



Appeal Decision

Site visit made on 26 October 2021

by **Darren Hendley BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th November 2021

Appeal Ref: APP/J1915/W/21/3272107

Bircherley Green Shopping Centre, Hertford SG14 1BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Alan Ward against the decision of East Hertfordshire District Council.
 - The application Ref: 3/19/2614/FUL, dated 17 December 2019, was approved on 6 November 2020 and planning permission was granted subject to conditions.
 - The development permitted is a mixed use re-development comprising partial demolition of existing buildings and replacement with 3419 square metres of commercial floorspace (Use Classes A1-A4, D1), an 86-bed hotel (Use Class C1), 98 residential apartments (use class C3), alterations to an existing car park, new bus station facilities and associated works and improvements.
 - The condition in dispute is No 15 which states that: *Prior to the first occupation of any part of the development hereby permitted, a Delivery and Servicing Management Plan, as required in relation to the hotel, commercial units and residential units, shall be submitted to and approved in writing by the Local Planning Authority. The Delivery and Servicing Plan shall include restrictions on commercial delivery times to between 07.00hrs and 10.00hrs on all days to the riverside and pedestrianised retail area, vehicle tracking and contain the delivery and servicing requirements (including refuse collection) for the proposed uses, a scheme for coordinating deliveries and servicing for the proposed development, areas within the development site that will be used for the loading and manoeuvring of delivery and service vehicles and access to/from the site for delivery and servicing vehicles such plans. Once agreed the development shall be constructed to enable the agreed arrangements to be implemented and shall subsequently be operated as agreed.*
 - The reason given for the condition is: *In the interests of amenity of the public shopping area and to reduce conflict with users and to ensure an adequate level of amenity for nearby residents, in accordance with policy EQ2 of the East Herts District Plan 2018.*
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Decision

1. The appeal is allowed and the planning permission Ref: 3/19/2614/FUL for a mixed use re-development comprising partial demolition of existing buildings and replacement with 3419 square metres of commercial floorspace (Use Classes A1-A4, D1), an 86-bed hotel (Use Class C1), 98 residential apartments (use class C3), alterations to an existing car park, new bus station facilities and associated works and improvements at Bircherley Green Shopping Centre, Hertford SG14 1BN granted on 6 November 2020 by East Hertfordshire District Council, is varied by deleting condition 15 and substituting for it the following condition:

- 1) Prior to the first occupation of any part of the development hereby permitted, a Delivery and Servicing Management Plan, as required in relation to the hotel, commercial units and residential units, shall be submitted to and approved in writing by the Local Planning Authority. The Delivery and Servicing Management Plan shall include the hours of the commercial delivery times on all days to the riverside and pedestrianised retail area, vehicle tracking and contain the delivery and servicing requirements (including refuse collection) for the proposed uses, a scheme for coordinating deliveries and servicing for the proposed development, areas within the development site that will be used for the loading and manoeuvring of delivery and service vehicles and access to/from the site for delivery and servicing vehicles. The development shall be carried out in accordance with the approved details and shall be thereafter operated as approved.

Procedural Matter

2. The revised National Planning Policy Framework (revised Framework) has been published since the appeal was submitted. Both main parties have had the opportunity to comment on this matter during the course of the appeal. I have considered it in my decision.

Background and Main Issues

3. The appeal concerns the site of a former shopping centre. The appellant applied to the Council to redevelop the site for a mixed use development. This included commercial floorspace, amongst other uses.
4. The Council granted planning permission¹ for the development. In approving the application, the Council applied condition 15 which concerned the submission of a Delivery and Servicing Management Plan. This is to include restrictions on commercial delivery times to between 07.00 hours and 10.00 hours on all days to the riverside and pedestrianised retail area approved as part of the development, amidst other matters.
5. There is no dispute over the need to submit a Delivery and Service Management Plan. The appellant wishes for the condition to be varied to meet the needs of the potential occupiers of the commercial floorspace, in particular prospective retailers, by way of providing more flexibility with the commercial delivery times to be agreed with the Council. The Council has concerns this would not accord with the ambitions for the redevelopment of the site because it would create conflict between delivery and servicing vehicles and other users, especially pedestrians. The Council has also referred to living conditions matters.
6. As a consequence, the main issues are the effect of the proposal on (i) the enjoyment of the use of the public shopping area, in particular with regard to the potential for conflict with other users; (ii) the living conditions of the occupiers of nearby residential properties, in particular by way of noise.

¹ Council ref: 3/19/2614/FUL

Reasons

Use of the Public Shopping Area

7. The appeal site comprises a large area of land within Hertford Town Centre. It was evident from my site visit that part of the site has already been cleared and some of the construction works were underway. The site also contains the bus station for the town and an adjacent multi-storey car park.
8. The site bounds the River Lea to the north where there is an associated paved walkway, although this is not currently accessible. On the opposite side of this canalised waterway, there is a public house and a terrace of cottage-like residential properties. There are more modern residential properties on Bircherley Street, to the east of the site. Railway Street to the south is more commercial in nature. It leads into the part of the town centre close to the site that contains numerous shop units, including a number that are occupied by national retailers. There is also a pedestrian approach into the site from this direction.
9. The Council's Hertford Town Centre Urban Design Strategy (2016) (Design Strategy) identifies the site as a key opportunity site, including by way of turning the riverside into an attractive destination, attracting retail and extending the leisure offer. The Design Strategy includes creating active frontages along the river.
10. The approved development provides for such an approach by way of a layout that shows units being orientated towards the river with a frontage of hard landscaping. This open area would act as a shared space between pedestrians and service and delivery vehicles. There would also be outdoor seating in this area, along with some planting. Service and delivery vehicles would also be able to utilise the central pedestrian walkway that would connect the Railway Street approach to the riverside.
11. As approved, all commercial deliveries could only take place within a 3 hour period. Whilst the Council consider that the times avoid periods when people would be typically looking to visit the town centre, it would mean that pedestrians during those times would face potentially a concentration of such vehicles vying to service the proposal. This time of day may not be the busiest, but it would still be at a time when pedestrians may visit coffee shops, or take breakfast in a café type use. The approved layout suggest that the riverside and pedestrian walkway areas would ably attract these types of retail use. There would also be the likely presence of those people on their way to employment in the town centre.
12. Nor is it proposed by the appellant that there would be no controls over the hours of the commercial delivery times. As such, the Council would still have the potential to seek to control such hours to minimise conflict through its required approval of the Delivery and Servicing Management Plan. Clearly pedestrian safety needs to be a priority, but in a way that does not cause undue conflict during all times when commercial deliveries would be permitted.
13. Accordingly, it is not apparent why the proposed change to the condition would lead to accidents or hazard because there would still be controls over the hours and as the approved layout would remain unaltered. The same applies

concerning drop off and pick up areas for riverboat trips that have been referred to in the submissions.

14. Such an approach would also not have the effect of making the approved development obviously less attractive to users. The built aspects of the approved development and uses would remain, as would its riverside facing nature and the associated frontage. It would still create a high quality and active public realm that would align with the objectives and aims of the Design Strategy. There would in all likelihood still be times when the approved development would be free of such vehicles.
15. The approved development also includes service yard provision. Based on the evidence before me, this would not serve all of the commercial premises. Utilising the multi storey car park would also not provide a practical alternative as its use is for the parking of cars. As a consequence, these matters do not alter my conclusion.
16. Supporting the vitality and viability of town centres is also a planning consideration that attracts weight under the revised Framework. A condition that allows the hours of the commercial delivery times to be agreed would also allow for this consideration to be taken into account in deciding on what those hours should be, also having regard to the effect on other users.
17. Taking the above considerations together, I conclude that the proposal would not have an unacceptable effect on the enjoyment of the use of the public shopping area, in particular with regard to the potential for conflict with other users.

Living Conditions

18. The nearest existing residential occupiers to the proposal would be those on the opposite side of the River Lea to the site and on Bircherley Street, as well as where there may be residential accommodation above other uses in this part of the town centre. I am mindful of the proximity of these residential properties to the site, in particular the properties that would face the riverside frontage area, and of the experiences that some local residents have had in relation to delivery noise. There would also be future residential occupation within the site, as part of the overall redevelopment.
19. A condition that allows the hours of the commercial delivery times to be agreed would also be able to control the hours in the interests of minimising the effects of noise. Noise from refrigerated units and cage movements would also be able to be considered in this way. This should give local residents some assurance that the effect on their living conditions would not be unacceptable.
20. A number of other noise matters have been raised which lie beyond the scope of the condition, especially in relation to other aspects of the proposed redevelopment. These lie outside of what I can reasonably consider in my decision as it concerns condition 15.
21. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of nearby residential properties, in particular by way of noise. Thus, it would comply with Policy EQ2 of the Council's East Herts District Plan (2018) where it refers to relevant noise pollution matters, including minimising the impact of noise on the surrounding environment, the

proximity of noise sensitive uses and the impact on health, amongst other considerations.

Other Matters

22. I sought the views of the main parties in respect of the wording of the revised condition that is set out in my decision paragraph. In response, the appellant raised a number of matters that were not presented in the original appeal submission. In particular, the appellant sought for the condition to differentiate between the proposed hotel and the remainder of the scheme.
23. It is however important that what is considered by an Inspector is essentially what was considered by the local planning authority, and on which interested parties' views were sought. This would not be the case, if the condition was altered in this way. Moreover, there are alternative means of dealing with this issue through the planning system rather than evolving what is proposed through the appeal process. It is ultimately a matter for the appellant and the Council.
24. The Council has made me aware that a previous permission for a development of the site also applied the same hours for commercial deliveries, which it is said the appellant would have been aware of. My decision-making is not fettered in this way because I have considered the proposal before me with regard to the tests for conditions that are set out in paragraph 56 of the revised Framework.
25. That the appellant did not submit an application to the Council to vary the condition also has a limited bearing because there is the right to appeal against the grant of planning permission for development subject to conditions which the appellant objects to.
26. The site lies within the Hertford Conservation Area. The proposal would preserve or enhance the character or appearance of the conservation area because enabling the hours of the commercial delivery times to be agreed would have a limited impact in this regard.

Condition

27. I have imposed a condition that requires the submission of the Delivery and Servicing Management Plan. Such details to be agreed shall include, amongst others, the hours of the commercial delivery times. This is in the interests of the enjoyment of the public shopping area, limiting the conflict with other users and protecting the living conditions of the occupiers of nearby residential properties.
28. This condition replaces condition 15 on the planning permission that is the subject of this appeal. The other conditions on this permission remain unaltered and should be read alongside my decision.

Conclusion

29. The proposal would not have an unacceptable effect on the enjoyment of the use of the public shopping area, in particular with regard to the potential for conflict with other users and on the living conditions of the occupiers of nearby residential properties, in particular by way of noise. I have considered all matters that have been raised but none would demonstrate that condition 15 is

reasonable and necessary. It would not comply with the tests for planning conditions that are set out in the revised Framework and the related advice in the Planning Practice Guidance concerning the application of these tests.

30. Accordingly, I conclude that the appeal should be allowed and condition 15 should be removed, subject to the imposition of a condition that allows the hours of the commercial delivery times to be agreed as part of the submission of the Delivery and Servicing Management Plan.

