 242-014 and 242-015.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main issue

2. The main issue is the impact of the proposed development upon the character and appearance of the dwelling and the Hertford Conservation Area (HCA).

Reasons

3. The HCA, within which the appeal site is located, encompasses a sizeable section of the central area of Hertford.
 4. Nelson Street, like a number of the residential streets nearby, is characterised by a variety of 2-storey houses dating from the late 19th century and the early
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20th century. It is a relatively short street which follows a steep gradient rising from the south-west to the north-east towards where no. 3 is positioned. The appeal property forms a linked pair with no. 1 which is at an even higher level. There was originally a narrow gap next to the adjoining terraced house at no. 5 on the lower side but this has been partially infilled by a ground floor level extension laid out largely as an entrance hall. This side extension is set back about 1.41 m from the main front wall face of the house.

5. Viewed as a whole, the houses on Nelson Street from no. 1 to no. 29 comprise non-listed buildings that undoubtedly make an important architectural and historic contribution to the special interest, character and appearance of the HCA. This is chiefly on account of the dominance of the original red brick and buff brick frontages, the stepped arrangement of natural slate roofs and brick chimney stacks reflecting the local topography and the number of building design details which remain intact. I saw that the majority of those houses are of terraced form. Any gaps between the building groups are few in number and relatively narrow. To my mind, such gaps as may exist are not of fundamental importance to the overall quality of this particular street scene and of course the gap that once existed between nos 3 and 5 has been partially infilled at ground floor level.
6. It is proposed to add a modest first floor side extension over the existing ground floor side extension. This would provide an en suite bathroom to the front bedroom and a study/office behind. It would be built up to the boundary with no. 5 just like the ground floor side extension. However, given the degree to which the proposed extension would be set back from the main front wall of the house, its limited size, its low hipped roof set well below the verges of the main roof and the slightly lower position of no. 5, the scheme would maintain a good impression of daylight between the main opposing upper walls and roofs of nos 3 and 5, would avoid a visually damaging terracing effect and would not result in an unduly cramped form of development. These outcomes would be apparent to observers viewing the property face on from the road or on both approaches to the site along either of the footways.
7. The hipped roof over the proposed extension would be very modest in terms of its size, height and spread, would be part of what would remain as a subsidiary or subservient side wing of the host property and would not be directly connected to the main roof form above. This added to its unobtrusive location set well behind the front walls of nos 3 and 5 leads me to the view that the hipped roof design would not be objectionable in itself.
8. Noting the proposed use of matching facing materials and fenestration details, I consider that the proposed extension would represent a visually attractive solution, exhibit a high standard of design, be sufficiently complementary and sympathetic to the parent building and be respectful of the established street scene along Nelson Street. The visual harmony and historical integrity of the group of buildings on this street would not be seriously disturbed.
9. I therefore conclude on the main issue that the proposed development would preserve the character and appearance of the dwelling and the HCA.
10. As the development would be an example of high-quality design and preserve the character and appearance of the dwelling and the HCA, there would be no

conflict with the aims of Policies HOU11 (criterion (a)), DES4 and HA4 of the East Herts District Plan 2018 (EHDP) or with the National Planning Policy Framework insofar as it relates to achieving well-designed places and the historic environment.

11. I am aware that criterion (b) in Policy HOU11 of the EHDP seeks to ensure that appropriate space (as a general rule a minimum of 1 m of space) is left between the flank wall of a first floor side extension and the common curtilage with a neighbouring property. The general rule is not met in this case but the purposes of such a requirement are said in the policy to be "*to safeguard the character and appearance of the street scene and prevent a visually damaging 'terracing' effect*". I have found, for the reasons set out above, that this particular scheme before me satisfies these important aims of the policy. Therefore, when viewed in the round, there is sufficient compliance with the broad thrust and important stated policy aims of criterion (b) of Policy HOU11 of the EHDP.
12. The scheme will enhance the quality of life for the occupiers of no. 3 by providing additional accommodation, lead to the removal of visible and unsightly mechanical services equipment (a steel flue and condenser unit) and offer some coverage of the rendered side wall of no. 5. These are all further factors that weigh in favour of granting planning permission.
13. In addition to a condition setting a time limit for the commencement of development, a condition requiring that the development is carried out in accordance with the relevant approved drawings is necessary as this provides certainty. I have also imposed the Council's other suggested condition on materials to ensure that the development would preserve the character and appearance of the dwelling and the HCA.
14. For the reasons given above and having regard to all other matters raised, including the absence of objections from local residents and Hertford Town Council, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR



