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## Appeal Decision

Site visit made on 30 July 2021

**by C J Leigh BSc(Hons) MPhil MRTPI**

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

**Decision date: 17<sup>th</sup> September 2021**

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### **Appeal Ref: APP/J1915/D/20/3249828**

#### **44 Milton Road, Ware, SG12 0PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Martin Williams against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2300/VAR, dated 12 November 2019, was refused by notice dated 7 January 2020.
- The application sought planning permission for 'Proposed single storey side extension and loft conversion/first floor extension incorporating 2 no. dormer windows and 2no. Juliet balconies. Alterations to fenestration' without complying with conditions attached to planning permission Ref 3/18/0985/HH, dated 13 July 2018.
- The conditions in dispute are Nos 2 and 3 which states that:
  - 2: The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.
  - 3: The external materials of construction and finishes for the building works hereby permitted shall match those used for the existing building unless otherwise agreed in writing by the local planning authority.
- The reasons given for the conditions are:
  - 2: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.
  - 3: In the interests of the appearance of the development, and in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

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### **Procedural matters**

1. The application the subject of this appeal was made on 12 November 2019, with the application form stating that the development the subject of permission 3/18/0985/HH had started by that time. On 9 October 2019 the appellant received a letter from the local planning authority (LPA) referring to the installed roof materials not according with the approved permission, namely slate instead of tiles. However, it is apparent to me from what I have read in both main parties' submissions that at that time the property had also been rendered.
2. The application form submitted to the LPA stated that the wish was to alter Conditions 2 and 3 'to allow slate roof tiles to be used in lieu of the original concrete terracotta coloured roof tiles'. The appellant has objected to the LPA amending the description of development to include reference to render on the building façade. The Planning Officer's Delegated Report states that, at the time of assessing the application, the alterations had been completed, ie the slate roof and the rendered façade.

3. From what I have read it is apparent to me the changes to the building occurred before the planning application was made to the LPA, and hence was made under s73A of the Act.. As the application sought a variation to the two conditions setting out the plans approved under 3/18/0985/HH and the materials to be used in the building of the approved extensions, I consider it reasonable and necessary for the LPA to have described the development with reference to both the slate roof and to the rendered façade, and for the application to be assessed on that basis. I have therefore assessed this appeal on the same basis, namely to use slate roof and to replace previous dilapidated concrete terracotta coloured tiled roof and render on building façade.

### **Decision**

4. The appeal is dismissed.

### **Main Issue**

5. The main issue is the effect of development on the character and appearance of the host property and the wider area.

### **Reasons**

6. Planning permission 3/18/0985/HH required the materials to be used in the approved extension to match those in the existing building. As noted, this has not been done: slate has been used to the roof, and the elevations have been rendered.
7. The appeal property lies on the eastern side of Milton Road. Whilst there is variety in housing type and design along that road, in the vicinity of No. 44 there is a good degree of consistency: properties with tiled roofs and brick elevations, with limited and restrained use of render. Most significantly, in terms of this case, is that No. 44 is one half of a pair of semi-detached bungalows where the other half still has tiled roof and brick elevations.
8. There are properties with slate roofs to the south and west of No. 44. However, these are of different character to the subject property and the grouping within which No. 44 lies: the row of low, slate cottages on the western side of the road forms its own distinctive group, whilst the tall detached villa of No. 43 is of very different character again.
9. The works that have been undertaken to No. 44 have a seriously harmful effect on the appearance of the area, and the design of the host property. The balance with the attached bungalow is lost and the altered No. 44 is a very discordant feature in the streetscene: it upsets the balanced and restrained pattern of housing in this area of the street, and the use of slate and render to No. 44 disrupts the restrained palette of materials seen.
10. Thus, the slate and render has not had proper regard to the host property and the context within which it lies. This is harmful to the character and appearance of the residential area, and so conflicts with Policies DES4 and HOU11 of the East Herts District Plan 2018 which, amongst other matters, requires extensions and alterations to dwellings to be of a high standard of design and use materials that are appropriate to the character, appearance and setting of the existing dwelling and the surrounding area. The development is also not consistent with the National Planning Policy Framework (2021) that requires

planning decisions to be well designed and maintain a strong sense of place, including through the use of building types and materials.

11. The appellant has drawn my attention to a decision (ref. 3/17/0668/HH) on 1 June 2017 by the LPA for an extension and alterations to a semi-detached bungalow at 87 High Oak Road, two streets away from the current appeal site. I have been provided with the drawings and application form for that case which showed the existing roof was concrete tiles and that the new roof would match, and I have also seen the original Decision Notice for that permission which included conditions requiring matching materials. The evidence therefore indicates to me that the Planning Officer assessing the case at that time in the Delegated Report (which has also been provided to me) considered matching materials would be used.
12. However, the works as completed on that property have seen slates to the roof and rendered elevations. The appellant has provided me with a letter from the LPA of 22 December 2017, post-dating the assessment and decision of 3/17/0668/HH which purports to approve the discharge of a condition attached to that permission relating to roof tiles. However, I have not been provided with the full background to the reason for this letter: the Decision Notice I have seen did not require the discharge of a condition relating to tiles, and the other information concerning 3/17/0668/HH clearly shows matching tiles was the intention. Hence the status of that letter is unclear to me.
13. In any event I viewed No. 87 at my site visit and saw it is discordant in the area and unbalancing to the pair of dwellings and, in its completed form, is not a good example to follow in future. I further note that the decision at No. 87 pre-dated the current adopted Local Plan and the current Framework, which are clear in setting out a strong requirement for good design that uses materials appropriate to existing dwellings and the area. I also saw at my site visit that 87 High Oak Road lies in an area with a more mixed character, where there are houses of different appearance and with differing materials opposite. Hence, there are material differences with the current appeal, which I have determined on its own merits with regard to the current development plan and the Framework.
14. My conclusions therefore remain unaltered and the appeal is dismissed for the reasons given.