Darren Hendley

INSPECTOR



Appeal Decisions

Site Visit made on 27 September 2021

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2021

Appeal A: APP/J1915/Y/20/3262436

Water Tower, Devey Way, Goldings Estate, Waterford SG14 2WH

- 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 Eugene Flannery of Goldings Estate Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1320/LBC, dated 13 July 2020, was refused by notice dated 25 September 2020.
 - The works proposed are the restoration and conversion of water tower for ancillary residential use for Goldings Estate involving external western red cedar cladding and windows on all 4 elevations, restoring of the steel drum to be painted light grey, and new internal floors and staircase.
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Appeal B: APP/J1915/W/20/3262433

Water Tower, Devey Way, Goldings Estate, Waterford SG14 2WH

- 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 Eugene Flannery Goldings Estate Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1314/FUL, dated 13 July 2020, was refused by notice dated 25 September 2020.
 - The development proposed is the restoration and conversion of water tower for ancillary residential use for Goldings Estate, with the insertion of cladding and windows to the lower structure.
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Decisions

Appeal A: APP/J1915/Y/20/3262436

1. The appeal is dismissed.

Appeal B: APP/J1915/W/20/3262433

2. The appeal is dismissed.

Main Issues

3. The first main issue is whether the proposal would fail to preserve the special architectural and historic interest of the listed building, fail to protect the Registered Park and Garden (Appeal B only), and cause harm to the significance of either of these designated heritage assets, and if harm would be caused, whether it would be outweighed by any public benefits.
4. A second main issue that relates just to Appeal B is whether it would be inappropriate development in the Green Belt and, if it would, whether the harm arising from this is clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

Heritage impact

5. These appeals concern a water tower that takes the form of a water tank, 13m or so above the ground, that is supported on 4 metal pillars with interlinking slats. It was built sometime around the turn of the last century to serve the Grade II* listed Goldings Manor, in whose grounds it stands. These grounds have now been designated as a Grade II listed Registered Park and Garden.
6. The appellant describes the tower as being 'unlisted' on the application form. However, Section 1(5) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* states that

any object or structure within the curtilage of the building [included on a list compiled or approved by the Secretary of State] which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948 shall be treated as part of the building.

In the light of this I shall treat it as part of the listed building.

7. The Manor is a large Elizabethan-style country house that dates substantially from the 19th Century and is some 70m away from the tower. Externally, the special architectural and historic interest of the Manor lies partly in the quality of its detailing and its scale show it to be a dwelling of high status from that era, and these very much add to its significance.
8. The Registered Park and Garden can be broadly summarised as comprising the formal gardens immediately around the Manor, the surrounding farmland and water features, and, in between, areas of trees and grassland. Its significance arises partly from the formal planning of its layout and vistas, and partly from the way in which it provides the Manor with a context befitting its status. Although the nature of the grounds has changed over the last 20 years or so with the introduction of more houses and associated activity, to my mind the significance of the Registered Park and Garden is still apparent. The water tower stands away from the more formal area of garden in the trees and grassland.
9. I consider that, as a sizeable piece of functional apparatus built to serve the estate, the water tower contributes to an understanding of the history and evolution of this site. As a result it adds positively to the historic interest and the significance of the Manor and to the significance of the Registered Park and Garden. Overall, I consider the water tower at present is very open in appearance and is not particularly intrusive, as views are generally through the supporting pillars. Although the pillars are plain metal they are slender, whilst the solid 5m tall water drum on top is up amongst the tree canopies and so not readily apparent.
10. There is not a strong visual relationship between the water tower and the Manor because of the intervening trees, and so the works before me would have no adverse effect in that regard.
11. However, putting cladding in the open part of the structure beneath the tank would mask the tower's original nature to a great extent, and would result in it being a far more dominant feature in the parkland with a greater presence. Furthermore, whilst the appearance of the cladding may soften appropriately, I

also consider that the tall, slender, enclosed resultant structure would be discordant in this setting, and would display little connection with its historic context. For these reasons the works would impede an understanding of the structure, would erode its significance as part of the listed building, and would detract from the open informal nature of this area of the Registered Park and Garden.

12. In coming to these findings I agree that views of the tower would be limited because of the trees around, but it could still be readily appreciated from the surrounding parkland. I also accept that the water tower is, in some respects, a rather incongruous feature in the grounds of a Victorian country house as it has a functional and industrial appearance. To my mind though that functional character is associated with its significance, and so I am not surprised that the extensive redevelopment of the estate did not seek its removal. Given this, and noting my concerns above, the significance of both the Manor and the Registered Park and Garden would be harmed if this feature was clad as proposed.
13. I accept that free-standing towers are found at various other historic locations across the country, but they are no doubt informed to some extent by their context, and do not offer justification for the modifications now proposed. Whilst it was said the resulting building would be whimsical to some degree and of greater architectural merit, I consider this does not allay the harm to the significance of the water tower that I have identified.
14. Finally, a previous decision from 2020 (the 2020 decision) dismissed appeals for similar works on the water tower. In that decision the Inspector found that the insertion of '*a new tall dwelling ... along with*' its associated staircase extension and curtilage would not preserve the parkland. Although the curtilage and staircase are no longer proposed, from my reasoning it is clear I consider the cladding of the tower alone would cause harm in this regard.
15. In that decision though I recognise that the Inspector said the water tower was not a significant or important element of the listed building and did not conclude that the listed building was harmed by the works before him. However, above I have reasoned why I consider the water tower does in fact contribute positively to the asset's significance and explained the harmful impact that, in my opinion, enclosing the open supports would have on the contribution of the tower to that significance.
16. I therefore find that the works would cause less than substantial harm to the significance of both of these designated heritage assets.
17. Paragraph 202 of the current version of the *National Planning Policy Framework* (the Framework) states that where a development would lead to less than substantial harm to a designated heritage asset that harm should be weighed against public benefits of the proposal including, where appropriate, securing its optimum viable use.
18. The resultant development would be used as residential accommodation that would be ancillary to a dwelling in whose curtilage or planning unit it does not stand. I have concerns about the lawfulness of this intention, and had my findings otherwise been different on the main issues that would have been a matter I would have needed to explore further. Putting that aside though and assuming the appellant's intentions to be valid in planning terms, the works

would be securing a use for what is otherwise a redundant structure, and so, potentially, could be extending its life. However, securing the optimum viable use should only be sought '*where appropriate*', and paragraph 202 of the Framework has to be read in the context of the Framework paragraph 199 that states '*great weight should be given to the asset's conservation*'. In this instance given the adverse impact that facilitating the proposed use would cause to the significance of the assets I consider amending the structure in this incongruous way is not a public benefit that would outweigh this harm.

19. Whilst various houses, garages and infrastructure were allowed across the estate some 20 years ago, that does not necessarily mean development can continue to be accepted. Indeed, such elements may well have been 'enabling development' to allow the reuse of the Manor or justify the removal of features that detracted from the site's significance, which are not considerations that apply in this instance.
20. I therefore conclude that the proposal would fail to preserve the special architectural or historic interest of the Grade II* listed Goldings Manor, would fail to protect the Grade II listed Registered Park and Garden, and would cause less than substantial harm to the significance of both of these designated heritage assets. In the absence of any public benefits to outweigh this harm, the proposal would conflict with Policies HA1, HA7, HA8, DES2, DES3, DES4 in the *East Herts District Plan 2018*, which seek to safeguard listed buildings, Historic Parks and Gardens and landscape features, as well as also securing a high standard of design. The proposal would also therefore conflict with the relevant paragraphs in the Framework.

Green Belt impact

21. Policy GBR1 in the District Plan states that applications within the Green Belt will be considered in line with national policy. The current version of the Framework says that keeping land permanently open is a fundamental aim of the Green Belt. It confirms that the construction of new buildings in the Green Belt should be regarded as inappropriate and, by definition, harmful. Paragraph 149 gives the exceptions to this, one of which, Criterion (c), concerns the alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
22. Framework paragraph 150 accepts that certain other forms of development apart from the construction of new buildings are also not inappropriate, provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. In particular, Criterion (d) refers to the re-use of buildings provided that the buildings are of permanent and substantial construction.
23. The cladding of the frame on which the water tank stands would not increase the volume contained within the supporting pillars. However, I have no reason to consider that such works are needed for any purpose other than to facilitate the change of use before me. To my mind, the development should therefore be assessed under paragraph 150(d) of the Framework and not under paragraph 149(c).
24. The water tower stands amongst trees in the parkland around the housing on the Goldings Estate. When in the surrounding parkland there is an awareness

of the structure, but its open nature means its impact is reduced as views through it are readily apparent.

25. By infilling the sides of the structure beneath the water tank, the tower would have the appearance of a tall, 4-sided building as views through the supporting legs would no longer be possible. This means it would erode rather than preserve the openness of the Green Belt that is currently enjoyed in the vicinity of the structure. Therefore, it would not fall under the exception in paragraph 150(d) of the Framework.
26. In coming to this view, I am aware that in the 2020 decision the Inspector found the staircase extension to be in conflict with paragraph 145(c) of the version of the Framework then in place (paragraph 149(c) of the current version of the Framework). As a matter of fact though he also found that the complete enclosure of the steel frame was contrary to paragraph 146(d) of that same version of the Framework (now paragraph 150(d)). I also appreciate that the trees around limit the wider views of the Green Belt that are possible through this structure. Openness though has a spatial aspect as well as a visual one, and so whilst views through the structure at present are limited I still find that the works before me fail to preserve openness.
27. Accordingly, I conclude this would be inappropriate development within the Green Belt.
28. The Framework states

'Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. ...'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'.
29. Again, I note the functional and industrial nature of the water tower at present, its redundant nature, the changes to its appearance and the contentions that it would be a visual focus for this part of the estate. Mindful of my reasoning above, I consider that visually the water tower in its current state is preferable to that of the proposal. Moreover, any benefits to the landscape character through the cladding or the associated planting would not be so great as to be afforded significant weight.
30. Moreover, there may well have been specific reasons behind the permissions of 20 years ago that meant those works constituted other considerations that outweighed the Green Belt harm. I consider no such reasons exist in this case.
31. As a result, these factors, even if taken together, would not clearly outweigh the harm to the Green Belt by reason of inappropriateness and I am aware of no other considerations that clearly outweigh the Green Belt harm.
32. Accordingly, I conclude this would be inappropriate development in the Green Belt, and, in the absence of any other considerations that clearly outweigh the harm arising from inappropriateness, it would be contrary to Policy GBR1 in the District Plan and the Framework.

Other matters

33. On the evidence before me I have no basis to consider the legal issues raised affect the planning merits of these appeals, or to find there would be an unacceptable harm to ecology. I also consider the proposal, as submitted, would not have an adverse effect on the living conditions of neighbouring residents.

Conclusion

34. For the reasons given above I conclude the appeals should be dismissed.

JP Sargent

INSPECTOR



Appeal Decisions

Site visit made on 26 October 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decisions date: 2nd November 2021

Appeal A Appeal Ref: APP/J1915/W/21/3271958

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1457/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of Polytunnel A.
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Appeal B Appeal Ref: APP/J1915/W/21/3271959

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1459/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of Polytunnel B.
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Appeal C Appeal Ref: APP/J1915/W/21/3271961

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1460/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of Polytunnel C.
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Appeal D Appeal Ref: APP/J1915/W/21/3271962

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1456/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of agricultural storage building with incorporated office and respite area, creation of new access and formation of hard standing within site, siting of 2 no. water storage tanks.
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Decisions

1. Appeals A,B,C and D are dismissed.

Procedural Matters

2. As is set out above, there are 4 appeal sites and proposals at the same address. The appellant has stated that they are linked as they are all required in connection with the same proposed business involving container grown plants as an agricultural enterprise. The various elements would be in close physical and functional juxtaposition to one another and so they could not reasonably be seen as isolated elements that could be treated as severable, including by way of the issues that arise. Hence, I have dealt with the 4 proposals together. The matters of dispute with the Council as set out in the reasons for refusal on the decision notices are also the same in each case.
3. The description of development for Appeal D in the banner heading above is taken from the planning application form. After the submission of the application, the description was amended to include reference to the provision of 4 car parking spaces, a shed together with associated boundary works. I have considered Appeal D on that basis as it better reflects this proposal.
4. The revised National Planning Policy Framework (revised Framework) has been published since the Council made its decisions. The main parties have had the opportunity to comment on this matter during the course of the appeals. I have considered it in my decisions.