Appeal Decision

Site Visit made on 25 May 2021

by James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/J1915/D/21/3269238

49 The Wick, Hertford SG14 3HP

- 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 Rebecca Cox against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2236/HH, dated 11 November 2020, was refused by notice dated 8 January 2021.
 - The development proposed is a single storey side extension with internal alterations to suit.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of No 51 The Wick, with particular regard to outlook and natural light.

Reasons

3. The appeal property occupies the corner location of a right-angled terrace on The Wick. Its northern side adjoins No 47 and its western side adjoins No 51. The proposed development would extend out from its southern elevation by 5.28 metres (as per the appellant's measurements), running parallel with the curtilage boundary shared with No 51. If the extension were to be carried out, the two properties would effectively form a 'T' shape.
4. The outlook from No 51 is already restricted by a row of garages that partly runs parallel with the rear of the property. Although there is a gap in between, there is a further garage located to the rear of No 53. A significant amount of built form is therefore experienced from the rooms to the rear of No 51, as well as its garden, all of which impacts on the outlook currently experienced from this property.
5. The proposed development would sit close to the curtilage boundary that the appeal property shares with No 51, extending very near to the existing row of garages. If the development were to be carried out, the garden to No 51 would effectively be enclosed entirely along one side, as well as partly at the rear due to the existing garages.
6. Whilst the extension proposed is single storey only, the proposals incorporate a pitched roof which measures 4 metres from ground height. The roof of the extension would therefore extend well beyond the height of the first floor of both the appeal property and No 51, and significantly higher than any fence

that would be allowed pursuant to permitted development rights as highlighted by the appellant.

7. Given that the outlook from the back of No 51 is already restricted by the garages to the rear, the combined height and length of the proposed extension, even accounting for the roof slope, would feel especially dominant and overbearing, substantially increasing the feeling of enclosure that would be experienced from the rear of the property, both internally and in the garden. Whilst I acknowledge the appellant's comments regarding the lowered ground level of No 51, the garages would still add to the feeling of enclosure that would be experienced by the occupiers of No 51, due to the amount of built form that would surround the rear garden to the property.
8. It was clear from my site visit that natural light to the front of No 51 is restricted due to its siting next to the corner plot at No 49. This means the front of the property is overshadowed for large parts of the day, due to the length of the terrace which runs immediately perpendicular to its frontage. As a consequence, the natural light which is currently experienced at the rear of this property is especially important to the living conditions of the occupiers of No 51.
9. The appellant has acknowledged that the extension would have some impact on daylight experienced from the rooms to the rear of No 51, particularly in the morning. I do not have a floor plan nor the measurements of the rooms to the rear of No 51, and so cannot conclude whether these rooms comprise habitable rooms for which a daylight assessment would be needed. Nonetheless, I consider that any interference with the already restricted daylight experienced at this property, however limited it may be, would be felt keenly by the occupiers, and consequently would be significantly detrimental to their living conditions.
10. For these reasons, the proposals would significantly harm the living conditions of the occupiers of number 51, due to the significantly increased sense of enclosure that would be experienced from the rear of this property and the adverse impact on natural light. This would be contrary to Policy DES4, sub paragraph (c) of the East Herts District Plan (adopted 2018), which precludes development from taking place which would have a significant detrimental impact on the amenity of neighbouring properties.