*C J Leigh*

INSPECTOR



## Appeal Decision

Site Visit made on 9 June 2021

**by L Fleming BSc (Hons) MRTPI**

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

**Decision date: 16/08/2021**

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**Appeal Ref: APP/J1915/Y/20/3262262**

**1 Priory Street, Ware, SG12 0DA**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr A McKenna against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0487/LBC, dated 5 March 2020, was refused by notice dated 10 September 2020.
  - The works proposed are the removal of the existing ground floor structure to be replaced by a new ground floor structure set at a new level. New partitions and doors, sanitary installations and decorations.
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### Decision

1. The appeal is allowed and listed building consent is granted for the removal of the existing ground floor structure to be replaced by a new ground floor structure set at a new level. New partitions and doors, sanitary installations and decorations at 1 Priory Street, Ware, SG12 0DA in accordance with the terms of the application Ref 3/20/0487/LBC, dated 5 March 2020, subject to the conditions set out in the schedule attached to this decision.

### Procedural Matters

2. On 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). Planning decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration and as such in reaching my decision, I have had regard to the revised Framework. I have not felt it necessary to seek views on the matter as the provisions of the Framework relevant to this appeal are mainly unchanged. I am satisfied that no party has been prejudiced by my approach.
3. The scheme was revised over the course of the planning application and additional drawings have been submitted with the appeal. I have considered all of the drawings submitted with the appeal. Consequently, the drawings I have approved differ slightly from those listed on the Councils decision notice. The Council and the appellant have been given the chance to clarify the drawings, I am satisfied that no party has been prejudiced by my approach.

### Main Issue

4. The main issue is whether the proposed development/works would preserve the grade II listed 1 1A 1B 1C, Priory Street or its setting and any features of

special architectural or historic interest that it possesses and whether the scheme would preserve or enhance the Ware Conservation Area.

## **Reasons**

### *Significance*

5. The appeal property is the basement and ground floor of a two-storey building with basement known as the grade II listed 1 1A 1B 1C Priory Street (No 1 Priory Street). It is within the Ware Conservation Area (CA).
6. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be given to the desirability of preserving a listed building or its setting and any features of architectural or historic interest it possesses. The same act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Furthermore, paragraph 199 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. No 1 Priory Street is a former coaching inn of medieval origin. However, it has been significantly altered. It has a late C18 main front elevation in Flemish bond brick painted white, with a central door and fanlight, a first-floor central blind window opening and three formally arranged sash windows, with the original carriage entrance set behind timber panelled doors. Original oak joists and lateral beams are visible on the underside of the floor over the carriage entrance.
8. Inside, the ground floor comprises two main rooms separated by a brick chimney stack. There is a section of exposed timber framing in the northern corner of the ground floor wall and the first floor beams are visible in the ground floor ceiling with original mortices indicating the location of a partition which has now been removed. The ground floor timber framing is visible from the basement and it has an oak chamfered beam which spans from the front to the rear with original mortices indicating the positioning of original floor joists. However, the internal plaster, the ground floor joists and chipboard flooring are all modern.
9. The CA covers a large part of the town including its commercial centre and some of its residential suburbs including part of the River Lea. There is evidence of late iron age and Roman settlements at Ware. Consequently, there are many historic buildings of a variety of periods, some of medieval origin. The narrow commercial High Street and intersecting narrow side streets are particularly notable.
10. Insofar as is relevant to the appeal, the significance of No 1 Priory Street derives from its historical use as a commercial building in the town centre and its traditional architectural internal and external detailing. Furthermore, insofar as is relevant, I find the significance of the CA derives from the architectural detailing, layout and uses of the traditional buildings within it and their relationship with the River Lea.

*Effects on No 1 Priory Street and the Ware Conservation Area*

11. At the time of my site visit, softwood stud and plasterboard walls and the ground floor skirting boards had been removed as had the plasterboard basement ceiling. I am satisfied these features were modern such that these works have not involved the loss of any historic fabric.
12. The proposed new stairs and additional quarter turn, newels and balusters would be of traditional design and would replace a simple modest staircase, which whilst traditional is not the original staircase in its current location. Furthermore, proposed new partitions, new doors and door frames and sundry alterations would be undertaken to the rear area of the ground floor. It is clear that the ground floor has already been extensively modernised, and none of these works would involve the loss of historic fabric which would cause harm to the listed buildings significance. Subject to details of how the proposed stairs would be installed I am satisfied all these works could all be undertaken sensitively and sympathetically to the listed building.
13. The softwood floor joists and chipboard flooring in the ground floor would be replaced with new green oak floor joists installed in the position and sockets of the original floor joists. On top of the new oak floor joists would be a sound mat on tongued and grooved timber boards. Although, the sound mat and boards would be thicker than the existing chipboard flooring having the effect of increasing the ground finished floor level by approximately 50mm, this change would not affect any historic fabric of the listed building. Indeed the proposed light well between the raised floor and the ground floor window would avoid any impact of the new floor level on any historic fabric associated with that window.
14. Therefore, overall, I find the proposal would preserve the grade II listed building and its features of special architectural or historic interest. Consequently, as there would be no harm to a traditional building within the CA it follows that the CA and its significance would also be preserved. For the same reasons the scheme would also accord with the development plan, particularly Policy HA7 of the East Herts District Plan (2018) which amongst other things seeks to ensure good design and that proposals do not cause harm to designated heritage assets.

**Other Matters**

15. I acknowledge the comment about the impact on the overall structural integrity of the building and the implications for the dwelling above the appeal property. However, there is no substantive evidence to suggest that the structural integrity of the listed building would be compromised by the proposals.

**Conditions**

16. The conditions imposed are those which have been suggested by the Council, adjusted in the interests of precision in accordance with the advice on imposing conditions in the Planning Practice Guidance. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
17. Even though there are no alterations proposed to the exterior of the building a condition requiring all making good is done sympathetically is necessary in the

interest of preserving the listed building. However, I have not therefore imposed the suggested condition relating to exterior works as it is unnecessary.

18. Furthermore, although some details of the stairs have been provided, the specific details as to how they would be installed and fixed to the listed building are not provided. A condition is therefore necessary to ensure specific details of this element of the scheme are agreed to ensure these works are undertaken sensitively. I have therefore imposed the condition suggested by the Council but adjusted it in the interests of precision and efficient construction.