Main Issues

5. The main issues for Appeals A, B, C and D are the effect of the proposals on (i) water quality; and (ii) the character and appearance of the area.

Reasons

Water Quality

6. The appeal sites lie within a Source Protection Zone (SPZ). This is a defined area around large and public potable groundwater abstraction sites. The purpose of such a designation is to provide protection to safeguarding drinking water quality. As such, there is the potential for the discharge and abstraction of water related to a development in an SPZ to directly impact on water quality. The sites also lie a short distance from the River Beane, which is a chalk stream. The topography of the land slopes gradually from the sites towards this watercourse.
7. The SPZ is also afforded protection under Policy WAT2 of the East Herts District Plan (2018) (Local Plan). It lists a number of uses where development proposals will be required to submit an assessment of potential impacts and any mitigation measures required. These include the discharge of foul sewage to ground. Policy WAT3 of the Local Plan also affords protection to water quality and the water environment. Whilst controls outside of the planning system also safeguard groundwater protection, it is therefore a planning consideration in as far as deciding whether the proposals are an acceptable use of land in the SPZ.

8. The proposals intend to utilise a sewage treatment plant. The proposed likely system would remove up to 97.5% of the pollution, with the remaining fluid discharging via a gravel filled French Drain to a discharge field, before it reaches the groundwater resources. Whilst this provides an outline of the proposed means of foul water disposal, it provides a limited assessment of what the impact on the SPZ and the River Beane would be, related to the provision of the infrastructure that would be involved. Thus, there is insufficient evidence to demonstrate that unacceptable harm would not occur, even if low levels of foul water would be generated.
9. The information on the proposed surface water drainage is also limited. Reference is made to the use of rainwater harvesting and water storage, but the appellant acknowledges that if this was not deemed appropriate, then the drainage strategy would have to be rethought. The use of water abstraction is also said to be likely, but there is also limited information on this type of infrastructure and the effects.
10. The appellant considers that the imposition of planning conditions could deal with such matters. However, this belies the sensitivity of the location because of the SPZ and the River Beane. For this to be done after the grant of planning permissions could potentially nullify their effect if the impacts could not be adequately mitigated. Such conditions would not therefore be reasonable.
11. Whilst I appreciate that the potential cost of preparing such an assessment and the technical specification prior to a planning decision may be seen as a burden for rural business, the same level of protection has to apply irrespective. Otherwise there would be the potential for the SPZ to be contaminated by activities associated with such development. The Environment Agency has not objected to the proposals. However, the advice given is of a general nature. None of these matters change my conclusion.
12. In drawing the above considerations together, I conclude that the proposals would have an unacceptable effect on water quality. Accordingly, they would not comply with Policy WAT2 because the limited information provided does not reasonably amount to the policy requirement to provide an assessment of potential impacts and any mitigation measures. They would also not comply with Policy WAT3 where it states that development proposals will be required to preserve or enhance the water environment, ensuring improvements in surface water quality and the ecological value of watercourses and their margins and the protection of groundwater.

Character and Appearance

13. Where the proposed building and structures would be located comprises part of an open field that is well set back from Ford Lane. It is bounded by a hedgerow on one side. A narrow strip of part of the field that extends towards Ford Lane would form the access. There is some evidence of sub-division in the field by way of post and wire fencing, as well as an existing separate track access and an area that is in use for dog training. The river lies roughly 100 metres to the east of the sites. A Public Right of Way (PRoW) runs alongside the river.
14. Under the Council's Landscape Character Assessment Supplementary Planning Document (2007) (SPD), the sites lies within the Middle Beane Valley

Landscape Character Area. Its character is one of open arable farmland, hedgerows and small grouped woodland. The medium to large scale field pattern is in clear evidence in the vicinity of the sites, as are the undulating slopes on either side of the river itself. It was evident from my site visit that whilst the area is not devoid of development, it is a landscape where development is of a limited nature, including the occasional farmstead and isolated individual buildings.

15. As the proposals would consist of a modern barn-like storage building, polytunnels and the associated infrastructure, they would not be untypical for an agricultural development. They would not be out of keeping in these countryside surroundings. There is not an established built form because development is limited. Nevertheless, the proposals reflect an agricultural landscape character.
16. In terms of the visual impacts, the proposals would be well set back from the road and the PRoW. They would not be intrusive because of the agricultural form. The heights would be fairly modest and the appearance would be inconspicuous, being of green cladding on the storage building and sheeting or netting on the support frames of the polytunnels. The density would also limit wider visual and cumulative impacts because the proposals would be clustered together. The landform would also assist in this regard because the proposals would be sited towards the bottom of the river valley.
17. The proposals would also benefit from some screening afforded by the adjacent hedgerow and the appellant has also offered to provide more planting. If I was minded to allow the appeal, this could be achieved through the imposition of a Grampian type planning condition as the appellant has indicated control over the land in question, and there is not substantive evidence to the contrary. This would further limit both long and short views.
18. Policy DES2 of the Local Plan affords protection to landscape character and refers to the need for a Landscape and Visual Impact Assessment (LVIA) or equivalent in specified circumstances. As there would not be a potential adverse impact on landscape character, an LVIA is not required.
19. The revised Framework places an emphasis on achieving well-designed places. As the proposals would have an appearance that befits their agricultural use and would be sited within the context of an agricultural landscape, there would not be a conflict with the revised Framework in this regard. The proposals would not be poorly designed.
20. I conclude that the proposals would not have an unacceptable effect on the character and appearance of the area. As a result, they would comply with Policy DES2 as they would conserve, enhance or strengthen the character and distinctive features of the district's landscape, provide appropriate mitigation measures and as they have had regard to the SPD.

Other Matters

21. The sites lie in the Green Belt. The Council considered that the proposals would not constitute inappropriate development. I see no reason to disagree as the revised Framework identifies that buildings for agriculture are not inappropriate development in the Green Belt.

22. The proposals would support the rural economy through the development of a rural business and would generate a level of employment. What is proposed clearly relates to the type of agricultural business that would operate. The unacceptable effect on water quality however significantly counts against the proposals. All other matters raised attract neutral weight. As a consequence, the economic benefits would not outweigh the harm that would arise.
23. Interested parties have raised a number of other concerns. However, as I am dismissing the appeals on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decisions.

Conclusion

24. The effect on water quality would be unacceptable and is decisive. Accordingly, I conclude that the proposals conflict with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, Appeals A, B, C and D should be dismissed.

Darren Hendley

INSPECTOR



Appeal Decision

Site visit made on 30 November 2021

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2021

Appeal Ref: APP/J1915/W/21/3275908

30-34 London Road, Sawbridgeworth CM21 9JS

- 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 Adam Tindall against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1951/FUL, dated 2 October 2020, was refused by notice dated 11 January 2021.
 - The development proposed is roof extension to form five new one bedroom flats including new external rear staircase.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Sawbridgeworth Conservation Area (the CA) and whether any harm to the significance of the CA is outweighed by any public benefits;
 - the effects of the proposed development on the living conditions of future occupiers of the development and the existing and future occupiers of nearby properties, particularly with regard to light, outlook and privacy; and
 - the effects of the proposal on the Sawbridgeworth Air Quality Management Area.

Reasons

Effect on the Conservation Area

3. London Road is a busy, vibrant, mixed-use street within the CA, defined by a predominance of two to three storey buildings with retail and service uses on the ground floor and, in some cases, residential above. As it is characteristic of the surrounding area, the appeal site is a mixed-use block, currently occupied by commercial and retail uses on the ground floor and residential above.
4. The significance of the CA comes from its history, which dates back to at least the 13th Century and from the historic buildings of many eras displayed within the CA. There are several listed buildings within the proximity of the site which

speak to the site's sensitive historic location, including the inns along London Road, which are a mark of the importance of this Road during the coaching era. The scale of London Road is domestic and this is reflected in the height and size of the buildings.

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area.
6. The appeal site, consisting of 30-34 London Road, is a two storey flat roof 1960's block which is at odds with the predominant built form within the vicinity of the site in terms of its overall form, size, design and general appearance.
7. The Appellant's Statement of Case mentions that, in considering how the proposal would blend into the surrounding area, an effort was made to mirror other nearby properties, namely King's Head Court on the opposite side of the road. The same statement goes on to say that the surrounding units are a mixture of mansard and pitched roofs and that by adding another floor as a mansard structure, the property would better integrate with the wider area.
8. In addition to creating a new mansard roof, the present proposal would also increase the height of the existing structure by 3 metres, resulting in a significantly taller and therefore more dominant building than the one which currently occupies the appeal site.
9. The dominance of the proposed structure within the street scene would be further emphasised by its prominent location within London Road and also by being relatively taller than the buildings located to either side of the appeal site, which would be, if the proposal were to be implemented, dwarfed by the new structure.
10. At present, the existing buildings on either side of the appeal site are of a similar height to that of the existing structure. This assists in minimising the impact of 30-34 London Road on the CA. The proposed 3 metre height increase would result in a building that would be taller, more prominent within the streetscape and one which would be at odds with the predominant built form within the immediate vicinity of the site, in terms of size and scale.
11. Although I accept that the proposal would better reflect the roof structure of existing nearby buildings, namely King's Head Court, the overall appearance and design of the building would remain dominated by its other 1960s architectural and design features, which would then be made more prominent within the streetscape due to the proposed increased in the height of the building.
12. For all the foregoing reasons, the proposed development would harm the significance of the CA by failing to preserve its character and appearance. The magnitude of this harm would be less than substantial in the term of the Framework. In these circumstances, the Framework requires that, were a development proposal leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
13. No specific public benefits have been brought to my attention in relation to the proposed development, albeit I recognise there would be some benefits, for

instance, in terms of increasing and improving housing stock and some benefits to the local economy. However, as any such public benefits would be very modest given the reasonably small scale of the development, these would be substantially outweighed by the relatively significant harm arising, bearing in mind the importance and protection given to designated heritage assets by statute and national and local planning policy.

14. The proposal would not, therefore, preserve or enhance the character or appearance of the CA. Consequently, it would conflict with Policy DES4, which aims to ensure that all development proposals are of a high design standard and promote local distinctiveness, and HA4, which aims to ensure that new development preserve or enhance the special interest, character and appearance of conservation areas, of the East Herts District Plan (2018).

Living Conditions

15. The appeal site is located in close proximity to other buildings to the east and south of the appeal site. Concerns have been raised by the Council in relation to the impact of the proposed development on the living conditions of the occupants of nearby properties, particularly as to light, outlook and privacy.
16. The south elevation of the proposed mansard roof would include four new windows. To the east elevation, two new doors one new window would be included. In addition to this, a new external staircase would also be proposed to the east facing rear elevation of the building.
17. Having reviewed the evidence provided by the Appellant in support of the proposal, no assessment appears to have been carried out in relation to whether the development would affect the living conditions of the occupants of nearby properties, particularly in relation to light, outlook and privacy.
18. Considering the design of the proposal and its proximity to other buildings, I find that the living conditions of occupiers of nearby properties could be affected.
19. Not only would the proposed development increase the overall height of the building, which could potentially impact levels of light currently enjoyed by the occupiers of nearby properties and their outlook, but it would also lead to the construction of new windows, doors and an external staircase which could impact levels of privacy currently enjoyed by occupiers of nearby properties.
20. I therefore conclude that the proposed development could have a harmful impact on the living conditions of occupiers of nearby properties, particularly in relation to light, outlook and privacy. Consequently the proposal would be contrary to Policy DES4 of the East Herts District Plan (2018) which states that all development proposals are expected to ensure that the environment of the occupiers of neighbouring properties is not harmed by noise and disturbance or by inadequate daylight, privacy or overshadowing.