Conclusion

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

James Blackwell

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: 11 June 2021

Appeal Ref: APP/J1915/D/21/3268973

46 Chapel Lane, Letty Green, SG14 2PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Hopley against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2311/HH, dated 18 November 2020, was refused by notice dated 11 January 2021.
 - The development proposed is the erection of first floor front and side extensions.
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Decision

1. The appeal is dismissed.

Appeal Procedure

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

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt; and
 - if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Whether the development would be inappropriate development

4. Paragraph 145 of the NPPF states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBR1 of the East Herts District Plan 2018 (the 'Local Plan') is consistent with the NPPF in that it states that proposals are to be considered in line with the provisions of the NPPF.
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5. The appeal relates to a two-storey detached dwelling which the Council claims has previously been extended. The officer report states that the original dwelling was a bungalow with a floor area of 83.24 square metres. Taking the current proposal together with previous additions, the Council states there would be a cumulative increase of approximately 180% over the floor area of the original dwelling. The appellant has not provided me with corresponding calculations and does not appear to dispute the original building was the bungalow referred to by the Council. However, they consider the extensions would be proportionate and that an assessment of the development based only on quantitative methods is insufficient.
6. Turning to national guidance on measuring 'proportionality', the NPPF refers to 'size'. This can, in my view, refer to volume, height, external dimensions, footprint, floorspace or visual perception. In this case, it is clear that the substantial increase in volume of the dwelling, particularly at first floor level, would result in a considerably greater visual bulk. I therefore find that the scale of the extensions, viewed together with previous additions, would subsume the original dwelling and would be disproportionate.
7. On the basis that the proposed extensions would result in disproportionate additions over and above the size of the original dwelling, I therefore find the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph 145(c) of the NPPF, as detailed above, and policy GBR1 of the Local Plan, which together seek to resist inappropriate development in the Green Belt.

Openness

8. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The increased volume and bulk of the appeal property as a result of the extensions would have an adverse effect on the openness of the Green Belt in a spatial sense. Furthermore, although the extensions would not increase the footprint of the host dwelling, the proposed first floor pitched roof extension to the front projection would be visually conspicuous in light of its considerable height and depth.
9. I also find the increased width of the dwelling at first floor level would reduce the visual gap between the appeal property and the neighbouring property at No. 48 Chapel Lane, unacceptably eroding the spaciousness between the two dwellings and thus the visual openness afforded by this gap within the area, and when viewed from Chapel Lane.
10. The spatial and visual impact on openness would result in limited harm to the Green Belt.

Other considerations

11. The NPPF states that inappropriate development should not be approved except in very special circumstances, and 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. Substantial weight should be given to any harm to the Green Belt.
12. In this regard, the appellant opines that the proposal would not harm the character of the area and would adhere to Policies VILL3, HOU11 and DES4 of

the Local Plan. The proposal's compliance with standard housing and design policies is not the issue at hand as the refusal relates to the development's conflict with local and national Green Belt policy. An absence of harm in this regard does not lend positive or negative weight to the proposal.

13. I recognise that a number of properties to the east of the appeal dwelling also feature alterations and extensions. However, I have not been provided with the full details and background to these cases and whilst I cannot therefore conclude that the circumstances are directly comparable and relevant to the proposal, I am mindful of the need to consider each case on its own merits. I do not therefore attach any significant weight in support of the proposal.
14. My attention has been drawn to an appeal decision relating to a large contemporary designed dwelling which lies opposite 42 Chapel Lane, to the north west of the appeal site. However, whilst I have not been provided with the full detail and background to this case, it seemingly related to a new infill dwelling within a large plot on the northern side of Chapel Lane which differs markedly from the circumstances of the proposal before me. The reference to that appeal decision does not therefore attract any significant weight in support of the proposal.