### **Conclusion**

19. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

*L Fleming*

INSPECTOR

## **SCHEDULE**

- 1) The works authorised by this consent shall begin not later than three years from the date of this decision.
- 2) The works hereby consented shall be carried out in accordance with the following approved plans: 772-2-PLN-21 Existing Ground Floor Plan, 772-2-PLN-20 Site Location Plan, 772-2-SEC-22 Existing and Proposed Section Revision A, 772-2-DET-02 Details, 772-PLN-23 Revision A Proposed Ground Floor Plan, 772-DET-01 Details Revision C, 772-2-PLN-24 Proposed Lower Ground Floor Plan Revision A, 772-2-PLN-22 Existing Lower Ground Floor Plan, Details of Oak Ledged Doors and Frames and Details of Utilitarian Stairs.
- 3) All new works, finishes, and works of making good shall match existing adjacent work in respect of materials, execution, and finished appearance.
- 4) Prior to the removal of the existing staircase, detailed drawings including sections, showing the new and/or replacement staircase which it is proposed to install, together with a detailed description and specification of the works involved in the staircase installation, shall be submitted to, and approved in writing by the local planning authority and thereafter the development should be implemented in accordance with the approved details.

**END**





## Appeal Decision

Site Visit made on 14 September 2021

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

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

**Decision date: 27<sup>th</sup> September 2021**

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**Appeal Ref: APP/J1915/D/20/3255452**

**7 Page Road, Hertford, SG13 7JN**

- 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 Williams against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0839/HH, dated 30 April 2020, was refused by notice dated 23 June 2020.
  - The development proposed is a single storey link extension between dwelling and outbuilding.
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### Decision

1. The appeal is allowed, and planning permission is granted for a single storey link extension between dwelling and outbuilding at 7 Page Road, Hertford, SG13 7JN in accordance with the terms of the application, Ref 3/20/0839/HH dated 30 April 2020 and the plans numbered 2464-01, 2464-02, 2464-03, 2464-04 and 2464-05.

### Preliminary Matter

2. At the time of my site visit the extension was substantially complete on site. I have determined the appeal on this basis.
3. I have taken the description of the development from the appeal form as it is a more precise description of the development.

### Main Issue

4. The main issue is the effect of the extension on the character and appearance of the area.

### Reasons

5. The extension is a single-storey structure connecting the original dwellinghouse to an outbuilding for which planning permission was previously granted. The extension is set down from the host dwelling due to the change in ground level to the rear of the house. While the extension can be seen from neighbouring properties, it is not prominently visible in the wider area. As seen from Clyde Terrace it is a modest and subordinate structure, set well behind the neighbouring houses, and is not harmful to the street scene.
6. The UPVC cladding used on the walls of the extension is also present on the face of the rear dormer window to the house. The exposed brickwork, doors and windows otherwise match those used in the house and approved outbuilding. Given the relatively small size of the extension, it does not appear

out of keeping in the area, and the joining of the dwellinghouse to the outbuilding is not harmful given its limited visibility.

7. The extension does not therefore result in unacceptable harm to the character and appearance of the area. Consequently, it accords with Policies DES4 and HOU11 of the East Herts District Plan 2018 which collectively require that extensions and alterations to dwellings be of a size, scale, mass, form, siting, design and materials of construction that are appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area, and extensions should generally appear as a subservient addition to the dwelling.

#### *Other Matters*

8. The extension has connected the host dwelling to the approved outbuilding, allowing easier access for the occupants. This may result in the former outbuilding being used more frequently, but there is no evidence that this is anything other than an extension of the domestic use of the property.
9. Planning permission was not refused by the Council on the grounds of impact to neighbouring trees. There is no evidence before me to indicate that the extension has caused harm or will cause harm to any trees on neighbouring properties.

#### **Conditions**

10. As the extension has already been built no conditions are necessary in this instance.

#### **Conclusion**

11. There are no material considerations to indicate that this appeal should be determined other than in accordance with the development plan. Therefore, for the reasons set out above, the appeal succeeds.

*M Chalk*

INSPECTOR



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## Appeal Decision

Site visit made on 24 August 2021

by **Diane Cragg DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 September 2021

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**Appeal Ref: APP/J1915/D/21/3269104**

**Chasedene, Millfield Lane, Little Hadham, Hertfordshire SG11 2ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
  - The appeal is made by Mr Sam Boaden against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/2054/ASDPN, dated 19 October 2020, was refused by notice dated 26 November 2020.
  - The development proposed is addition of one extra storey to existing dwellinghouse.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council refers to the appeal property as a detached two storey dwelling in its Delegated Officers report. However, subsequently the Council has clarified that the property is single storey, and its assessment of the prior approval proposal was based on the property having one storey. I have considered the appeal accordingly.
3. The Council has granted prior approval under Class AA of the GPDO for two schemes of different designs providing an additional storey to the appeal property<sup>1</sup>. I have had regard to these other schemes where relevant in my consideration of this appeal.

### Main Issue

4. The main issue is whether the proposed development would constitute permitted development under Schedule 2, Part 1, Class AA of the GPDO.

### Reasons

5. Chasedene is a detached pitched roofed bungalow comprising a central section with a pitched gable roof and sections to either side with a lower roof height recessed from the front elevation of the central section. Attached to the front of the recessed side sections are two forward projecting elements. These forward projections have pitched roofs set at right angles to the side sections with forward facing gables. The forward projections have a lower ridge height and an eaves height that match the side sections but not the central section of the

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<sup>1</sup> Local Authority references 3/20/2608/ASDPN and 3/20/2609/ASDPN

- bungalow. The bungalow has not been extended and all elements of the structure are part of the original dwellinghouse.
6. Schedule 2, Part 1, Class AA of the GPDO permits the enlargement of a dwellinghouse consisting of the construction of one additional storey, where the existing dwelling consists of one storey, immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction. This is subject to limitations and conditions.
  7. The Council considers that the development does not fall within the scope of Class AA. This is because the roof alterations to the central section of the bungalow, which facilitate a link to the additional storey, would not result in the creation of an additional storey. However, the scheme as a whole would create an additional storey to the existing single storey bungalow. Therefore, I am satisfied that the appeal proposal would fall within the scope of Class AA.
  8. In terms of the limitations and conditions of Class AA, the main dispute focuses on whether the single storey structures projecting forward of the front of the bungalow fall under the definition of the 'principal part' of the building. Part AA.1 (i) does not permit any additional storey constructed other than on the principal part of the dwellinghouse. The GPDO sets out that for the purposes of Class AA, 'principal part', in relation to a dwellinghouse, means the main part of the dwellinghouse excluding any front, side or rear extension of a lower height, whether this forms part of the original dwellinghouse or is a subsequent addition.
  9. The appellant considers that the dwelling is a single architectural composition with a variety of roofs of different heights and no clearly identifiable principal part as evidenced by the internal floor plan. I agree that elements of a structure that are part of an original building must inherently be part of the building's overall composition. However, 'principal part' is defined as the main part excluding any front extension of a lower height whether original or not. The definition is not qualified by reference to the property's internal arrangement.
  10. In this case, the front projections of the bungalow have a much lower ridge line and are at right angles to the central and side sections of the bungalow. The scale and mass of these forward projections are markedly different so that even though they were constructed as part of the original building, in the building design they form front extensions to the property. Accordingly, based on the evidence submitted, I consider that extending the proposed first floor over these elements of the dwelling does not comply with the requirements of Part AA.1.(i) of the GPDO.