Air Quality Management Area

21. The appeal site is located within the Sawbridgeworth Air Quality Management Area (SAQMA), which was declared as a result of the exceedance of the annual mean objectives for Nitrogen Dioxide.

22. Policy EQ4 of the East Herts District Plan (2018) states that all applications should take account of the Council's air quality planning guidance which details when an air quality assessment is required. The Policy also states that all developments should include measures to minimise air quality impact and should incorporate best practice in the design, construction and operation of all developments.
23. Although the Appellant acknowledges that the appeal site is located within the SAQMA, an Air Quality Assessment has not been submitted as required by Policy EQ4. The Appellant also states that the development would lead to a net decrease in traffic as one of the available parking spaces would be used for cycling and bin storage. Therefore, additional emissions would not be created from the proposal because as no further parking would be provided. This, coupled with the classification of the development as minor C3 residential, would mean that no mitigation would be required.
24. Even if I were to accept this to be the case, Policy EQ4 does still state that best practice measures during the construction phase of the development should be considered as part of an air quality assessment. In the absence of such an assessment, I cannot be assured that the construction of the development would not have a detrimental effect on the SAQMA or its objectives, which could potentially be mitigated against.
25. Furthermore, I am also aided by the comments made by the Environmental Health Department which highlight the need to consider the creation of a street canyon effect which could exacerbate air pollution levels in the SAQMA.
26. In conclusion, the proposal could have a detrimental impact on the SAQMA and consequently be contrary to Policy EQ4 which aims to ensure that proposal take into account the Council's Air Quality Planning Guidance Document and that development does not lead to a breach or worsening of a breach of an Air Quality objective.

Other Matters

27. The Conservation and Urban Design Advice confirms that the building sits on a visually prominent corner with Bell Street which contains a number of listed buildings including eight Grade II Listed Buildings, namely the White Lion Hotel, The Pharmacy, The Elms Health Centre, The Chantry, The Barbary, Summer House at the rear of garden of No 9, Groves House and 53 London Road.
28. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving its setting.
29. Limited information has been provided in order to establish the significance of the heritage assets, including its setting. Nevertheless, it appears to me that the significance of these assets is linked to their historical importance to the town of Sawbridgeworth, particularly as the medieval core of the town was defined by Bell Street, Knight Street, and Church Street.
30. Paragraph 194 of the Framework states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 192 also states that local planning authorities should maintain or have access to a historic

environment record that should contain up-to-date evidence about the historic environment.

31. Considering the prominent location of the appeal site, the design of the proposed development and its proximity to the previously mentioned heritage assets, depending on the significance of their setting, the proposed development could, potentially, have a direct and harmful effect on their significance.
32. Nevertheless, considering that the appeal is to be dismissed on other issues mentioned in this decision, no further consideration is required on this matter.

Conclusion

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

Andre Pinto

INSPECTOR



Appeal Decision

by **Elizabeth Jones BSc (Hons) MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal Ref: APP/J1915/X/21/3273612

1 Hole Farm Cottages, Albury Hall Park, Albury, Ware SG11 2JE

- 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 A Welsh against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2192/CLPO, dated 6 November 2020, was refused by notice dated 1 March 2021.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a double storey rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I consider that this appeal can be determined without a site visit without causing injustice to any party. This is because I have been able to reach a decision based on the documentary evidence submitted.

Main Issue

3. The main issue is whether the Council's decision to refuse an LDC is well-founded. This consideration is an issue of lawfulness which cannot take account of any matters of planning merit. The burden of proof in an LDC case rests with the appellant and the appropriate test of the evidence is the balance of probabilities.

Reasons

4. The appeal property comprises a semi-detached house. The appellant proposes to construct a two-storey rear extension to provide a garden room on the ground floor and a bathroom above. The proposed development would be positioned between, but not connected to, a single storey utility room to the south and a lean-to kitchen extension to the north. The proposed extension would extend some 3m from the rear wall of the main house and would be approximately 4m wide.

5. Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) grants permission for classes of development described as permitted development in Schedule 2 to the Order and subject to any relevant exception, limitation or condition. Part 1 of Schedule 2 deals with development within the curtilage of a dwellinghouse and Class A of Part 1 specifically addresses the enlargement, improvement or other alteration of a dwellinghouse.
6. The principal point at issue is the Council's determination that the proposed extension would not comply with the limits and conditions in Class A, paragraphs A.1(j)¹, A.1(ja)² and A.3 (c)³ of Part 1 of Schedule 2 of the GPDO.
7. Both parties refer to Government guidance in relation to Class A contained within the publication 'Permitted development rights for householders – Technical Guidance'⁴ (TG).
8. The Council's evidence⁵ indicates that the existing utility room forms part of the rear elevation and is part of the original dwellinghouse (formerly the kitchen). Whilst not part of a principal elevation, the side wall of the utility room forms a side elevation of the original dwellinghouse. In this case, although the proposed extension is not physically joined to the utility room, it would extend beyond the side wall of the utility room, would exceed 4 metres in height and would have more than a single storey. Moreover, the proposed extension would also extend beyond the side wall of the original dwellinghouse that formed the original bathroom prior to the subsequent extension⁶. Consequently, the limits and conditions of Class A.1(j) would not be met. Thus, the proposed development would not be permitted development (PD) by virtue of Class A of the GPDO.
9. The appellant with reference to the gap between the proposed extension and the utility room, has drawn my attention to an LDC application⁷ for a two-storey rear extension and an appeal decision⁸ concerning two existing single-storey rear extensions. I acknowledge the importance of consistency in decision-making. These examples are for different developments which were each assessed on the particular facts and site-specific circumstances and are not directly comparable with the appeal proposal before me. As such, the LDC application and appeal decision have only limited weight.
10. The GPDO grants planning permission where all the relevant conditions and limitations are met. I have found that Class A.1(j) would not be met. Consequently, the planning permission sought has not been granted. As the

¹ Paragraph A.1 (j) states that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would – i) exceed 4 metres in height, ii) have more than a single storey, or iii) have a width greater than half the width of the original dwellinghouse.

² A.1 (ja) states that development is not permitted by Class A if any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j).

³ Paragraph A.3 (c) states; where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

⁴ Published by the Ministry for Housing, Communities and Local Government, September 2019.

⁵ Appendix 1 of the Council's Statement.

⁶ Planning permission Ref: 3/787-78.

⁷ Ref: 3/17/1702/CLP.

⁸ APP/T0355/X/18/3211902.

proposed extension would not comply with Class A.1(j) I have not considered the other limits and conditions in paragraphs A.1(ja) and A.3(c).

11. On the evidence available to me and having regard to all other matters raised, I find that, as a matter of fact and degree, it has not been demonstrated that the proposed development would be PD by virtue of the GPDO.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed development was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Elizabeth Jones

INSPECTOR



Appeal Decision

Site visit made on 1 November 2021

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29TH November 2021

Appeal Ref: APP/J1915/W/21/3272754

52 and 54 Widford Road, Hunsdon, Hertfordshire SG12 8NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M McNamee against the decision of East Herts Council.
 - The application Ref 3/20/2219/FUL, dated 10 November 2020, was refused by notice dated 9 February 2021.
 - The development proposed is a two bedroom bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for a two bedroom bungalow at 52 and 54 Widford Road, Hunsdon, Hertfordshire, in accordance with the terms of the application, Ref 3/20/2219/FUL, dated 10 November 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be begun not later than 3 years beginning with the date of this permission.
 - 2) The development shall be carried out in accordance with the approved plans date stamped 18 December 2020: Location Plan, Existing Rear Site Plan, Proposed Rear Site Plan, Roof Plan, Section Details, Floor Plan, East and West Elevations and North and South Elevations.
 - 3) Prior to any above ground construction works being commenced, details of the roof tiles and render colour of the bungalow shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 4) Details of all boundary treatments; soft and hard landscaping; and measures to enhance biodiversity, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the bungalow and shall be maintained in accordance with the approved details at all times thereafter; or with regard to soft landscaping works, these shall be carried out before the end of the first planting season following first occupation. In the event that any tree or hedging plant dies or is removed within five years of first planting, it shall be replaced before the end of the first available planting season.
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5) The bungalow shall not be occupied until the parking spaces illustrated on the approved plans and an electric vehicle charging point, have been provided. These shall be maintained at all times thereafter for their intended use.

6) Prior to the first occupation of the bungalow hereby approved, the provision of a high-speed broadband internet connection shall be provided and shall be made available for use.

Main Issue

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

Reasons

3. The proposal would result in a new bungalow within the combined rear sections of the rear gardens of 52 and 54 Widford Road. The property would be served by an existing service road which is the main access to a number of semi-detached properties immediately to the east. The dwelling would replace domestic buildings whilst retaining good sized rear gardens for the host dwellings.
4. The Council's concern is that the proposal would fail to reflect and promote local distinctiveness and would cause harm to the character and appearance of the site and the surrounding area. The site is visible from the service road that serves these and the existing properties to the east and it would improve the appearance of this area which currently accommodates domestic outbuildings. In any views from the north, across the adjacent field, the low height of the bungalow would ensure that it would have very limited prominence. In any event, it would retain the existing residential character. Whilst the settlement has a generally historic linear form, there are numerous exceptions to this. This proposal would not alter or detract from the existing form, character or appearance of this area or the village overall.
5. The Council make reference to policies of the East Herts District Plan 2018. Policy VILL1 identifies Hunsdon as a Group 1 Village where new residential development is permitted subject to the requirements set out in part VI of the policy. I have found no conflict with those specific requirements. Policy DES4 seeks high standards of design. The proposal would have a hipped roof which would reflect the detailing of neighbouring properties. The overall design would sit comfortably in this residential area. It would make good use of the site, be adaptable for a range of occupiers, provide adequately sized rooms, have space for bins in the good sized garden and it would have little impact on adjoining neighbours. These policies therefore generally support the proposal.
6. Concerns have been raised with regard to sewage and drainage issues; the suitability of the access and its ownership; and the potential for obstruction during construction works. Whilst these are matters that will need to be addressed by the developer, no objections have been raised by the Council or utility providers; and ownership matters, including the use of the access, are outside the scope of this appeal. The Parish Council has raised concerns with regard to the loss of garages and parking to the rear of the host dwellings but adequate off-road parking to the front of the dwellings is present and in use.

7. Overall, I find support for the principle of this development from the development plan and I have found no matters that weigh significantly against it. I therefore allow the appeal.
8. I have imposed conditions that refer to the timetable for commencement; and make reference to the approved plans, for the avoidance of doubt. I have also imposed conditions to control the external materials; and landscaping including boundary treatments, to ensure that the proposal has a satisfactory appearance. Within this condition, I have included the requirement to enhance biodiversity as the most appropriate measures may include landscape planting and/or the bird and bat boxes suggested by the Council. I have also required the provision of the parking spaces; an electric vehicle charging point and access to high-speed broadband, in order to ensure that the illustrated parking is provided so as not to impact on the use of the shared access; to encourage the use of a more sustainable fuel source; and to secure adequate connectivity. These conditions seek to address the requirements of Policies TRA3, CC1 and DES4; and the aspirations of the National Planning Policy Framework.

Peter Eggleton

INSPECTOR



Appeal Decision

Site Visit made on 16 November 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2021

Appeal Ref: APP/J1915/D/21/3273650

The Brooms, 69 Lower Road, Great Amwell SG12 9SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs G Edwards against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/2415/HH, dated 30 November 2020, was refused by notice dated 28 January 2021.
 - The development proposed is described as removal of existing flat roof and replaced by a pitched roof.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council's decision, a new version of the National Planning Policy Framework (the Framework) was published in July 2021. The new Framework echoes and reinforces policy relevant to the main issues in this case. I shall determine the appeal on this basis.