Planning Balance and Overall Conclusion

15. I consider that the development causes harm to the Green Belt by way of its inappropriateness and to its openness, and substantial weight should be given to these harms. I conclude that cumulatively there are no other considerations that clearly outweigh the harms and therefore there are no very special circumstances to justify the development. Consequently, the development is contrary to the development plan taken as a whole, and in particular conflicts with Paragraph 145(c) of the NPPF and Policy GBR1 of the Local Plan which together aim to protect the Green Belt from inappropriate development.

Recommendation

16. 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

17. 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 18 June 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal Ref. APP/J1915/D/21/3271242

Primrose Cottage, Slough Road, Allens Green, Sawbridgeworth CM21 0LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Ashlee Bloom against the decision of East Hertfordshire District Council.
 - The application ref. 3/20/2327/HH, dated 20 November 2020, was refused by notice dated 18 January 2021.
 - The development proposed is described on the application form as a “*two storey rear addition*”.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Like the appellant, I am somewhat surprised that the Council chose to include a second reason for refusal relating to Policy DES3 Landscaping of the East Herts District Plan 2018 (EHDP). The proposed development would be built over part of the back garden, adjoining the rear wall of the host dwelling, where there are no existing landscape features of amenity or biodiversity value. There would be no net loss of such features and no conflict with EHDP Policy DES3.
3. The Council found that the development would preserve the setting of 2 nearby listed buildings (Hoppetts and The Old Church). I see no reason to disagree.

Main issue

4. Focussing on the first reason for refusal, I consider the sole main issue in this appeal to be the effect of the proposed 2-storey rear addition upon the character and appearance of the host dwelling and the wider surroundings.

Reasons

5. The appeal concerns a 2-storey cottage located at the end of a terrace of 6 cottages within Allens Green, a small settlement which falls within an area designated in the EHDP as a “Rural Area Beyond the Green Belt”. There are various dwellings and buildings spread sporadically around Allens Green and the surroundings of the appeal site are resolutely rural in character.
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6. Primrose Cottage occupies a prominent location being at the end of a terrace, next to a road junction, opposite the attractive open green to the north and with a public footpath running across the meadow immediately to the east which allows for clear public views across the rear and side of the cottage.
7. I have studied the planning history of the site presented to me, including an appeal decision (ref. APP/J1915/A/12/2173671) from October 2012 when the development plan and the planning circumstances at the site were materially different, and noted how the current built form of Primrose Cottage emerged from the subdivision and extension of the former end of terrace property here. Looking at the actual wording of the relevant policies of the EHDP (HOU11, DES4 and GBR2), I would not necessarily disagree with the appellant's stance that the starting point for any assessment should be the appeal property as it now exists. None of those policies offer any quantitative standards for an acceptable scale of extension or a proportionate increase in footprint or floor space in this designated "Rural Area Beyond the Green Belt". It is therefore necessary to assess the visual impact of each individual proposal having regard to size, scale, mass, form, siting, design and materials of construction.
8. Primrose Cottage is already a far wider building than the immediately adjoining properties. There is limited capacity for it to be extended in depth without producing a disproportionately large dwelling in the context of the host terrace of which it is part. The rear elevation is currently presented with a simple uninterrupted wall face and single roof slope. Although matching weatherboarding and slates would be used, what is proposed would be a major alteration as the 2-storey rear addition would sprawl across the whole back wall of the cottage. Only a limited amount of the existing rear roof slope would remain visible.
9. The double-gabled roof form with an awkward raised central valley and pattern of fenestration below, building up to the adjacent property and the failure to set the extension in from the existing end gable would all serve to emphasize the scale, mass, size and unsympathetic form and design of the extension. The proposed addition would not generally appear as a subservient addition to the dwelling, contrary to a key expectation in EHDP Policy HOU11. Rather, it would visually dominate and radically change the appearance of the existing cottage particularly when seen in public views from the public footpath across the field to the side and in private views from the rear gardens of the adjoining properties. The building would take on an unduly bulky, complicated and discordant appearance, detracting from its simple architectural character, departing too far from the modest scale and traditional character still largely evident in the remainder of the terrace and being disruptive to the open and pleasant rural character and appearance of the surroundings.
10. The Council's approach was to look at the pre-existing building on the site prior to the subdivision and extensions which took place to create the current Primrose Cottage and the neighbouring narrower cottage in the terrace. Paragraph 14.12.3 of the EHDP, which ends by stating that the Council is also concerned with the cumulative impact of development in the countryside, would seem to support such an approach although, for some unknown reason, there is no clear direction to this effect in the policies themselves. Nonetheless, if I had relied on this approach, I would have reached the same conclusion as the Council; the cumulative effect of this proposal and the earlier 2-storey rear