### **Other Matters**

11. Conditions in Part AA.2.(3)(a) require the developer, before beginning the development, to apply to the local planning authority for prior approval for certain matters set out in Part AA.2.(3)(a) (i-iv). The Council does not raise any issues in relation to compliance with the GPDO in respect of these prior approval matters. Based on the evidence before me and following my site visit, I see no reason to disagree.

12. There is no disagreement between the parties that the central section of the bungalow and its lower side sections are principal parts of the building as evidenced by the grant of prior approvals for an additional storey over these parts of the bungalow. However, whether a proposal is permitted development is based on the limitations set out in legislation under Part AA.1 and previous grants of prior approval under Class AA of the GPDO, do not represent a fallback position in considering whether the proposed development is permitted under the terms of the legislation.

**Conclusion**

13. The proposal would not comply with paragraph AA.1.(i) of the GPDO and therefore prior approval cannot be given for the proposal. Consequently, for the reasons given above, the appeal is dismissed.

*Diane Cragg*

INSPECTOR



## Appeal Decision

Site visit made on 24 August 2021

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

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

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**Appeal Ref: APP/J1915/W/21/3271796**

**Land between Waingate and Rainbow Lodge, Levens Green, Ware, Hertfordshire SG11 1HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr Glen Stacey against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/2073/PIP, dated 21 October 2020, was refused by notice dated 1 December 2020.
  - The development proposed is for the erection of a dwelling and detached garage.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise.
3. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second, Technical Details Consent (TDC) stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted<sup>1</sup>. All other matters are considered as part of a subsequent TDC application if permission in principle is granted. I have determined the appeal accordingly.
5. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes, but no comments have been received. Therefore, I will not prejudice any party by taking the Framework into account in reaching my decision.

### Main Issues

6. The main issue of the appeal is whether the location, the proposed land use and the amount of development is suitable with particular regard to:

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<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

- i. local and national policy relating to the sustainability of the location and accessibility to services and facilities; and,
- ii. the effect on ecology/biodiversity.

## **Reasons**

### *The sustainability of the location.*

7. The development strategy for the Council is set out in Policy DPS2 of the adopted East Herts District Plan 2018 (DP). Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. DP Policies VILL 1-3 categorise the villages in the district into three groups depending on their size and the facilities and services available. The site is located within Levens Green, which has the characteristics of a rural hamlet, lacking in its own services and facilities.
8. The DP identifies Levens Green as a Group 3 village, which establishes that limited infill development identified in an adopted Neighbourhood Plan (NP) will be permitted. However, the appeal site does not benefit from a made NP. DP Policy GBR2 permits development in the rural area beyond the Green Belt subject to a number of criteria, including the limited infilling or partial or complete redevelopment of previously developed sites (PDS) in sustainable locations, and where the development will be appropriate to the character, appearance and setting of the site and/or surrounding area.
9. The Council have not raised any concerns surrounding the effect of the scheme on character and appearance, and I agree that a scheme could be developed to avoid any harmful issues in this regard. Additionally, the appellant is not relying on PDS. Nonetheless, DP Policy GBR2 goes on to state that development should be in sustainable locations. In addition, DP Policy TRA1 requires new development to be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives. Although, I do not consider the site to be isolated in the context of paragraph 80 of the Framework, given its proximity to other properties, it would appear highly likely that future occupiers would have to rely heavily on the use of a private motor vehicle.
10. The appellant asserts that a range of services and facilities are present in settlements in the wider area, particularly at Dane End, Standon and Puckeridge. However, the road network in the locality of the site generally comprises unlit rural lanes with no footpaths. These circumstances do not lend themselves to regular pedestrian activity and would be unlikely to encourage cycling to access the neighbouring services and facilities, in particular, at times of darkness or inclement weather conditions. Therefore, the site is not ideally located in terms of access to services and facilities by modes of transport other than by private motor vehicle, where a dependency on motorised travel would occur.
11. I acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that development in one village may support services in a village nearby. I also accept that the proposed development is unlikely to generate significant vehicle movements. Nonetheless, the proposed development would be contrary to the aims of the

policies cited above and not reduce the need to travel and encourage such travel by sustainable means as advocated by the Framework.

12. For the reasons given above, I find that the proposed development would conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development. Accordingly, there would be conflict with the Council's overall development strategy aims contained within DP Policies DPS2, GBR2, VILL3 and TRA1. The proposed development would also be contrary to the requirements of the Framework.

### *Ecology/biodiversity*

13. The appeal site is in a rural location where there could be a wide variety of species using the land for foraging or as a natural habitat. I am aware that both protected and non-protected species may be directly impacted upon. I acknowledge the Ecological Appraisal undertaken by Coyne Environmental dated March 2021 (EA) submitted by the appellant to support his submission. However, there is a misgiving in the findings of the EA surrounding a failure to establish whether any protected species are present or not, with particular regard to reptiles.
14. Ecological protection matters are not diminished within the 'in principle' parameters triggered for consideration. This is underlined by statutory obligations to protect biodiversity under: Schedule 5 of the Wildlife and Countryside Act 1981 as amended; Regulation 39 of the Habitats Regulations 1994 (European protected animal species), and the provisions of Section 41 of the Natural Environment & Rural Communities Act 2006. Whilst I am satisfied that Biodiversity Net Gain could be secured at the TDC stage, there are potential risks to ecology in the locality, where it would not be appropriate to rely on the TDC stage, as adequate information would need to inform a decision on ecological interests at this point. This is also to ensure any on site mitigation or further surveys are acceptable, realistic, and achievable.
15. Therefore, in the absence of a reptile survey, or any substantive evidence to the contrary, I conclude that the proposed development could give rise to an unacceptable risk of harm to protected species. It would therefore conflict with the biodiversity aims of DP Policies NE2, NE3 and the requirements of the Framework. This is a matter to which I afford very significant weight in the overall planning balance.