Main Issues

3. The main issues in this case are:
 - a) whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
 - b) the effect of the proposal on the openness of the Green Belt; and
 - c) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

Reasons

Whether inappropriate development

4. The appeal site comprises a detached two-storey house with detached garage and its garden areas. It is located beyond the rear gardens of dwellings that front onto Lower Road. The site sits within the Metropolitan Green Belt.
5. Paragraph 149 of the Framework sets out a small number of exceptions to inappropriate development in the Green Belt. One such exception is the extension or alteration of a building, provided it does not result in

disproportionate additions over and above the size of the original building. Policy GBR1 of the East Herts District Plan (DP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.

6. The proposal would not further increase the floorspace of the house. Nevertheless, it is undisputed that the building has previously been extended with an approximately 124% increase in floorspace, and that the proposal would further add approximately 52.5cu.m of pitched roof mass to much of the south-eastern part of the building. Also, the proposed new roof would add built bulk to space above the top of the crown roof. This would reduce the relative subservience of the south-eastern wing, in relation to the main body of the dwellinghouse.
7. I therefore conclude that the proposal would entail a disproportionate addition within the Green Belt. Thus, the proposal would not fall within the exceptions listed in paragraph 149c) of the Framework. Thus, the proposal would be inappropriate development in the Green Belt and would conflict with the Framework and Policy GBR1 of the DP.

Openness of the Green Belt

8. The Framework states that an essential characteristic of Green Belts is their openness and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land within them permanently open. Openness has both spatial and visual dimensions.
9. Albeit the proposal would be visible from various viewpoints within the appeal site, and glimpsed from the adjoining public footpath, perimeter garden vegetation and fencing would largely screen the proposal from wider view.
10. Nevertheless, the proposed roof extension would add approximately a further 3m height of pitched roof bulk and gable end to the south-eastern part of the building, compared to the existing, lower crown roof. Also, the ridge of the proposed roofing would rise up to within around 0.5m of the existing main roof ridge. As such, the step down in ridge height of the proposed new roofing from that of the existing main roof would appear relatively modest, in proportion to the proposed expanse of new roofing. Together, these factors would result in the visual impression of the almost full height mass of the building having been increased in width by around half. This would also reduce the sense of spaciousness between the detached house and the south-eastern garden boundary.
11. The above combination of factors would result in some harm to the openness of the Green Belt. This harm must be regarded as additional to the harm by reason of inappropriateness.

Other considerations

12. The proposal would result in increased roof space at the appeal property, mainly above the kitchen and utility room. The proposed roof pitch and height towards one end of the building would go some way to increase the visual balance of the front and rear elevations of the building. While noting the appellants' reference to a 'maintenance problem' with the crown roof, the possibility of a maintenance solution that would be less intrusive than the

appeal proposal is not decisively discounted. Given the modest scale of benefit, I attach limited weight to it.

Whether very special circumstances

13. As per paragraph 148 of the Framework, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt. I have found that the proposal would be inappropriate development in the Green Belt, which would, by definition, be harmful. The appeal scheme would also result in harm to the openness of the Green Belt. The identified harm to the Green Belt carries substantial weight. On the other hand, the other considerations I have identified are of limited weight in favour of the proposal.
15. Therefore, the harm to the Green Belt is not clearly outweighed by the other considerations identified. Thus, the very special circumstances necessary to justify the proposal do not exist. As such, the proposal is contrary to the Framework.

Conclusion

16. The proposed development would be contrary to the development plan and Framework and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR



Appeal Decision

Site Visit made on 25 October 2021

by **Philip Mileham BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 December 2021

Appeal Ref: APP/J1915/W/21/3272397

Farlea, Spellbrook Lane West, Spellbrook, Bishop's Stortford CM23 4AY

- 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 Greg McClelland against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0112/FUL, dated 18 January 2021, was refused by notice dated 16 March 2021.
 - The development proposed is the erection of dwelling with linked garage with room over, swimming pool, pool house, with associated landscaping, parking and the creation of new access.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of dwelling with linked garage with room over, swimming pool, pool house, with associated landscaping, parking and the creation of new access at Farlea Spellbrook Lane West, Spellbrook, Bishop's Stortford CM23 4AY in accordance with the terms of the application, Ref 3/21/0112/FUL, dated 18 January 2021, subject to the conditions set out in the schedule at Appendix 1.

Main Issues

2. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal is inappropriate development, whether or not there are any other considerations which clearly outweigh the harm by reason of inappropriateness, and any other harm, so as to amount to the very special circumstances necessary to allow the development.

Reasons

Inappropriateness

3. The appeal site is an area of land adjacent to 'Farlea' which at the time of my visit had been excavated. Planning permission has been granted for a dwelling on site (Ref. 3/20/1955/FUL) which is extant and represents a fallback position to the appeal proposal before me. A previous permission (Ref. 3/17/2018/FUL) for two dwellings on the site appears to have lapsed. The appeal proposal materially differs from the fallback through the inclusion of a new link between the dwelling and the garage, some further alternations to the dwelling layout,

the addition of a swimming pool, hard landscaping and a 'pool house' (which would include a gymnasium, changing room and lounge area) positioned to the rear of the dwelling.

4. The National Planning Policy Framework (NPPF) attaches great importance to Green Belts, and paragraph 149 considers the construction of new buildings to be inappropriate in the Green Belt subject to exceptions. Paragraph 149(e) of the NPPF allows for limited infilling in villages as one of those exceptions. The appeal site is located between the adjacent dwellings known as 'Farlea' and 'Inglis' with the proposed dwelling positioned between the two properties. The appeal site would not protrude further into the Green Belt than the rear boundary of Farlea, albeit the proposed site boundary would extend the rear curtilage slightly further beyond the rear boundary of Inglis when compared to the boundary of the fallback. However, the site boundary would still not extend further south than the most southerly point of the boundary of the fallback permission.
5. Further beyond the rear boundary of the appeal site, my attention has been drawn to the stables which have permission for residential conversion (Ref. 3/18/0978/FUL) and to the east of Farlea, a site with planning permission for two dwellings (Ref. 3/19/1409/FUL). The appeal proposal would not be directly adjacent to the stables and there would remain a gap between the stables and the appeal site. Although no detailed plans have been provided in respect of the two dwellings to the east of Farlea (3/19/1409/FUL), the site plan in the appellant's statement shows its boundary follows the rear boundary of Farlea. The appeal proposal would continue the linear development along Spellbrook Lane West and the rear boundary would align with the properties to the east. I consider the appeal site has a close relationship to the adjacent residential properties on Spellbrook Lane West and the proposal would infill a gap between the two existing properties, continuing the linear development along the road frontage.
6. The appeal proposal includes a side link which would infill a proportion of the space between the proposed dwelling and garage. The swimming pool would be set into the ground and would not extend beyond the rear building line of Farlea. Although the position of the pool house would be set back beyond the rear building line of both adjacent properties, the overall depth of the rear curtilage would not project further than the dwellings to the east of the site.
7. Although the proposed pool house would be of a significant scale, the Council has not raised concerns regarding its character or appearance. Furthermore, other outbuildings could be erected under Permitted Development rights beyond the rear of the proposed dwelling and the Council confirmed that it did not remove Permitted Development rights for outbuildings as part of the fallback permission. I consider that the minimal increase in the size of the curtilage, and the position of the proposed development between the adjacent properties would, in my judgement, constitute limited infilling in a village as defined by paragraph 149 of the NPPF.
8. In light of the above, I therefore conclude the proposal would not be inappropriate development in the Green Belt for the purposes of national planning policy. As such, it would accord with Policy GBR1 of the East Herts District Plan (2018) which states that proposals within the Green Belt will be considered in line with the NPPF.

Openness

9. Paragraph 137 of the NPPF indicates that it is a fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
10. The scale and permanence of the pool house would erode part of the rear garden land of the proposed development and the presence of the additional building would not keep that part of the Green Belt permanently open. However, whilst a new building would have an effect on openness, as the proposal would represent limited infilling within a village under paragraph 149(e) of the NPPF, any impact on openness is implicitly taken into account within this exception. Further, the impact on openness would be minimised as a result of the lower level of the appeal site than the paddock land to the rear.

Other considerations

11. The provision of a single dwelling would have economic benefits arising from construction and the supply of materials. It would also have social benefits arising from future occupants utilising services and facilities in nearby settlements. Furthermore, the appeal proposal would also make a positive contribution to meeting housing need in the area through the provision of an additional dwelling. However, as only a single house is proposed, the social and economic benefits would only be limited.

Conditions

12. The Council has identified conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the NPPF and the Planning Practice Guidance and have only imposed them where I consider they meet the tests, amending them where necessary for the sake of clarity, precision and enforceability.
13. Although it appears the fallback permission has commenced, the standard time limit is nonetheless required to define this permission. In addition, in the interests of certainty, I have imposed a condition specifying the approved plans.
14. In order to avoid any harm to archaeology that may be found on site, the Council suggested a pre-commencement condition for a programme of archaeological work to be undertaken prior to any development or groundworks. However, as groundworks have been undertaken in relation to the fallback permission, and the original scheme of archaeological work in relation to the siting of the dwelling has been partly discharged, the condition is required to be amended to reflect the additional area of land where the proposed poolhouse is to be sited which has been agreed by the appellant.
15. The Council had suggested a pre-commencement condition be imposed to restrict development or groundworks in order to ensure the living conditions of adjoining occupiers would not be harmed in respect of changes in land levels. However, as groundworks had taken place on the fallback permission, I have amended the condition to reflect any above ground construction taking place. I have also removed references in the Council's originally suggested condition relating to a specific number of buildings what did not match the plans. Therefore, in the interests of certainty a pre-commencement condition which

has been agreed by the appellant is required seeking details of the existing and proposed ground levels as well as details of the ridge heights of the proposed development.

16. In the interests of good design and the appearance of the development, a condition is required seeking approval of the materials to be used.
17. In the interests of design and the living conditions of future occupiers, a condition is required to seek approval for the details of hard and soft landscaping and the accompanying landscaping materials.
18. In the interests of design and the avoidance of harm to the living conditions of future occupiers of the proposed development and adjoining occupiers, a condition is required specifying the details of boundary walls, fences and other means of enclosure.
19. In the interests of highway safety, a condition is required to secure suitable visibility splays as per the submitted plans and to ensure those splays are maintained free of obstruction.
20. In the interests of good design and the continued maintenance of the landscaping proposals, a further condition is required to ensure that any trees or plants identified are replaced within 5 years of planting should these die or are otherwise damaged or defective.
21. In the interests of highway safety, a condition is required specifying the establishment and retention of wheel washing facilities for any construction traffic using the site.
22. The Council has sought a condition seeking to remove Permitted Development rights buildings or outbuildings within the curtilage of a dwellinghouse. Due to the scale of the development approved including the swimming pool and pool house and the extent of the curtilage that is covered by hard landscaping, in order to ensure satisfactory control over the future development of the site, in this exceptional circumstance, a condition is necessary to restricting any further development under the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

Conclusion

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

Philip Mileham

INSPECTOR

Appendix 1

Schedule of 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:
 - 05.20.LP Rev.A – Location Plan
 - 05.20.01 Rev.F – Site/ Roof Plan
 - 05.20.02 Rev.F – General Arrangements Plans
 - 05.20.03 Rev.E – General Arrangement sections & elevations
 - 05.20.04 Rev.A – Proposed Poolhouse
 - MS-5394 – Topographical Survey
- 3) No development or groundworks shall take place in connection with the pool house until a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports for the whole of the application site are submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to any above ground construction works being commenced, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to first occupation of the development hereby permitted, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be carried out in accordance with the approved details.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of such species, size and number as

originally approved, unless the Local Planning Authority gives its written consent to any variation.