and side extensions and front porches would be to subsume the original modest building here into the various additions to the extent that observers would have great difficulty pointing to the original building.

11. The fact that the appeal property is not subject to any restrictions on permitted development rights is not of overriding significance in the context of this appeal and I realise that the appellant is not making an argument based on the fallback those rights might allow. Still, those rights remain available for the appellant but there is nothing to suggest they could be used to significantly alter the external appearance of the dwelling in a manner that would compare to the 2-storey rear addition now proposed.
12. Whilst there are clearly some altered and extended homes in this terrace and no doubt in the wider locality, each scheme has to be considered on its own merits. Comparisons with nos 2 and 3 Blacks Cottages in the same terrace are not straightforward. In the case of the former, the enlargement to its front and rear came about under the same subdivision and extension of the former end of terrace property here which also created Primrose Cottage. Following the logic of the appellant's preferred approach to this appeal, it would be consistent to argue that no. 2 has not been extended since it was occupied and the planning unit associated with it created. The planning history at no. 3 relating to the rear 2-storey gabled wing and the single-storey conservatory structure beyond is not before me. In any event, both the neighbouring 2-storey, rear-projecting wings are narrow and traditionally designed single bays which are attached to properties of narrow proportions and so are materially different to what is proposed across the wide rear elevation of Primrose Cottage.
13. I find on the main issue that the proposed 2-storey rear addition would harm the character and appearance of the host dwelling and the wider rural surroundings. As the development would not be an example of a high standard of design that reflects and promotes local distinctiveness, would fail to safeguard the quality and character of the site and its rural surroundings and would not appear as a subservient addition to the host dwelling, there would be conflict with the aims of Policies DES4, GBR2 and HOU11 of the EHDP. There would also be a failure to adhere to the overarching design themes of the National Planning Policy Framework (NPPF) insofar as they relate to achieving well-designed places. The scheme would fulfil the social dimension of sustainable development as set out in the NPPF by enhancing the living accommodation of the property and offer a limited economic benefit to the building trade, but the environmental dimension would not be fostered given the harm I have found under the main issue.

Conclusion

14. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and taking into account all other matters raised and the letters of representation from local residents in support and against, I conclude that this appeal should not succeed.

Andrew Dale INSPECTOR



Appeal Decision

Site Visit made on 25 May 2021

by Mr James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/J1915/D/21/3269923

2 Tower Road, Ware, Hertfordshire SG12 7LP

- 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 Liliya Gizzi against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2409/HH, dated 27 November 2020, was refused by notice dated 26 January 2021.
 - The development proposed is the demolition of existing garage, and proposed two storey side extension to family dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit it was apparent that the garage had already been demolished, which reflects the position set out in the appellant's application form and the Council's delegated report. This aspect of the development for which planning permission has been sought is therefore retrospective, and will be referred to accordingly in this decision.