### **Planning Balance and Conclusion**

16. Whilst I acknowledge the factors in favour of the proposed development, such as the economic and social benefits during the construction phase and the subsequent occupation of the proposed development, and an absence of other identified harm. These considerations do not outweigh or overcome the harm that I have identified on the main issues. Consequently, the scheme would not accord with the development plan when considered as a whole and the evidence does not indicate a decision other than in accordance with the development plan would be justified. For the reasons given above, I conclude that the appeal should be dismissed.

*W Johnson*

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: 6 August 2021**

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**Appeal Ref: APP/J1915/W/21/3270098**

**Land r/o Abbeyfield House, Cricketfield Lane, Bishops Stortford CM23 2SR**

- 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 Heritage Estate Group Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/2471/FUL, dated 7 December 2020, was refused by notice dated 27 January 2021.
  - The development proposed is Demolition of garage and erection of a detached two-bedroom bungalow.
- 

### Decision

1. The appeal is allowed, and planning permission is granted for the demolition of a garage and the erection of a detached two-bedroom bungalow at Land r/o Abbeyfield House, Cricketfield Lane, Bishops Stortford CM23 2SR, in accordance with the terms of the application, Ref 3/20/2471/FUL, dated 7 December 2020, and the plans submitted with it, subject to the conditions within the attached schedule.

### Preliminary Matters

2. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 20 July 2021. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.

### Main Issues

3. The main issues are:
  - the effect of the proposal on the character and appearance of the area, and
  - the effect of the proposed dwelling on the living conditions of existing neighbouring occupiers with respect to privacy and on future occupiers in regard to the quality of internal and external areas.

### Reasons

#### *Character and appearance*

4. Abbeyfield House addresses Cricketfield Lane. It is a large building that is currently undergoing conversion into five flats. The rear part of the garden has been severed by fencing from the rest of the site forming the appeal site. This site is higher than the ground floor of Abbeyfield House and connects with level

access onto Chantry Close. Chantry Close consists of a range of diverse house-types, including detached and semi-detached housing and single storey dwellings. The site has been cleared of buildings and is currently used as a store for building materials presenting a relatively untidy appearance. The site therefore makes a neutral contribution to the character and appearance of the area.

5. The proposed site would be not be back-land in nature, having a frontage onto Chantry Close. The proposed dwelling would be set back from the highway in a manner that would be similar to adjacent dwellings. Furthermore, the proposal would form a continuation of the adjacent pattern of development arranged around the head of the cul-de-sac. It would include an adequate garden area and car parking and would meet the Council's internal space standards. It would also be a sufficient distance from adjacent neighbouring dwellings. Accordingly, the proposal would not represent a cramped form of development or represent an over development of the plot.
6. The proposed dwelling would have a hipped roof, similar to nearby local dwellings. Its scale would also blend accord with the general form of adjacent garages set either side of the site and nearby bungalows. Accordingly, the proposal would complement the scale and arrangement of existing built form around the head of the cul-de-sac. The proposed weatherboarding is evident locally on some neighbouring dwellings around windows and within garage doors. As such, this material would be in keeping with other examples of its use found locally if coloured in a dark colour. Such a specification could be secured by agreement of a suitable planning condition with respect to the use of materials.
7. Consequently, the proposal would add visual interest to the currently unremarkable site. It would accord with the broad variety of house-types within the local streetscape and would not look out of place for this reason. Also, the proposal has sufficient space within its frontage to accommodate a bin storage area without detriment to the appearance of the area.
8. As a result, the proposal would complement the character and appearance of the area. Therefore, with respect to character and appearance considerations, the proposal would satisfy policy DES4 of the East Herts District Plan 2018 (DP). This seeks, among other matters, for development to promote local distinctiveness. This policy is consistent with the Framework which seeks development to be sympathetic to local character.
9. Policy HOU11 of the DP refers to extensions and alterations to dwellings, residential outbuildings and works within residential curtilages. This is therefore not relevant in the consideration of a proposal for a new dwelling.

#### *Living conditions*

10. The appeal site would share a rear boundary with 'Abbeyfield' and side boundaries with 'Glendon' and 'Sherrards'. Due to the change in levels across the site, the rearmost part of the dwelling would need to be raised out of the ground to achieve a level internal floor area. The proposed dwelling includes a window on the west facing elevation which would look towards the side boundary of 'Glendon'.

11. Although being raised above natural ground level, the rear elevation on the boundary contains no windows. A bedroom window would look towards 'Abbeyfield'. However, this is set away from the rear boundary and would provide limited overlooking towards windows due to the significant separation distance. As such, overlooking would not occur towards the rear elevation of 'Abbeyfield' to an extent that would result in demonstrable harm.
12. Furthermore, the garden and dwelling of 'Glendon' would be largely screened by boundary planting, intervening boundaries and the evident change in levels. Accordingly, there would be limited opportunities for views to be obtained towards the neighbouring property. Furthermore, whilst the proposed dwelling would be sited on higher ground it would have a sizeable separation distance to the existing dwellings that address Cricketfield Lane. This would further reduce any scope for overlooking towards rear windows of neighbouring dwellings.
13. The rear garden of the proposal is shown to be around 82sqms, with an internal floor area of about 69sqms. It is undisputed between parties that the proposal would satisfy the Nationally Prescribed Space Standards, although it is unclear to me whether these have been formally adopted by the Council. Nevertheless, the internal layout, size of rooms and total size appears to me to be reasonable to form a good quality of accommodation. Equally, the garden space is of a reasonable and regular size and private.
14. With respect to future occupiers access to daylight and sunlight, it is recognised that the rear windows would be north facing, with moderate access to direct sunlight. Nevertheless, all rooms have access to daylight via windows which are of a conventional size and form. Also, all windows afford views of either the highway or the dwelling's private garden. Therefore, none of these are so close to a boundary fence to result in demonstrable harm to access to daylight. As such, the proposal would provide suitable living conditions for future occupiers.
15. Accordingly, the proposal would not result in a detrimental impact on either existing neighbouring occupiers, future occupiers of the flats within 'Abbeyfields' by reason of privacy, or future occupiers of the proposed dwelling due to the quality of internal and external space. As such, in consideration of the effect of development upon living conditions, the proposal would satisfy policy DES4 of the DP. This requires, inter alia, for development to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties by reason of privacy. This accords with the Framework where it seeks development to achieve a high standard of amenity for existing and future users.