- 8) Prior to the first occupation or use of the development hereby permitted, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development should be implemented in accordance with the approved details.
- 9) Prior to the occupation of the proposed development, visibility splays shall be provided in accordance with plan red 05.20.01 Rev F and the area contained within the splays shall be kept free of any obstruction exceeding 0.6m in height above the nearside channel level of the carriage and shall be maintained as such thereafter.
- 10) Wheel washing facilities shall be established within the site and shall be kept in operation at all times during demolition and construction works.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, no works or development as described in Schedule 2, Part 1, Class E of the Order shall be undertaken without the prior written permission of the Local Planning Authority.



Appeal Decision

Site visit made on 27 October 2021

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 November 2021

Appeal Ref: APP/J1915/D/21/3276901

46 Cowper Crescent, Hertford, SG14 3DZ

- 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 Brenton and Gemma Peglar against the decision of East Herts Council.
 - The application Ref 3/21/0310/HH, dated 7 February 2021, was refused by notice dated 29 March 2021.
 - The development proposed is part demolition of the existing ground floor and the erection of a single storey rear extension and a two storey side extension.
-

Decision

1. The appeal is allowed and planning permission is granted for part demolition of the existing ground floor and the erection of a single storey rear extension and a two storey side extension at 46 Cowper Crescent, Hertford, SG14 3DZ, in accordance with the terms of the application Ref 3/21/0310/HH, dated 7 February 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan, GP 2020/01, GP 2020/101, GP 2020/100, GP 2020/10 and GP 2020/11.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building.

Main issue

2. I consider that the main issue in this case is its effect on the living conditions of neighbouring residents.

Reasons

3. 46 Cowper Crescent is a two storey detached house in an established residential area. It has a single storey side extension adjoining the boundary with No. 44. The latter is set at an angle to No. 46 as a result of its location on the outside of a bend in the road.

4. I consider that the relevant policy in this case is DES4 of the East Herts District Plan 2018. This seeks to ensure, among other things, that development, including extensions to existing buildings, avoids significant detrimental impacts on the amenity of the occupiers of neighbouring properties.
5. The proposed two storey side extension would extend the full depth of the house along the boundary with No. 44. It is a variation of a previous scheme for a two storey extension in that it would have a hipped rather than a gabled roof, with eaves set at the same height as the existing house. The distance between the proposed extension and the side wall of No. 44 would vary between approximately 2m and 3.5m because of the angle between the two properties.
6. There is a first floor window in the side wall of No. 44 facing No. 46 which I understand is the only window that serves a bedroom. No. 44 appears to have been extended at some time to the full two storey height at the rear which may have necessitated the insertion of the present side window to serve that room. There would be some diminution of outlook from inside the room. However, I consider that while this is not ideal either for present or future occupiers, the impact would be mitigated by the hipped roof and light levels would remain acceptable.
7. I note that the present occupiers of No. 44 have submitted a representation in support of the proposal and this, together with the benefits to the appellants of the increase in the amount of accommodation, adds weight to my finding on the limited impact of the proposal on the neighbours' amenity.
8. I conclude that the proposal would not cause harm to the living conditions of occupiers of the neighbouring property by reason of overbearing or loss of light or outlook and that it is consistent with policy DES4 of the District Plan.
9. For the reasons given above, the appeal is allowed.

Conditions

10. I have considered the conditions put forward by the Council, having regard to the tests set out in the Framework. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and for the avoidance of doubt. A condition relating to the materials is necessary in order to ensure the satisfactory appearance of the development.

PAG Metcalfe

INSPECTOR



Appeal Decision

Site visit made on 27 October 2021

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 November 2021

Appeal Ref: APP/J1915/D/21/3278502

1 Peters Wood Hill, Ware, SG12 9NR

- 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 Stephen McCollum against the decision of East Herts Council.
 - The application Ref 3/21/0785/HH, dated 24 March 2021, was refused by notice dated 26 May 2021.
 - The development proposed is ground floor rear extension, existing basement extension and conversion, new roof, new porch, internal alterations.
-

Decision

1. The appeal is dismissed.

Main issue

2. I consider that the main issue in this case is its effect on the character and appearance of the area.

Reasons

3. 1 Peters Wood Hill is a two storey detached house with a two storey rear extension and a basement set down from the road on a sloping site located in a prominent position at the entrance to a cul-de-sac. It is constructed of brick, with interlocking roof tiles. The immediate surroundings are characterised by houses similarly constructed predominantly of brick with tiled roofs and sharing some similarities in style and modest architectural detailing typical of the period of construction.
4. I consider that the relevant policies in this case include DES4 and HOU11 of the East Herts District Plan 2018 which require, among other things, that development proposals, including residential extensions, be of a high standard of design reflecting local distinctiveness and the scale, massing, building materials and design features of the surrounding area and the original dwelling, within the constraints of the site. These policies are consistent with the advice regarding high standards of design in the National Planning Policy Framework 2021 (the Framework).
5. The proposal includes a number of extensions and external and internal alterations to modernise the living accommodation within the house. The size and form of the proposals at the rear of the house are dictated partly by the significant fall in ground levels across the site both from west (the road) to east and from south to north.

6. I consider that the size and scale of the proposed extensions to the rear are acceptable in form and massing in the context of the overall size and characteristics of the site. I also find the proposed increase in height of the lower, northern part of the house to be relatively modest and in proportion with and subordinate to the other part of the house. It reflects the roof pitch of the latter.
7. I consider that the proposed extensive use of zinc cladding is out of keeping with the character and appearance of the existing house itself and the wider area. I accept that the architectural character of the area is modest in its form and detailing and that the introduction of modern materials is not necessarily unacceptable. However, the houses in the street have some local distinctiveness in the cohesive impact of the predominance of brick and tiles as building materials. The proposed large area of zinc for the roof and the front porch would contrast starkly with this pattern of development and appear incongruous in this prominent and highly visible position at the entrance to the cul-de-sac.
8. The appellant has drawn my attention to examples nearby where zinc cladding has been used. In these cases it has been used on dormer windows to the rear of the property and is not readily visible or prominent in public viewpoints. The dark brown colour and small amount of surface area involved helps it to blend in with the overall appearance of the buildings. By contrast, the proposal would result in a large area of a material, which, notwithstanding its colour, would appear out of keeping with both the existing house and the surrounding area.
9. I conclude that the proposal would harm the character and appearance of the existing house and the surrounding area, contrary to policies DES4 and HOU11.
10. For the reasons given above, the appeal is dismissed.

PAG Metcalfe

INSPECTOR



Appeal Decision

Site visit made on 15 November 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2021

Appeal Ref. APP/J1915/D/21/3279825

Land on Wrenbrook Road to the west of 24 Havers Lane, Bishop's Stortford CM23 3PH

- 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 Benjamin Baxter against the decision of East Hertfordshire District Council.
 - The application ref. 3/21/1085/FUL, dated 10 May 2021, was refused by notice dated 15 July 2021.
 - The development proposed is described on the application form as "*Garage to be rebuilt after previous garage was demolished for being unsafe*".
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The appellant was not present for the access required site visit which had been scheduled. As I could see what I needed to from public land, I proceeded with the site visit on an unaccompanied basis.
3. I have taken the site address in the heading above from section 4 of the application form. When compared with the Council's decision notice and the appeal form, it more accurately describes the exact location of the site.
4. Different descriptions of the proposed development appear on the Council's decision notice and the appeal form. The former refers to a "*Detached single storey garage/workshop*". The latter refers to a "*Safe secure garage for storing a vehicle/trailer in*". In these circumstances I see no reason for departing from what was offered at section 3 of the application form.

Main issue

5. I consider the main issue in this appeal to be the implications of the proposed garage for the proper planning of the area with regard to its potential effects upon the living conditions of the neighbouring occupiers at 24 Havers Lane, highway safety and an oak tree subject to a Tree Preservation Order (TPO).

Reasons

6. The appeal concerns an irregular shaped area of hardstanding fronting onto Wrenbrook Road close to its junction with Havers Lane. The surroundings of the appeal site are residential in character.
7. Close to the rear and south-eastern side boundaries of the site is the dwelling and associated garden at 24 Havers Lane. The front boundary is formed by the footway (along Wrenbrook Road) which is about 1.5m wide. Next to the north-western side boundary is the oak tree subject to the TPO. Beyond the tree is a separate hardstanding upon which is a timber-framed structure.
8. The proposed garage would be built to fit the shape of the site, leaving only nominal strips of land alongside each boundary. It would be topped by a mono-pitched felt roof ranging from 2.8m to 3.0m high.
9. Whatever the change in levels between the appeal site and 24 Havers Lane, the ground floor windows in the opposing side elevation of this adjacent dwelling seem to have some form of frosted glass, as indicated by the appellant. This suggests to me that those windows are unlikely to function as primary windows to habitable rooms. In any event, the windows look straight into the boundary fence which is topped by a trellis overgrown by evergreen vegetation reaching well over 2m in height only a short distance away.
10. These factors may explain why the comments on the planning application from the occupiers of 24 Havers Lane raised no concerns about the physical impact of the garage building. I see no basis to find that the scheme would have any significant detrimental impacts on the amenity of the occupiers of this neighbouring property through overbearing effects, a sense of enclosure, harm to outlook or loss of light. There would be respect for Policy DES4 of the East Herts District Plan (EHDP).
11. The appellant says the highway authority "... would like 1m of clearance from the road..." and that this is not possible as it would affect the use of the building as a store for a vehicle/trailer. In fact, in order to minimise danger, obstruction and inconvenience to users of the highway and the premises, at a point that is close to a road junction and a sharp bend in the carriageway, the highway authority, correctly in my view, requires the garage to be set back a minimum distance of 2m from the kerb line in Wrenbrook Road. This would entail the front of the garage being sited about 0.5m back from the front edge of the site. The block plan does not show that this would be achieved.
12. The photograph submitted by the appellant shows that the much smaller former garage was set back from the pavement, with the block plan confirming that it broadly met the 2m requirement. I have no detailed planning information about the other garages on the road. I agree with the local planning authority that the siting of the garage cannot be controlled by a planning condition, given the limited space available on the site for the size of garage proposed and the stated storage needs of the appellant. As things stand, it has not been demonstrated that the proposed garage would benefit from safe and suitable highway access arrangements. This is in conflict with Policy TRA2 of the EHDP.

13. The protected oak tree is mature and substantial in size, prominent in the wider urban surroundings and clearly of some amenity value as confirmed by its inclusion in the TPO. The appellant explains that 3 local tree surgeons have checked the ground and found that the site is clear of roots for up to about "...100cm from the surface...". He states that the concrete raft slab for the garage base only requires a depth of 30cm so there will be no adverse effects on the strength or growth of the tree.
14. The appellant's assertions are not backed up by any written reports from those tree surgeons and are somewhat surprising as it is common to find the majority of tree roots in the top 600mm of soil. The garage would be sited very close to the tree and within its root protection area, as confirmed by the Council's Landscape Officer. No tree survey and arboricultural implications assessment, in line with British Standard 5837: 2012, has been submitted to demonstrate that the garage would not cause damage to the protected oak tree, including its root system. Thus, I cannot be certain about the future of this tree and the positive contribution it makes to the local amenities of the area. The failure to demonstrate how the scheme will retain, protect and enhance this notable landscape feature conflicts with the aims of Policy DES3 of the EHDP and Policy GIP4 of Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2016-2032.
15. Drawing these threads together, I find on the main issue that the proposed garage would not be conducive to the proper planning of the area given the likely adverse effects upon highway safety and an oak tree subject to a TPO.
16. Several interested parties and the Town Council were concerned about the possibility of the proposed building being used for commercial or industrial purposes. Given the recent history of the site, this concern is acknowledged but if the proposal had been acceptable in all respects, it would have been possible to attach a planning condition preventing such uses and limiting the use to the storage of a vehicle/trailer. It would also have been possible to exercise control over materials and the coloured finish to the metal shutter door. There may be restrictive covenants affecting the land but these are private legal matters which fall outside the scope of public planning controls.