Main Issue

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

Reasons

4. The appeal property is a semi-detached two-storey house, located on a corner plot at the junction of Tower Road and Fanhams Road. The property is set back from the road and benefits from ample space for the parking of vehicles on its frontage with Tower Road. There was previously a garage to the side of the property which has now been demolished, leaving an additional area of open space between the side elevation of the property and Fanhams Road. There is an enclosed garden to the rear of the property.
5. The surrounding area is predominantly residential in nature and includes a variety of house types. These are mostly modest semi-detached or terraced dwellings which are separated from the road by driveways and/or gardens, many with sizeable gardens to the rear. Pairs or terraces of dwellings are generally separated by modest gaps, which provides a sense of space and openness to the street scene, which in turn contributes positively to the character and appearance of the area.

6. The proposed two storey side extension would be located to the south west elevation of the appeal property, on the area previously occupied by the garage. The extension would measure 3.85m in width, which equates to approximately two thirds of the width of the existing dwelling. In terms of depth, the extension would align with both the front and rear elevations of the host dwelling at ground floor level, but would be set back at first floor level by approximately 600mm. The height of the extension would be similar to the current dwelling, albeit the ridge line of the new roof would be set down from the main roof line by 200mm.
7. Whilst I acknowledge the slight reduction in height of the proposed extension when compared to the host property, the difference in height is only marginal. Similarly, whilst the front elevation of the first floor is set back by 600mm from the main dwelling, no attempt has been made to incorporate any degree of subservience to the host property at ground floor level. Due to these factors, the proposed extension would not appear subordinate to the existing dwelling.
8. With such a limited degree of subservience to the host property, the extension would be disproportionate in terms of size and scale to the existing dwelling, which would be harmful to its appearance. Due to the modest size of its attached neighbouring property and the current symmetry they share, the extension would also lead to a significant imbalance between the two properties, which would be harmful to the character and appearance of the wider street scene.
9. The Council has indicated that the extension would not adhere to the existing building line that the appeal property shares with neighbouring properties along Fanhams Road and Homefield Road. Based on my observations during the site visit and the figure included at paragraph 6.24 of the appellant's statement of case, I am satisfied that the proposed extension would not breach these building lines. Nonetheless, due to the open corner location of the appeal property, the extension occupies a prominent position which is seen from numerous aspects along Tower Road, Fanhams Road and Homefield Road. Given the significant scale of the extension and the consequent disparity in size with many of its neighbouring properties, the extension would be visually prominent and obtrusive in places along each of these roads, which would harm the character and appearance of the surrounding area.
10. Whilst I acknowledge there are examples of other residential side extensions near to the appeal property, these extensions have generally incorporated a greater degree of subservience to the host property when compared to the development proposed, and therefore integrate more successfully with both their host dwelling and the wider street scene.
11. Specifically, the side extension at No 3 Tower Road (opposite to the appeal property) appears subordinate to the host property, which has been achieved by incorporating a greater reduction in roof height, and a step back from the front elevation of the main dwelling on both floors. Before being extended, No 1 Tower Road occupied a much larger plot than the appeal property, which enabled a larger extension to come forward without appearing overly dominant or visually obtrusive. Due to the subdivision of the plot, the size of the resultant dwellings is also more commensurate with the size of other properties along the road, which helps retain an appropriate level of balance to the street scene.

12. Due to its bulk and scale, the proposed extension would not be subordinate to the host dwelling, which would be harmful to the character and appearance of the appeal property itself and the wider surrounding area. This is contrary to policies DES4 and HOU11 of the East Herts District Plan (adopted October 2018), which require extensions to be of a size, mass and scale which is appropriate to both the existing dwelling, and the wider surrounding area.