### **Other Matters**

16. The approved scheme, for the main house, included parking spaces within the retained garages to the rear. This would have provided between two and four parking spaces. The rear parking area would no longer be available due to the location of the proposed dwelling and severance of the site. However, the main dwelling would retain six spaces for the five flats within its frontage. The site is within parking zone 4, in a sustainable location, where the frontage parking alone would be adequate for the needs of occupiers of the flats. Furthermore, I recognise that the County Highway's engineer raised no objection to the proposal, a point of significant weight. I see no compelling reason to set aside these conclusions and therefore do not find the loss of rear parking to weigh against the proposal.

17. Noise disturbance during construction has been raised by interested parties. This would be a temporary form of disturbance and a condition could be imposed to limit the hours of construction. Furthermore, the noise and disturbance associated with the erection of a one dwelling would be unlikely to be substantial or materially harm the living conditions of adjacent residential occupiers.

### **Conditions**

18. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity. I have combined the Council's suggested conditions with respect to hardstanding for simplicity. Also, conditions with respect to landscaping would not be necessary due to the limited size of the frontage and its limited scope to accommodate any meaningful landscaped areas. Due to the small scale of the required construction works, and as 'best practical means' is an unclear instruction, it would be unreasonable and impractical to require wheel washing or other similar process to prevent mud or debris being deposited onto the highway.
19. The site was in former use as a garage. The Council's Environmental Health Department requested that a condition be included for a contaminated land survey. I am satisfied that such a condition would be necessary in the interests of living conditions of future occupiers of the dwelling. It would be necessary for the details of such a condition to be agreed by the Council prior to the commencement of development as it may include works to land beneath the footprint of the dwelling. I consider the pre-commencement condition to be so fundamental to the development that it would have been otherwise necessary to refuse permission [condition 3]. The appellant has agreed to the imposition of this, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
20. I have imposed the standard conditions with respect to implementation period and approved plans as advised by the PPG for clarity and certainty [1 and 2]. Conditions are also necessary with respect to the provision of tree retention, materials and car parking in the interests of the character and appearance of the area [6, 10 and 12]. It is also required to impose conditions to limit the hours of construction and to require details of the means of enclosure in the interests of living conditions of neighbouring occupiers [5 and 11]. Conditions with respect to heating and water efficiency, an electric car charging point and internet access are necessary to meet the requirements of policies CC1, DES4(d), WAT4 and EQ4 of the DP [4, 7, 8 and 9].
21. The Council has suggested that a condition be imposed to remove permitted development (PD) rights conveyed by Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. However, Class A-D works in connection with extensions and roof alterations, undertaken in the exercise of PD rights, could result in adverse privacy and outlook impacts for neighbouring occupiers. Whereas a porch, hardstanding, outbuildings and other minor works would be unlikely to affect such interests. The rights conveyed by Class A-D

have therefore been removed in the interests of the protection of living conditions of neighbouring occupiers [13].

22. Furthermore, a condition to regulate the driving behaviour of new occupiers, when approaching the site, would be unreasonable and unenforceable. Such a condition would not therefore pass the necessary tests of the Framework.

**Conclusion**

23. The proposal would complement the character and appearance of the area, would not result in material harm to existing or future living conditions and would accord with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal is allowed, and planning permission granted subject to the imposed conditions.

*B Plenty*

INSPECTOR

### **Schedule of 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 plan: proposed dwelling – 14193-GP001-B.
- 3) Prior to the commencement of the development hereby approved a scheme to deal with contamination of land and/or groundwater shall be submitted to and approved by the Local Planning Authority and the development should be implemented in accordance with the approved scheme. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing: 1. A desk-top study to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the Local Planning Authority shall be fully established before the desktop study is commenced and it shall conform to any such requirements. 2. A site investigation to characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until (i) A desk-top study has been completed satisfying the requirements of paragraph (1) above; (ii) The requirements of the Local Planning Authority for site investigations have been fully established; and (iii) The extent and methodology have been agreed in writing with the Local Planning Authority. A written method statement for any necessary remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of development and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority.
- 4) Prior to the completion of foundations, details of the design and construction of the dwellings to demonstrate how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in the winter to reduce energy demand and reduces water demand, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
- 5) Prior to the first occupation of the approved dwelling, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected prior to occupation of the dwelling and retained in accordance with the approved details.
- 6) Prior to the first occupation of the dwelling hereby approved, the on-site parking spaces shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure the satisfactory parking of vehicles outside highway limits. These areas shall be retained for such use in perpetuity. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

- 7) Prior to first occupation of the development hereby approved, an electric vehicle charging point for the dwelling shall be provided and retained thereafter.
- 8) Prior to the first occupation of the development hereby approved, the provision of high-speed broadband internet connections to the development shall be provided and shall be made available for use prior to first occupation of the residential unit to which it relates.
- 9) Prior to the first occupation, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
- 10) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans. The colour of the proposed timber cladding shall be submitted and agreed by the local planning authority prior to its installation and maintained as such in perpetuity.
- 11) In connection with all construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 12) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouse shall be undertaken within the curtilage of the dwellinghouse as described by Article 3, Schedule 2, Part 1, Class A, AA, B, C and D of that Order.

## **End of conditions**



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# Appeal Decision

Site visit made on 15 June 2021

**by K Stephens BSc (Hons) MTP MRTPI**

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

**Decision date: 03 September 2021**

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## **Appeal Ref: APP/J1915/W/21/3277099**

### **Malton's, Cambridge Road, Thundridge, Ware SG12 0ST**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr A Shafiy against East Hertfordshire District Council.
  - The application Ref 3/21/0256/FUL, is dated 29 January 2021.
  - The development proposed is for the "A covered pergola and enclosure of both the pergola and former smoking shelter with removable canvas sides".
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. I made a site visit on 15 June 2021 for an enforcement appeal<sup>1</sup> before this planning appeal was ready to determine. It has not been necessary for me to re-visit.
3. In the heading above, I have amended the description from that on the application form by deleting the words 'Retrospective application' and 'retention' as these are not definitions of development.
4. Whilst the application is retrospective I have dealt with the appeal on its planning merits.
5. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published on 20 July 2021. It officially replaces the previous version published in February 2019. The parties have had the opportunity to comment on the revised Framework and in reaching my decision I have had regard to it.