Conclusion

17. 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 fully 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 representations from a local Councillor, local residents and the Town Council, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR



Appeal Decision

Site visit made on 15 November 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2021

Appeal Ref. APP/J1915/D/21/3282663 104 Cowper Crescent, Hertford SG14 3EB

- 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 Lee Burnham against the decision of East Hertfordshire District Council.
 - The application ref. 3/21/1140/HH, dated 29 April 2021, was refused by notice dated 25 June 2021.
 - The development proposed is described on the application form as "*Removal of garage building, part single, part two storey side & rear extension*".
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. A Tree Preservation Order seems to cover the woodland with a mix of evergreen and deciduous trees beyond the rear (western) boundary of the appeal site. The application form confirms that no trees or hedges will need to be removed or pruned in order to carry out the proposed extension. I see no reason to disagree.
3. In the planning policies section of the Delegated Officer Report there is mention of an "Adopted Neighbourhood Plan" which I have taken to be the Bengoe Neighbourhood Area Plan. The parties have not sought to rely on this document and it is plain that the most relevant policies of the development plan are to be found in the East Herts District Plan (EHDP) 2018.
4. The Council's questionnaire suggested that in order to ascertain the impact of the proposed extension on the amenities of neighbouring occupiers, an Inspector may wish to view the side and rear of the appeal property and stand on the driveway of 102 Cowper Crescent. However, in line with the contribution made by the appellant at section G1 of the appeal form, I was able to reach a decision on the appeal by viewing from various vantage points on public land.

Main issues

5. The main issues are the effects of the proposed extension upon the character and appearance of the locality and upon the amenities of the neighbouring occupiers at 102 Cowper Crescent with regard to the potential for any overbearing effects and loss of outlook.
-

Reasons

6. The appeal concerns a 2-storey, semi-detached house in an established residential crescent which sweeps round off 2 junctions with The Avenue and presents a varied street scene of houses, bungalows and chalet bungalows. Whilst the crescent does not possess any outstanding urban architecture, it is nonetheless a pleasant residential area, with its western side in the vicinity of the appeal site benefitting from the attractive backdrop of the protected woodland as viewed in the gaps between the properties. There is such a view between nos 102 and 104 at the present time.
7. No. 102 is the semi-detached bungalow to the north of the appeal property. They are separated from each other by their adjoining narrow drives which serve garages towards the rear. The building line of no. 104 is set slightly in advance of the one at no. 102. This added to the single-storey built form of no. 102 results in the north-facing flank wall of the appeal property being particularly noticeable when approaching along the crescent from the north.
8. The proposed scheme would add substantial bulk and mass to that northern side elevation to the extent that it would undoubtedly and inappropriately challenge the dominance of the front elevation. The design does not seek to break up that mass and bulk. The 2-storey part of the side and rear extension would not be set down from the roof ridge at the front or be set back from the front elevation or be set in along the side to retain the existing rear roof hip and a semblance of the original rear wall plane. The single-storey part of the side and rear extension would extend across the full depth of the 2-storey part of the extension, reach up to the shared boundary with no. 102 and include a mono-pitched roof which would be somewhat taller than the garage building which is to be removed.
9. The extension would appear as an insufficiently subservient addition to the existing dwelling especially in public views from the north. The partial infilling of the gap between nos 102 and 104 in the manner proposed would detract from the welcome spaciousness in the residential layout hereabouts and from the appreciation of the attractive woodland to the rear which positively contributes to the street scene. The adjacent bungalow has a modest and low physical presence. Given the proximity of the proposed built development, the slightly advanced building line of no. 104 and the mass, height and bulk of what is proposed, the bungalow at no. 102 would appear somewhat overwhelmed by the development. This would be disruptive to and detract from the character and setting of both properties.
10. I find on the **first main issue** that the proposed extension would harm the character and appearance of the locality. As the development would have a size, scale, mass and siting that would be disrespectful of and inappropriate to the character, appearance and setting of the existing dwelling and the surrounding area and would not generally appear as a subservient addition to the host dwelling, there would be conflict with the aims of Policies DES4 and HOU11 of the EHDP.
11. With regard to the second main issue, I noted the 4 windows in the opposing southern side elevation of no. 102 but even if I had been able to stand on the driveway of that property, I would not have been able to be sure about

- whether they were primary windows to habitable rooms. The Council has not secured this information during the processing of the application. The appellant has not thrown any light on this matter. The occupiers of no. 102 did not respond to the neighbour consultation exercise conducted by the Council at the time of the application.
12. The extent of the glazing across the side elevation is notable. The neighbouring occupiers there would inevitably experience some overbearing effects and some diminution of outlook from inside the rooms served by those windows. However, if those windows serve non-habitable rooms or are minor, secondary windows to habitable rooms, it would be very difficult to reach a finding that the scheme would have significant detrimental impacts on the amenity of those occupiers, which is the test set by Policy DES4 of the EHDP.
 13. Had the appeal turned solely on this issue, I would have taken steps to secure additional information, possibly by arranging an access required site visit to the appeal property and to look inside no. 102. As it is, I am dismissing the appeal on the basis of my finding on the first main issue that I have set out above and that would remain the case even if I had been able to make a clear and positive finding in favour of the appellant on this second main issue. As things stand, I have decided to make a neutral finding on the **second main issue**.
 14. I have noted the planning history of the site insofar as it has been presented to me. It is apparent that 2 planning applications in 2007, relating to different proposals to extend the appeal property, were refused with one of the schemes being subsequently dismissed on appeal. I have not been provided with the relevant plans or the appeal decision so it is difficult to make any informed comparisons with what is now proposed, let alone consider whether or not those decisions involved flawed thinking. Moreover, the development plan framework has changed since that time. I have reached a decision on this appeal based on the planning merits of the case, the written material put before me, the circumstances of the site and its surroundings and current, relevant development plan policies.
 15. The appellant has pointed to a number of side extensions which have resulted in reduced spacing between various houses along Cowper Crescent. I saw several of these examples on my site visit but I do not have the full planning history of these cases before me and not all of them are necessarily good examples to follow. A more relevant comparison would arguably be with those situations where a house stands alongside a bungalow such as at nos 70/72, 81/83, 86/88, 93/95 and 94/96. All those situations provide for more appropriate spacing between the contrasting built forms thus offering better preservation of the character and setting of each property than would be the case if the appeal scheme was to be built.
 16. Permitted development rights represent a fallback and a material consideration when considering the planning merits. However, there is no clear evidence before me, such as a certificate of lawful proposed development or fully worked-out plan drawings of an alternative scheme, to suggest that a larger, identical or even a very similar extension project could take place using the permitted development rights that would be available. Embarking on permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, would be unlikely to produce

something less desirable than the development that has been proposed in the application the subject of this appeal.

Conclusion

17. My finding on the first 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 absence of objections from local residents and the Town Council, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR

Appeal Decision

Site visit made on 20 December 2021

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2021.

Appeal Ref: APP/J1915/D/21/3284615
32 Hurn Grove, Bishops Stortford CM23 5DD.

- 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 Jenny Bassett against the decision of East Herts Council.
 - The application 3/21/1240/HH, dated 9 May 2021, was refused by notice dated 20 July 2021.
 - The development proposed is hip to gable loft conversion including the addition of a roof dormer to the rear facing roof slope.
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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 character and appearance of the host dwelling and the surroundings on Hurn Grove.

Reasons

3. Hurn Grove, where the appeal site is located, forms part of a modern estate backing onto woodland on the outskirts of Bishops Stortford. The appeal property forms the end house in a short terrace of 4 properties built in brick under a hipped, tiled roof. Within the immediate vicinity there is a mix of gabled-ended roofs and hipped roofs and, in terms of the blocks housing Nos 22-24 and Nos 25-28, gable and hipped roofs are mixed on the same block.
4. For that reason, I am satisfied that the proposal to convert the hip roof to a gable end on the northern end of No 32, even though the other end of the block would remain hipped, would not appear out of keeping with the character and appearance of this part of the estate. The northern end of the terrace backs onto the highway footpath but the immediate surroundings are sufficiently open to ensure the proposed gable would not appear unduly overbearing.
5. However, the same would not be true of the proposed roof dormer. The dormer, although it would be set down slightly from the ridge and up from the eaves and inset from the gable end, would subsume virtually the whole rear roof slope of No 32. As a result, it would appear top heavy and obtrusive in what is a prominent and highly visible roof in the street scene. Moreover, being positioned at one end of the terrace it would also unbalance the roof and appear as an unsightly addition to the roof plane.
6. Policy HOU11 of the *East Herts District Plan* (EHDP) relating to house extensions does state that roof dormers may be acceptable if appropriate to

the design and character of the dwelling and surroundings but that they should be of limited extent and modest proportions and not dominate the roof slope. The design of dormer proposed would not meet these criteria.

7. I have been referred to what the appellant considers is a precedent for the roof dormer within the vicinity where a large full-width dormer is positioned on the rear roof slope of No 17. I am not convinced however that this is a comparable example to the appeal case as the dormer on No 17 is not located on a terrace. The dormer sits on a single dwelling which, although linked at right angles to another house, is not viewed in the context of a terraced block. In any event, more importantly, No 17 serves to demonstrate the detrimental effect a full width dormer can have where it dominates the whole roof slope. I am not persuaded that this would be a design that should be followed elsewhere and therefore I will consider the appeal proposal on its own merits.
8. It has also been put to me that re-siting the solar panels currently on the rear facing roof slope and on the hip onto the top of the proposed dormer would be an improvement in terms of the appearance of the property. However, the extent of visual harm from the dormer would not be mitigated by siting the panels in a less visible location and this would not be a justification for allowing the dormer.
9. I also note the appellant's offer to use alternative facing materials to the front and cheeks of the dormer to that proposed if this would be more acceptable. However, it is the scale, mass and design of the dormer in this position that would be unacceptable and less the materials proposed.
10. The *National Planning Policy Framework* (the Framework) at paragraph 130 requires that developments must be sympathetic to local character to create high quality buildings and spaces amongst other things and in these respects the proposal fails. Policy DES4 of the EHDP, is consistent with the Framework in requiring development to be to be to a high standard of locally distinctive design and to respect or improve upon the character of the site and surroundings in terms of scale, height, massing and design amongst other things. EHDP Policy HOU11 is also consistent with the Framework and seeks to ensure the design of extensions meets similar criteria. For the above reasons i.e. principally the scale, mass, bulk and design of the rear dormer the proposal would be disproportionate to the roof slope of No 32 and have an unacceptable impact on the established character and appearance of the terrace and the surroundings on Hurn Grove.
11. Given that I have concluded that the hip to gable extension itself would be acceptable I have considered whether a split decision could be made, i.e. allowing that element but dismissing the roof dormer. However, such a decision is only possible where the elements are physically and functionally separate and, in this case, the two elements of the proposal are not capable of being separated.

Other Matters

12. I understand the appellant's wish to provide additional high quality family accommodation and avoid the need to move house. In that way sustainable and effective use of housing land would be achieved, an objective which is encouraged by the Framework in Section 11. However, paragraph 124 in the same section of the Framework states that this should not be at the expense of maintaining an area's prevailing character and setting. As such, and for

the reasons above, sustainable and effective use of the dwelling would not outweigh the harm to the character and appearance of the terrace and Hurn Grove that would be the result of the proposal.

13. I note the appellant's reference to a court order requiring appropriate accommodation for the family's children. However, having carefully considered the proposed design I am not persuaded that the appellant's objective of securing an additional bedroom and rear facing, ensuite bathroom within the loft space could not have been achieved in a different way avoiding the need for an oversized dormer albeit necessitating a reduction in the size of the bedroom.