Conclusion

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

James Blackwell

INSPECTOR



Appeal Decision

Site visit made on 18 June 2021

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal Ref. APP/J1915/D/21/3271328

13 Hampton Gardens, Sawbridgeworth CM21 0AN

- 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 Steven Vale against the decision of East Hertfordshire District Council.
 - The application ref. 3/20/2423/HH, dated 1 December 2020, was refused by notice dated 20 January 2021.
 - The development proposed is described on the application form as "*Proposed garage conversion, roof ridge to be increased in height with two pitched dormers to the front elevation and single dormer to the rear. Garage doors to be replaced with windows to the front elevation. Proposed Canopy to the rear.*"
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Decision

1. The appeal is allowed and planning permission is granted for "*Proposed garage conversion, roof ridge to be increased in height with two pitched dormers to the front elevation and single dormer to the rear. Garage doors to be replaced with windows to the front elevation. Proposed Canopy to the rear*" at the site address of 13 Hampton Gardens, Sawbridgeworth CM21 0AN in accordance with the terms of the application ref. 3/20/2423/HH, dated 1 December 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans numbered 1029/PL/01, 1029/PL/02, 1029/PL/03, 1029/PL/04, 1029/PL/05 and 1029/PL/06.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main issues

2. The main issues are the effects of the proposed development upon the character and appearance of the site and its surroundings and upon the amenities of the neighbouring occupiers at no. 14 Hampton Gardens with regard to the potential for any loss of light and outlook.
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Reasons

3. The appeal property is a sizeable detached house standing towards the closed end of Hampton Gardens, a cul-de-sac which contains sharp bends and similarly large detached houses.
4. The proposal relates only to the detached single storey double garage at the appeal property. It is currently used for storage.
5. This garage is set well back a long way into the site. Its front elevation is beyond the rear elevation of no. 13 and in line with the rear elevation of no. 14. When added to the very advanced position of no. 12, the context here is such that the garage is not in full view from a public place, even from any point on the footway which goes around the adjacent turning area at this end of Hampton Gardens. The main changes would be to the roof of the garage but they would have no obvious impact when seen from any public vantage points.
6. In more open private views, for example from the front gardens of nos 15 and 16, whilst the changes would introduce a first-floor area over the garage, a higher roof line, dormers and a half-hipped roof form instead of the existing pyramidal-shaped roof, the short ridge at the top of the building would be seen to rise above the eaves of nos 13 and 14 by only a marginal degree. With no increase in footprint proposed and noting the location of the garage building and the sizeable nature of the houses adjacent to it, I am not convinced that the increase in bulk and mass would be so considerable as to produce a building which would no longer be subservient to the host dwelling and site.
7. The 2 front dormers would carry pitched roofs, have one less window light than the new windows below and be set well in from all edges of the half-hipped roof. They would echo the dormers at no. 14. It would be a stretch of the imagination to suggest that they would dominate the roof form. The single dormer at the rear would be larger but again it would set well within the new roof. Its design would reflect the outline of that roof. Being at the rear, it would have no obvious visual impact.
8. Viewed as a whole, I consider that the proposed changes would be visually attractive and sufficiently respectful of the original building's character and appearance, the local character more generally and the setting of the site.
9. I find on the **first main issue** that there would be no adverse impact upon the character and appearance of the site and its surroundings. As the development would be an example of high-quality design that reflects local distinctiveness, safeguard the quality and character of the site and its surroundings and involve the acceptable extension and alteration of an existing detached outbuilding, there would be no conflict with the aims of Policies HOU11 and DES4 of the East Herts District Plan 2018 (EHDP). There would also be compliance with the key design themes in the National Planning Policy Framework insofar as they relate to achieving well-designed places.
10. The experience of no. 14 as being set within a relatively spacious back garden facing south-west would endure. Whilst the garage is sited on the boundary with no. 14 and its front elevation is in line with the rear elevation of no. 14, it is actually set away from the opposing gable wall of that neighbouring property by about 1.35 m, with the closest habitable room window there being set even

further way. This orientation and layout, together with the half-hipped profile of the proposed roof and the degree to which the dormers would be set within that roof, would help to preserve the reasonable receipt of daylight and sunlight to the garden and rear elevation of no. 14 and to avoid any unduly significant overbearing impact on the outlook from those same places. The absence of objections from the occupiers of no. 14 adds weight to my findings.

11. I find on the **second main issue** that the proposed development would avoid any significant detrimental impacts on the amenities of the occupiers of the neighbouring property at no. 14 taking into account outlook or visual impact and light. As such, there would be no conflict with the aims of EHDP Policy DES4. Similarly, there would also be compliance with paragraph 127 (f) of the National Planning Policy Framework which seeks to ensure developments create places with a high standard of amenity for existing and future occupiers.
12. In addition to a condition setting a time limit for the commencement of development, a condition requiring that the development is carried out in accordance with the relevant approved drawings is necessary as this provides certainty. I have also imposed a condition covering materials to ensure that the development would safeguard the character and appearance of the area.
13. It is not necessary to impose the Council's fourth suggested condition which indicates that the garage conversion should be used for ancillary purposes only and not for independent use. This is because the building would be used for purposes incidental to the enjoyment of the dwelling at 13 Hampton Gardens and there is no proposal for separate independent use or a separate dwelling before me. Moreover, if following the grant of this permission, the structure is not used as proposed and there is a future material change of use of it to create an independent use or dwelling, then another grant of planning permission would be required, and such a use or dwelling would be at risk of enforcement action if that planning permission is not granted.
14. For the reasons given above and having regard to all other matters raised, including the absence of objections from local residents or local organisations, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR

Appeal Decision

Site visit made on 7 July 2021

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2021

Appeal Ref: APP/J1915/D/21/3274469

6 Hampton Gardens, Sawbridgeworth, Hertfordshire CM21 0AN

- 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 Ernest Onyema against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2502/HH was refused by notice dated 3 February 2021.
 - The development proposed is a first floor extension above existing double garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be the effect of the proposal on the character and appearance of the site and surrounding area.

Reasons

3. Policy HOU11 in the East Herts District Plan (2018) generally requires residential extensions to be subservient additions. In addition, it seeks to ensure that side extensions at first floor level or above ensure appropriate space is left between the flank wall of an extension and the common curtilage with a neighbouring property to safeguard the character and appearance of the street scene and prevent a visually damaging 'terracing' effect. As a general rule a space of one metre is the minimum acceptable. Policy DES4 seeks a high standard of design and layout.
4. The appeal property is a modern two-storey dwelling situated in a corner of a small residential cul-de-sac. Modern dwellings of similar design in close proximity to each other are a characteristic of this cul-de-sac. The single-storey garages break up the built form at first floor level in an area of high density development.
5. The ridgeline of the proposed first floor extension would be set down from the main ridge by some 0.5 metres. It would be clad in fibre cement weatherboarding. It would have a half hipped roof to match the existing roof, incorporating two pitched roof dormers on the south elevation. No gap is

proposed between the flank wall of the proposed first floor extension and the party boundary with No 5 Hampton Gardens. As such, due to the size, design and location of the proposal it would appear as an excessively bulky extension to the dwelling. This would not be a subservient addition. Whilst I appreciate that the proposal would not be widely visible, the close proximity to No. 5 Hampton Gardens would create an unacceptably cramped form of development in this corner of the cul-de-sac.

6. There is weatherboarding on part of the first floor of the neighbouring property at No. 5 Hampton Gardens. Therefore, the proposed use of weatherboarding would be in keeping with the appearance of this corner of the cul-de-sac. However, in the light of my concerns above, this does not justify allowing the appeal.
7. In reaching my conclusion, I have had regard to all matters raised upon which I have not made specific comment, including examples of extensions to other properties in Hampton Gardens. Those extensions are not in such a confined location as the proposal before me. I have determined the proposal on its individual merits. For the above reasons, I conclude that the proposal would have an adverse effect on the character and appearance of the site and surrounding area. Thus, the proposal would be contrary to District Plan Policies HOU11 and DES4. I consider these policies to be in accordance with the National Planning Policy Framework where they seek to ensure good design.

J L Cheesley

INSPECTOR