### **Background**

6. Back in 2008, a timber open-sided smoking shelter was granted planning permission<sup>2</sup>. It is a simple timber upright open-sided structure with a curved polycarbonate roof. Alternate trellis is panels fill in parts of the open sides.
7. The appeal development comprises two elements. Firstly, in 2018 removable and roll-up canvas panels with clear plastic windows were attached to the existing smoking shelter, together with the installation of bi-fold doors to the end nearest the rear of the pub building to allow easy access into the smoking

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<sup>1</sup> Appeal Ref: APP/J1915/C/21/3270454 dated 14 July 2021

<sup>2</sup> LPA ref: 3/07/2528/Fp granted 28 January 2008



shelter. Before its enclosure, the smoking shelter was apparently already being used as an additional seating area to provide additional dining covers. At the same time, a timber pergola with flat polycarbonate roof was constructed over the existing outside terrace/patio area that sits between the rear of the pub and the smoking shelter. The pergola roof connects to the smoking shelter.

8. Secondly, as part of the opening up of pubs and restaurants after 'lockdown' during the Covid-19 pandemic, in October 2020 the appellant attached similar roll-up canvas sides to the pergola to extend the use of the patio area for dining in inclement weather.
9. The appeal is against the non-determination of the planning application within the prescribed period, so there is no formal decision on the application. The Council is relying on its Officer Delegated Report in which it indicates three putative reasons for refusal. I have treated those concerns as the basis of the decision the Council would have made had it been empowered to do so.

### **Main Issues**

10. The main issues are:-

- Whether the appeal development would be inappropriate development in the Green Belt, having regard to the Framework and the development plan;
- The effect of the appeal development on the openness of the Green Belt and purposes of including land within it;
- The effect of the appeal development on the character and appearance of the area;
- The effect of the appeal development on highway safety with regard to parking, and
- If the proposed development constitutes inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations which amount to very special circumstances required to justify a grant of planning permission for the alleged development.

### **Reasons**

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

11. The appeal site comprises a part two-storey, part single storey roadside public house (formerly The Sow and Pigs) at the junction of Cambridge Road and Poles Lane. There is a car park to the rear for approximately 45 vehicles, accessed off Poles Lane. The site is located in the Metropolitan Green Belt and within Poles Park, an Historic Park and Garden.
12. The Framework identifies that the fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

13. Policy GBR1 of the East Herts District Plan 2018 (the District Plan) seeks to protect Green Belt from inappropriate development in accordance with the provisions of the Framework and where some development is deemed appropriate. When determining planning applications, substantial weight will be given to any harm in the Green Belt, and inappropriate development should not be approved except in very special circumstances. I find Policy GBR1 is broadly consistent with the Framework.
14. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions. The Council have considered the development under paragraph 149c) which allows for "the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building". The appellant considers the development to be "the re-use of buildings provided the buildings are of a permanent and substantial construction" under paragraph 150d) of the Framework.
15. Whilst the smoking shelter is fairly robust and designed to be in place for a while, it is effectively an open-sided structure with upright timber posts and alternate timber trellis panels and a polycarbonate roof. Canvas panels have been fixed to the sides, which can be rolled up. Similarly, the pergola and its polycarbonate roofing is a light weight open-sided structure, only enclosed by canvas roll-up sides. In my view these do not constitute buildings of permanent or substantial construction for the purposes of 150d) of the Framework. I concur with the Council that the development falls to be considered under paragraph 149c).
16. I am led to understand that in 1979 the original building had a floor area of about 209sqm, and that approved extensions that have been carried out have increased the ground floor by about 151sqm. Therefore the building has already been substantially extended. The submitted plans show the extensions and alterations retained the principally linear form of the building. The approved smoking shelter was a free-standing open-sided timber structure located some distance away from the back of the building, separated by an intervening outside seating area, such that it was physically and visually not part of the built form of the building.
17. The pergola, with its polycarbonate roof, now joins the smoking shelter making a bigger structure. This has effectively extended the premises and significantly increased its size and footprint. The canvas sides, when rolled down, exacerbate this. Furthermore, the linking of these structures to the rear of the building have altered the form of the building, giving it additional volume and massing and creating a long 'L' shaped plan.
18. These factors have resulted in a substantial enlargement of the building that represents disproportionate additions over and above the size of the original building. Consequently, the development constitutes inappropriate development in the Green Belt.

#### *Openness and Green Belt purposes*

19. For the type of development under paragraph 149c), openness does not form part of the consideration of whether the development is inappropriate in the first place. Therefore I need to assess the harm to openness separately.

20. Openness requires consideration of both spatial and visual aspects. Even though the development is located at the far side of the car park furthest from the car park entrance and cannot be seen from the Cambridge Road, it can still be seen from the pub car park and from Poles Lane and is therefore capable of affecting openness.
21. The erection of a roofed pergola over an existing outside patio area now introduces a structure that has volume and mass and which is physically present and occupies space on the ground that was previously free of built development. Linking the pergola roof with that of the smoking shelter serves to increase continuous built form where there was previously none and this further reduces openness.
22. The canvas sides on the pergola and smoking shelter will have varying effects on openness depending whether the sides are up or down. The structure can also be seen from public vantage points and from the pub car park as customers approach the building.
23. As a result, the appeal development has significantly reduced the spatial and visual openness of the Green Belt. Furthermore, whilst the appeal development is sited within the curtilage of the property, the alterations take built form further towards the adjacent and surrounding countryside. As such, the appeal development also fails to safeguard the countryside from encroachment.

*Conclusion on inappropriate development in the Green Belt*

24. I find the appeal development represents disproportionate additions over and above the size of the original building. As such the development does not fall within the exception set out in paragraph 149c) of the Framework. It is therefore inappropriate development in the Green Belt for the purposes of Policy GBR1 and the Framework. There is also a reduction in openness and conflict with one of the purposes of including land within the Green Belt contrary to paragraphs 137 and 138 of the Framework, respectively.

*Character and appearance of the area*

25. District Plan Policy DES4 relates specifically to the design of development and requires all development to be of a high standard of design and layout and to reflect and promote local distinctiveness. Policy THH4 of the Thundridge Neighbourhood Plan (the 'Neighbourhood Plan') requires the scale and design of new development to reflect the traditional character of the built environment and expects building materials to be in harmony with existing properties. As the Neighbourhood Plan is not yet part of the development plan I give it less than full weight.
26. The pub stands on the roadside in a predominantly rural area, close to the entrance of the historic Hanbury Manor (now a hotel) and its former lodge. The pub building is of traditional construction with a mix of brick, render and timber cladding, and presents an attractive and well kept building.
27. Whilst there is an entrance to the building from the road, customers can also approach from the car park. As such the structures form part of the entrance to the property. Indeed on my visit, I saw there was a reception point by the pergola.

28. The pergola and smoking shelter, linked by the roofing, are not read as stand-alone structures. I saw that the canvas sides, the pergola structure, smoking shelter and its trellis panels, have been painted grey to match and complement the grey windows to the building, giving visual cohesion and corporate identity. Nonetheless the structures are sizeable and visible from Poles Lane and the approach from the car park. The use of canvas sides with plastic windows and polycarbonate roofing make the structures look temporary. These materials are not traditional or long-lasting, and are likely to deteriorate with age and use. This gives a make-shift appearance and the crinkly nature of the plastic windows and the ripples in the canvas compounds this. Consequently, the development is not of a high standard of design quality that is in keeping with the traditional character of the property. As such the development detracts from the overall appearance of the property and the area. The site's location within an Historic Park & Garden adds weight to my finding.
29. For the reasons above I find the appeal development harms the character and appearance of the property and the area. Accordingly, it is contrary to District Plan Policy DES4 and Neighbourhood Plan Policy THH4, whose aims are outlined above.

#### *Parking*

30. The car park currently has between 41-45 spaces, according to the application form and appellant's Statement respectively. From the Council's updated parking standards, which are a guide, and applying a 25% reduction due to the site's location within Zone 4, the Council calculates a requirement for 76 customer and staff spaces. Hence there is an under provision.
31. The appellants simply state that parking provision is 'perfectly adequate' to meet the needs of the development. However, I have not been supplied with any parking information or data, such as average occupancy of the car park and customer numbers during the week and at different times, to justify this statement.
32. Nonetheless, the pub has been trading on this site for a good many years, even if the nature of the business may have changed during that time. In addition the enclosed smoking shelter and the pergola have existed since 2018 and have been used for additional seating. I have not been provided with any substantive evidence that on-street parking is occurring, or if it is the scale and nature of the parking problem that has caused the Council and Parish Council to have concerns. I have not been advised that on-street parking is causing accidents or impeding traffic flows or causing highway danger. I note the Highway Authority has not commented on the application.
33. There are bus stops outside the premises for services in both directions, which offers a non-car mode of transport. However, the site is in a primarily rural location where there is likely to be a high car-dependency by customers. I am led to understand that Cambridge Road is busy, although at the time of my visit, albeit a snap shot in time, it was quiet. I did note however, that the premises it was not far from the junction with the A10, which is a major road linking London and Norfolk. I saw a pedestrian crossing refuge in the road that effectively narrows the carriageway outside the pub and Poles Lane is narrow. I could see that any on-road parking outside the pub could affect traffic flows.

34. However, pubs and particular those serving food, are more likely to be busier at lunchtimes, evenings and at weekends such that customers are unlikely to coincide with busier commuter times in the morning and early evening.
35. I therefore conclude, based on the limited evidence before me, that whilst there is some conflict with District Plan Policy TRA3, a lack of parking does not give rise to significant highway safety issues. Accordingly, I do not find conflict with District Plan Policy TRA3, which is a general parking policy that requires the Council's parking standards to be taken into account based on a number of factors and on a site-specific basis.
36. This is a neutral factor in my consideration of the appeal scheme before me.

#### *Other Considerations*

37. The effects the Covid-19 pandemic has had on the hospitality trade is well documented. I am told that social-distancing requirements have reduced the number of table covers by about half at the appeal pub. I am sympathetic to the general economic difficulties the appellant's business may have encountered as result. I am therefore mindful that the canvas sides to the pergola may have helped create greater flexibility to help with the ongoing viability of this rural business and help the appellant continue to employ local staff.
38. Nonetheless, I have not been provided with any substantive evidence about how the business operates and how it has been affected. The covered pergola and enclosed smoking shelter were already being used for seating/dining before the pandemic and the first lockdown in March 2020.
39. The appellant cites an extract from District Plan Policy CLR7 in terms of flexibility, but I have not been provided with any details of this policy and its context to be able to comment further. The Framework advises that planning decisions should encourage the retention and development of accessible local services and community facilities, including public houses. The struggles and closures facing public houses are well documented.
40. There is no clear indication as to when or if 'normality' will return and how long various social-distancing measures will be encouraged or imposed. The after-effect on the hospitality trade and society's habits in general are also unknown. To that end I have wondered whether I could grant a temporary permission until the economic situation improves, but that is too indefinite. In any event, the appeal development would still be physically present and continue to cause harm to the Green Belt and the character and appearance of the area.

#### *Other Matters*

41. The Council's suggested condition restricting opening hours would not mitigate against the harm to the Green Belt and character and appearance of the area.
42. I acknowledge the appellant's concerns with the Council's handling of the application and the enforcement notice, but in reaching my decision I have been concerned only with the planning merits of the case.

### *Green Belt balance*

43. The development represents inappropriate development in the Green Belt which is harmful by definition. I have also found harm to openness and conflict with one of the Green Belt purposes. Inappropriate development should not be approved except in very special circumstances, which will not exist unless the harm to the Green Belt, by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
44. Any harm caused to the Green Belt must be given substantial weight. I have also found harm to the character and appearance of the building and area. These are serious planning objections.
45. On the other side of the balance the Framework advises that planning decisions should encourage the retention and development of accessible local services and community facilities, including public houses. I give this significant weight. I am also sympathetic to the appellant's business and any difficulties encountered during the Covid-19 pandemic and the various lockdowns when pubs and restaurants had to close. However, the roofed pergola and canvas sides to the smoking shelter were put in place before the pandemic and various lockdowns. For these reasons I give moderate weight to the appellant's business circumstances.
45. I find the other considerations advanced in this case do not clearly outweigh the totality of the harm I have identified to the Green Belt and to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the appeal development do not exist.
46. For these reasons, and with regard to all other matters, I conclude that the appeal development conflicts with District Plan Policies GBR1 and DES4. There would also be conflict with Neighbourhood Plan Policy THH4.

### **Conclusion**

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

*K. Stephens*  
INSPECTOR