Conclusion

14. In reaching my decision I have had regard to the matters before me but for the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR



Appeal Decision

Site visit made on 15 November 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2021

Appeal Ref. APP/J1915/D/21/3281810 34 Temple Fields, Hertford SG14 3LS

- 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 Adam Pieris against the decision of East Hertfordshire District Council.
 - The application ref. 3/21/1371/HH, dated 19 May 2021, was refused by notice dated 14 July 2021.
 - The development proposed is described on the application form as "*Raising roof to accommodate new first floor*".
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Decision

1. The appeal is dismissed.

Preliminary matters

2. In the planning policies section of the Delegated Officer Report there is mention of an "Adopted Neighbourhood Plan" which I have taken to be the Bengoe Neighbourhood Area Plan. The parties have not sought to rely on this document and it is plain that the most relevant policies of the development plan are to be found in the East Herts District Plan (EHDP) October 2018

Main issues

3. The main issues are firstly, the effect of the proposed development upon the character and appearance of the locality and secondly, whether sufficient provision for vehicle parking would be available for the enlarged dwelling.

Reasons

4. The appeal concerns a small and low bungalow at the end of a terraced and staggered row of 5 such fairly modest single-storey properties. The site lies towards the northern outskirts of Hertford in a suburban area and the surroundings are residential in character.
 5. The principle of extending the property and adapting it meet the changing needs of the owners is not at issue and I accept that householder extension schemes will inevitably make more efficient use of a site, thus moving towards optimising its potential. However, the National Planning Policy Framework (the Framework) also advises that good design is a key aspect of sustainable development; so, development should add to the overall quality of the area and be visually attractive as a result of good architecture and sympathetic to
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local character. I consider that the appeal proposal is ill-judged in these important respects.

6. The locality is given a sense of place and a degree of local distinctiveness on account of this part of Temple Fields being purposely planned with separate terraced blocks of residential development to single-storey (nos 34-42), 2-storey (nos 28-32 and nos 44-48) and 3-storey (the flats at nos 35-45) designs, being arranged alongside communal open spaces and car parking areas. The 2-storey house at no. 44 is separated by a pathway from the bungalow at no. 42 and their proximity to each other does not materially dilute the distinct identity of those different terraced groups.
7. Whilst no. 34 could be said to be tucked away on a corner plot, it still remains clearly visible on the approach along the communal pathways in Temple Fields close by, including the one that passes in between the front of the appeal property and the front elevation of the opposing 2-storey terraced block (nos 28-32) to join Watermill Lane North. Given the proximity of the appeal bungalow to Watermill Lane North, it is also prominent from various public vantage points along that road.
8. Whilst the 2-storey house which would result from adding the proposed new first floor may closely resemble the 2-storey terraced houses opposite and there are buildings of different height in the wider locality, I agree with the Council that it is the properties in the same low single-storey row as the appeal property which provide the relevant context in which the site is experienced.
9. Given its scale, size, siting, height and design, the lack of other similar abrupt changes in height within this or the other terraced rows nearby and the coherence of the row of properties which the site forms part of, the proposed development, in adding considerable bulk and mass at a high level, would appear incongruous and visibly at odds with the scale of the adjoining bungalows. That the development would be seen to overpower the row of adjoining bungalows would be emphasized by the new eaves line of no. 34 being well above the roof ridge of no. 36 and by the tall southern flank wall projecting out at the front owing to the advanced position of no. 34 in the staggered alignment. It would not frame the end of the terrace in manner that would be compatible with the immediate context and surroundings of the site.
10. The use of identical bricks, mortar and roof tiles is noted but this would not overcome the adverse visual effects of the scheme I have identified.
11. Permitted development rights available under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended can represent a fallback and a material consideration when considering the planning merits of the scheme. However, the enlargement of a dwelling consisting of the construction of one additional storey above bungalows of this type can only be pursued as permitted development if the prior notification and neighbour consultation procedures have been properly followed. The outcome of such procedures cannot and should not be predicted at this stage.
12. I find on the **first main issue** that the proposed development would harm the character and appearance of the locality. As the development would not be an example of a high standard of design and layout that reflects and promotes local distinctiveness and would have a size, scale, mass, form, siting and

design that would be inappropriate to the setting of the existing dwelling and the character and appearance of the surrounding area, there would be conflict with the aims of Policies DES4 and HOU11 of the EHDP. There would also be a failure to adhere to the overarching design themes of the Framework insofar as they relate to achieving well-designed places.

13. Policy TRA3 of the EHDP says that vehicle parking provision associated with development proposals will be assessed on a site-specific basis. The Council, using its Updated Vehicle Parking Standards, arrives at a requirement for 2 off-street vehicle parking spaces for the resulting 3-bedroom dwelling in this location. I have assumed that the existing one-bedroom dwelling would generate a requirement for one off-street vehicle parking space. Whilst I have taken these standards into account, it is important to note that like many other nearby dwellings, no. 34 has no on-site parking spaces as such. This is consistent with the original concept and layout of the development hereabouts.
14. The appellant has provided more details about the existing local parking arrangements – the communal car park and additional lay-by style parking spaces in Temple Fields and the availability of on-street parking along Watermill Lane North – all of which I saw on my site visit. Given the pedestrian gate in the back garden and the communal pathway in front of no. 34, both of which lead directly on to Watermill Lane North only a very short distance away, it is undoubtedly most convenient for the occupiers of no. 34 to park on that road. I saw that this road is relatively wide and lightly trafficked and has ample space available for additional safe parking. It could certainly accommodate the vehicle parking provision generated by this scheme without giving rise to any concerns about parking capacity and highway safety.
15. I find on the **second main issue** that sufficient provision for vehicle parking would be available for the enlarged dwelling looking at the site-specific circumstances of this case. There would therefore be no conflict with the aims of Policy TRA3 of the EHDP.

Conclusion

16. My finding on the first 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, including the representations relating to the adjacent property and from the Town Council, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR



Appeal Decision

Site visit made on 15 November 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2021

Appeal Ref. APP/J1915/D/21/3281053

17 Grange Road, Bishop's Stortford CM23 5NG

- 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 Daisy Roth-Burgess against the decision of East Hertfordshire District Council.
 - The application ref. 3/21/1474/HH, dated 24 May 2021, was refused by notice dated 27 July 2021.
 - The development proposed is described on the application form as *First floor extension*.
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Decision

1. The appeal is allowed and planning permission is granted for *First floor extension* at 17 Grange Road, Bishop's Stortford CM23 5NG in accordance with the terms of the application ref. 3/21/1474/HH, dated 24 May 2021, 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 numbered GR:01, UK028-S.1 and UK028-S.2.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on the approved plan numbered GR:01.

Main issues

2. The main issues are the effects of the proposed first floor extension upon the character and appearance of the dwelling and the Bishop's Stortford Conservation Area (BSCA) and upon the amenities of the neighbouring occupiers at 17a Grange Road with regard to the potential for any overbearing impact and loss of outlook.

Reasons

3. The BSCA, within which the appeal site is located, encompasses a sizeable section of the central area of Bishop's Stortford which is characterized by a diverse and high quality built environment. The surroundings of the appeal site are residential in character. On the same side of Grange Road as the appeal site and within the BSCA, there are various houses dating mainly from the mid
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to late 19th century. No. 17 is one such property. It forms a linked or semi-detached pair with no. 17a. It would appear that the original building here was subdivided a long time ago to create the 2 separate dwellings at nos 17 and 17a. No. 17 was provided with the original long 2-storey rear-projecting wing which has been previously extended to the rear and the side.

4. Many of the dwellings along Grange Road are identified in the Council's BSCA Appraisal and Management Plan as non-listed yet worthy buildings that make an important architectural or historic contribution to the character and appearance of the BSCA. I have noted that this document does not grant nos 15, 17 and 17a with such an accolade. Nonetheless, this does alter the statutory duty for special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
5. Whenever the previous 2-storey and single-storey rear extensions might have been built, neither of them is particularly sizeable. It is proposed to add a first floor rear extension over the existing, ground floor lean-to extension which is predominantly clad in timber boards. This would provide an additional (fourth) bedroom. Given the degree to which the proposed extension would be set back well away from the front wall of the house, it would have no material impact upon the street scene.
6. In private vantage points from the rear, it would be evident that there would be no increase in the dwelling's footprint. Whilst the scheme would further elongate the building at first floor level, this would not be out of kilter with the dwelling's deep plan form which is already a strong physical characteristic and attribute of the property. Given its limited overall size, scale and depth and the design of its hip-ended roof set below the main roof ridge, I consider that the additional bulk and mass of the extension would be well within tolerable limits. The extension would generally appear as a subservient addition to the dwelling.
7. The extension would not result in the dwelling being out of proportion with the very deep rear garden or reaching too far back in relation to nearby dwellings. In fact, it would roughly align with the 2-storey rear-projecting wing of no. 13.
8. Noting the appropriate use of render, including as a replacement for the existing timber cladding, and the welcome introduction of a traditional sliding sash window in the rear elevation, instead of the 2 existing narrow windows at rear first floor level which are wholly out of keeping, I consider that the proposed extension would represent a visually attractive solution, exhibit a high standard of design and be sufficiently complementary and sympathetic to the parent building and the surrounding residential area within the BSCA, the character and appearance of which would be preserved.
9. I find on the **first main issue** that the proposed first floor extension would be an example of high-quality design which would preserve the character and appearance of the dwelling and the BSCA. As such, there would be no conflict with the aims of Policies HOU11, DES4 and HA4 of the East Herts District Plan 2018 (EHDP), Policy HDP2 of Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 2016-2032 or the National Planning Policy Framework (the Framework) insofar as it relates to achieving well-designed places and the historic environment.

10. The experience of no. 17a as being set within a long back garden facing north would endure. The appeal dwelling already projects rearwards along the shared boundary with no. 17a for a considerable distance. The 2 main rear-facing windows, serving a bedroom and a kitchen, at no. 17a are positioned immediately alongside the opposing side wall of no. 17. Given this layout and the separation distance and acute viewing angle between those windows and the proposed extension, the occupiers of those 2 rooms would have little awareness of the extension. There would be no unduly significant overbearing impact on the outlook from those rooms. Given the existing extent of the building on the boundary and the screening effect of an attractive and mature ornamental tree in the rear garden of no. 17a next to the proposed extension, the enjoyment of that neighbouring garden would not be seriously compromised for any reason.
11. I note that the only concern lodged by the occupiers of no. 17a related to the tree. In order to accommodate the extension, the tree may need to be slightly pruned but certainly not uprooted.
12. I find on the **second main issue** that the proposed first floor extension would avoid any significant detrimental impacts on the amenities of the occupiers of the neighbouring property at no. 17a taking into account the potential for an overbearing effect and a loss of outlook. As such, there would be no conflict with the aims of EHDP Policy DES4. Similarly, there would also be compliance with the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future occupiers.
13. The scheme will enhance the quality of life for the occupiers of no. 17 by providing additional accommodation. This is a further factor that weighs in favour of granting planning permission. I realise that 2 previous planning applications for similar proposals were refused about a decade ago before the adoption of the EHDP. No appeals were lodged against those decisions and in any event, I have assessed this current proposal entirely on its own merits. The Council found that the scheme would not significantly detract from the amenities of the neighbouring property at 15 Grange Road for any reason and I could see no basis to disagree with that stance.
14. 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 requiring the use of the materials shown on one of the approved plans to ensure that the development would preserve the character and appearance of the dwelling and the BSCA.
15. For the reasons given above and having regard to all other matters raised, including the absence of objections from Bishop's Stortford Town Council and the grant of planning permission (ref. 3/19/0505/HH) for a single-storey rear extension at 17a Grange Road, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR