



Appeal Decision

Site visit made on 8 October 2021

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 9th February 2022

Appeal Ref: APP/J1915/D/20/3255151

4 The Willows, Amwell Lane, Stanstead Abbots SG12 8DG

- 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 [redacted] against the decision of East Herts Council.
 - The application Ref 3/20/0611/HH, dated 20 March 2020, was refused by notice dated 18 May 2020.
 - The development proposed is a loft conversion with insertion of dormer window and insertion of window to front elevation.
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Decision

1. The appeal is allowed and planning permission is granted for a loft conversion with insertion of dormer window and insertion of window to front elevation at 4 The Willows, Amwell Lane, Stanstead Abbots SG12 8DG, in accordance with the terms of the application, Ref 3/20/0611/HH dated 20 March 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P9153/03A (site plan), P9153/01B (existing elevations), P9153/02C (proposed elevations) and P9154/OS (location plan).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. The Council's second reason for refusal of permission was on the basis that it lacked sufficient information regarding the proposal to properly consider the application due to inconsistencies with the submitted plans. New plans were subsequently submitted with the appeal by the appellant. These did not materially alter the proposal, but corrected the initial drafting errors.
3. In considering whether to accept the amended drawings I have had regard to the "Wheatcroft Principles". As the development is unaltered the alterations are not substantial, and the development is not so changed that to accept the revised drawings would deprive those who should have been consulted of the opportunity of such consultation. Accordingly, I have formally considered the additional drawings in my determination of the appeal.

4. The appeal was consequently transferred out of the Householder Appeals Service and consultation with the Council was then carried out on the amended plans in accordance with Part 2 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009. Thus, in light of the above considerations, the new plans satisfactorily overcome the second reason for refusal of permission.
5. The description of development in the heading above has been taken from the decision notice and appeal form, rather than the planning application form, as it more accurately describes the proposed development.

Main Issue

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

Reasons

7. The site lies within a row of residential development along Amwell Lane. Property design in the vicinity is diverse, and there are several examples of dormer windows. Trees, hedgerow and verges contribute a verdant appearance to the lane.
8. The host property is a large building which is divided into four dwellings. The appeal site forms one of the rear quarters of the building. The appeal proposes the siting of a dormer window within the rear half of the building's pitched roof. This would be set down from the ridge and in from the eaves, giving it a subservience to the roof slope.
9. The main views of the dormer would be those available from outside the adjacent dwelling, "Jansus", and elevated views from the riverside path across the road. Given the number of similar developments in the area the dormer would assimilate acceptably into the existing street scene. Its set back position and subservience within the roof would limit its effect on the area's character and appearance. Moreover, the host dwelling is substantial in size and therefore the bulk and mass which the proposal would add within views of the building would be minimal in proportional terms. Furthermore, the roadside and other vegetation would additionally provide some screening of the proposal for much of the year.
10. Thus, the proposal would have an acceptable effect on the character and appearance of the area. It consequently complies with Policy HOU11 of the East Herts District Plan (2018) (the DP), which requires development proposals to be of a size and siting that are appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area. Further compliance exists with Policy DES4 of the DP, which states that proposals will be expected to respect or improve upon the character of the site and the surrounding area in terms of scale and siting.

Conditions

11. I have imposed a condition specifying the approved plans because it creates certainty for all parties.

12. A condition in respect of materials is necessary in order to protect the character and appearance of the area, in accordance with the design provisions of Policy DES4 of the DP.

Conclusion

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

C Beeby

INSPECTOR



Appeal Decision

Site visit made on 18 January 2022

by **D Szymanski BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2022

Appeal Ref: **APP/J1915/W/21/3273939**

Wickham Hall, Hadham Road, Bishops Stortford CM23 1JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Frank David Harvey against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1683/VAR, dated 2 September 2020, was refused by notice dated 29 October 2020.
 - The application sought planning permission for Construction of an A3 cafe/restaurant (amended scheme), without complying with a condition attached to planning permission Ref 3/19/1133/FUL dated 29 July 2019.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.
 - The reason given for the condition is: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.
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Decision

1. The appeal is allowed, and planning permission is granted for Construction of an A3 cafe/restaurant (amended scheme) at Wickham Hall, Hadham Road, Bishops Stortford CM23 1JG in accordance with the terms of the application Ref. 3/20/1683/VAR made on 2 September 2020 without compliance with condition number 2 previously set out in planning permission Ref: 3/19/1133/FUL dated 29 July 2019, but subject to the conditions set out in the attached schedule.

Procedural Matters & Background

2. The description of development in the banner heading above is taken from the application form. The decision notice and appeal form describe it as '*Variation of condition 2 (approved plans) of planning permission ref: 3/19/1133/FUL (Construction of an A3 cafe/restaurant (amended scheme) to show new external alterations to remove some windows and replace with new positioned windows; removal of flues and replace with small ventilation intakes, removal of covered walk way with addition of barn doors. Amendments to fenestration of ground floor doors.*' Whilst it describes the amendments, it is not a description of the development, so I have used the description from the original planning permission and application form in the decision paragraph above.

3. The application form states the development commenced on 1 September 2020. At my visit the development had mostly been undertaken in accordance with the plans submitted. Therefore, the application is retrospective and falls to be considered under section 73A of the Town & Country Planning Act 1990 as set out in the banner heading above.
4. This application seeks permission to replace the approved plans with new elevation, roof, and floor plans. Amongst other things the amendments seek to replace flues with ventilation intakes, remove windows on the north and south elevations, remove a canopy/walkway, flue, and additional barn doors on the eastern elevation, and remove a lower set of rooflights, increase the upper roof lights and amend ground floor doors/windows on the western elevation.
5. The appellant has provided further amended plans to move a double barn door on the eastern elevation a short distance. Taking into account the Wheatcroft principles¹ the plans indicate minor alterations that do not significantly change the external appearance of the building from that set out in the submitted plans. Therefore, I have considered the proposals based upon the amended plans. The Council and interested parties have had the opportunity to comment upon the changes through the appeal process so would not be prejudiced by this approach.
6. Since the appeal was lodged the revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the Appellant the opportunity to comment upon the implications of this for their respective cases.

Main Issues

7. The main issues are the effect of the variation of condition 2 as proposed upon the setting and significance of designated heritage assets and the character and appearance of the building and the area.

Reasons

Heritage Assets

8. Wickham Hall is a complex of historic and newer buildings, including a number of Grade II listed buildings, forming a farmstead and rural business park. The appeal site comprises a relatively recent building approved in 2019, situated south of a number of the buildings, on an access road to the complex. It lies within the setting and has some intervisibility with a number of the Grade II listed buildings to its north, east, and west. These are Wickham Hall, Wickham Hall Barns 1 and 2, Wickham Hall Outbuilding, Wickham Hall Cottage, and Former Dovecote approximately 30 metres to the south west of Wickham Hall.
9. Special regard should be given to the desirability of preserving the setting of Listed Buildings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA). Paragraph 199 of the Framework requires when considering the impact upon the significance of a designated heritage asset great weight should be given to the asset's conservation. Any harm to significance including from development within its setting requires clear and convincing justification (paragraph 200).

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

10. The significance of the listed buildings derives from their special architectural and historic qualities as individual buildings and their contribution to and arrangement in a diverse group of what were mostly farmstead buildings. They are well-preserved C16th – C19th timber framed and red brick buildings retaining many of their historic forms and features. This includes red tiled and thatched roof forms, plaster, weatherboard and brickwork walls, some historic window openings, cart and door openings, and some internal structural and other features.
11. The settings of the listed buildings include the surrounding historic and more modern buildings, car parking areas, access roads, and functional agricultural structures and buildings, set within a wider rural landscape. Their setting including the appeal site contributes to their significance as it forms part of the mostly historic pattern of buildings, ancillary yard, and parking areas serving the businesses and other uses, viewed within the largely rural and agricultural backdrop to which the agricultural buildings are associated. As a well-designed weatherboarded and slate roof building on the access road the approved appeal site development would make a neutral contribution to the way in which the designated heritage assets are experienced.
12. As a result of the removal of the projecting flues, the amendments to the northern and southern elevations collectively, would result in a minor positive effect upon the setting of the designated heritage assets. This is primarily because their visibility would not be obstructed by the flues. The changes to the western elevation (rear) of the building are partly enclosed by two gable features and mature vegetation surrounding the lake. The amount and size of rooflights, windows and doors has very limited perceptibility within the setting of the listed buildings at various points around the complex. Configurations of multiple glazed openings were present on many other newer buildings and restored listed buildings nearby, so they are not discordant or out of keeping with their surrounds. I find no harm to the setting or significance of listed buildings from the new configuration on the western elevation.
13. While the approved veranda might add some rhythm, it would not suggest doors and would give little impression of an active frontage. While the amendments result in a functional simple appearance, the reception entrance remains on the eastern elevation. The new door entrances would result in the perception of an active frontage to no lesser, if not a slightly greater degree, than the veranda. It is not put to me that the approved type of veranda is present on external elevations the listed buildings that the appeal building is within the setting of, and I saw no similar external features present upon them. The amendments would remove decorative features that may distract from the nearby listed buildings. This would not be at odds with the listed or other buildings nearby, or their design features, or materials. Therefore, the alterations are not harmful to the setting or significance of the listed buildings.
14. For the reasons set out above the amendments would not have an adverse effect upon and would preserve the setting and significance of designated heritage assets. Therefore, they would not conflict with the aims of section 66(1) of the LBCAA or Policies HA1 and HA7 of the East Herts District Plan (2018) (the EHDP). In combination and amongst other things these policies state that development should preserve and where appropriate enhance the historic environment including the significance and setting of listed buildings.

Character and appearance

15. The restoration of nearby historic buildings to reflect their special architectural and historic significance and historic functionality, and the development of some individual newer buildings, results in there being a variety of different styles and appearance of buildings. The building as approved would be of a high quality in keeping with the character and appearance of the area.
16. Primarily as a result of the removal of the projecting flues the collective amendments to the northern and southern elevations would result in a minor beneficial effect to the character and appearance of the building and area. The amendments to the western elevation are minor, and the proposed design is reflective of and in keeping with the character and appearance of the host building, those nearby and the wider area. They are also partly screened from the wider area by mature vegetation and the gable features of the building.
17. The amendments to the eastern elevation result in a more simple and functional appearance, having an appearance in keeping with a historic functional barn building. It reflects a historical simple functional vernacular that is reflective of the rural farmstead and business hub location. The new false door entrances would give some modest impression of an active frontage in a similar manner to the approved elevation. They would provide some interest and limit the massing of the elevation. Therefore, I regard the amendments as a high quality of design having regard to the character and appearance of the area. I have been provided with a number of examples of simple functional elevations on historic buildings adjacent to roads, suggesting this is not uncommon in the wider area. Overall, the amendments are in keeping with the character and appearance of the building and the area.
18. For the reasons set out above the amendments resulting from the proposed variation of condition 2 would not be harmful to the character and appearance of the building or the area. Therefore, they do not conflict with Policy DES4 of the EHDP. Amongst other things this expects development to be of a high standard of design to reflect and promote local distinctiveness, and to respect or improve the character of the site and the surrounding area.

Other Matters

19. As the development does not adversely affect the significance of the listed buildings, no balancing exercise is required to be undertaken referred to in paragraphs 201 or 202 of the Framework. The Council has concluded the amendments would not have an adverse impact upon the upon the Green Belt. The evidence before me suggests the removal of the veranda results in minor beneficial effects upon openness of the Green Belt. The amendments result in modest improvements in respect of building maintenance, adaptability, temperature control and construction benefits. These benefits attract limited weight in favour of the scheme.

Conditions

20. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the Planning Practice Guidance. As the development has commenced and is mostly complete it is not necessary to impose a commencement condition. As the three new doors on the eastern elevation have not yet been installed a plans condition is

necessary. The details of the external materials are not specified on the plans before me. Therefore, in the interests of certainty, the character and appearance of the area and the setting of designated heritage assets, the Council's suggested materials condition is necessary.

21. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also re-state the conditions imposed on earlier permissions that continue to have effect. Therefore, I have imposed conditions 4 – 6 suggested by the Council, in respect of surface water drainage and ecological mitigation. I have not been provided with sufficient evidence detailing any previously approved landscaping scheme, or that this appeal scheme is fully consistent and compatible with the continued effect and operation any approved scheme. Therefore, I shall impose condition 3 suggested by the Council. I have amended the wording as the suggested condition was a pre-occupation condition, however, the building is occupied. In the event that it has been discharged and this appeal scheme is fully compatible with previously discharged submissions, it is a matter which can be addressed by the parties.

Conclusion

22. The development is compliant with the development plan and the Framework taken as a whole. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given above, the appeal is allowed.

Dan Szymanski

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be carried out in accordance with approved plans:
 - Site location plan WH_A_SP_EXT_001;
 - Site plan WH_A_SP_EXT_001 A;
 - Floorplan WH_A_B1_GA_200 Rev R;
 - West elevation WH_A_B1_EL_303 Rev H;
 - North elevation WH_A_B1_EL_302 Rev F;
 - South elevation WH_A_B1_EL_301 Rev H;
 - East elevation WH_A_B1_EL_300 Rev L;
 - Roof plan WH_A_B1_GA_201 Rev I.
- 2) The external materials used in the construction of the development hereby permitted shall be those approved under discharge of condition application reference: X/19/0491/CND, unless otherwise agreed in writing by the Local Planning Authority.
- 3) Within 3 months of the date of this permission, details of the final landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include full details of: hard landscape proposals, soft landscape proposals, finished levels, retained landscape features, planting plans and an implementation timetable. Thereafter, the development should be implemented in accordance with the approved details.
- 4) The development permitted shall be carried out in accordance with the Flood Risk Assessment & Surface Water Drainage Strategy (reference: 617301-REP-CIV-FRA Rev 2) and the letter titled: Designer's response to Hertfordshire County Council Comments (reference: JRC/617301/TH) both prepared by MLM. The following mitigation measures as detailed within the surface water drainage strategy shall be implemented:
 - The surface water runoff from the development will be conveyed to the basin 3 via a series of swales connecting the existing ponds;
 - The final discharge from the basin 3 to the ditch will not exceed the equivalent greenfield run-off rates for the total development site area, by using flow control devices;
 - Appropriate storage will be provided throughout basin 2, the swale and the final basin 3.

The mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements embodied within the scheme, unless otherwise agreed in writing by the Local Planning Authority.

- 5) Upon completion of the drainage works, an updated management and maintenance plan for all the SuDS features and structures shall be submitted to and approved in writing by the Local Planning Authority. This shall include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 6) The development hereby approved shall be carried out in accordance with the Mitigation Strategy and Biodiversity Enhancements in the Ecological Impact Assessment December (2016) by ELMAW Consulting, unless otherwise agreed in writing by the Local Planning Authority.

End of Schedule.



Appeal Decision

Site visit made on 18 January 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2022

Appeal Ref: APP/J1915/W/21/3273613

Craycombe, Parsonage Lane, Sawbridgeworth CM21 0ND

- 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 _____ against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2045/FUL, dated 16 October 2020, was refused by notice dated 3 February 2021.
 - The development proposed is Conversion of existing office and outbuildings to two bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's first reason for refusal relates to its view there is insufficient information regarding the outbuilding to enable proper consideration of the merits of the proposal. Having regard to the further reasoning set out in the delegated report, the concern relates to the assessment against Green Belt policies. My findings in relation to the matters raised are set out in my assessment in respect of the Green Belt issues below.
3. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021 and the 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. I have given the Council and the Appellant the opportunity to comment upon the implications of these for their cases and taken them into account in determining this appeal. The revisions to paragraph numbering in the Framework are reflected in my findings below.

Main Issues

4. 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;
 - whether or not the proposal would be in a suitable location having regard to the Council's development strategy and sustainable access to services and facilities; and,

- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. Policy GBR1 of the East Herts District Plan (2018) (the EHDP) states applications in the Green Belt will be considered in line with the provisions of the Framework. The Framework states that inappropriate development is harmful and should not be approved except in very special circumstances (paragraph 147). The construction of new buildings is regarded as inappropriate development, subject to certain exceptions. One of the exceptions in paragraph 149c) of the Framework 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.
6. The appellant's aerial photograph from 2000 shows a building of the size, shape and extent set out on the plans before me within what I am told is the garden of the host property, and Estate Agent's information from 2003 and 2007 also refers to an outbuilding. Therefore, I have no reason to believe the building has not been on the site for in excess of 20 years. However, this evidence does demonstrate what comprises the 'original building' against which my assessment under paragraph 149c) is required to be made.
7. The building appears to comprise three sections of differing construction and appearance, referred to in the Structural Engineer's letter. Their shape, design and construction strongly suggest the current building is not the original building, and there have been 2 additions to what was the original building. If I were to take the largest section to be the original, the smaller sections taken together with the proposed new roof would result in a considerable increase in volume and floor area. Therefore, based upon the evidence before me the development would result in disproportionate additions over and above the size of the original building, not meeting 149c). As the proposal is for a conversion, it would not constitute a replacement building under paragraph 149d).
8. Paragraph 150 of the Framework states, b) engineering operations, and d) the re-use of buildings of permanent and substantial construction, are also not inappropriate provided they preserve openness and do not conflict with the purposes of including land within the Green Belt. The Structural Engineer's letter states the ground slabs and walls can be used for conversion. However, it is very limited in scope. It does not list the plans submitted with this appeal in reaching its findings, state the loads of the new roof, or confirm that the walls can bear the increased roof. So, it does not provide adequate assurance the building can be converted. The increased built extent of hardstanding would also not safeguard the countryside from encroachment. Therefore, the development would conflict with a purpose of including land within the Green Belt under paragraph 138c) of the Framework.
9. Paragraph 149g) of the Framework lists an exception to inappropriate development as the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. My findings in respect of openness will be

determinative as to whether or not the development constitutes an exception to inappropriate development.

Openness

10. Even if I were to take the view the enclosure of the largely open covered porch area was not harmful to openness, the provision of a new pitched roof with an up to 0.8m increased height over a significant proportion of the building would markedly increase the volume, bulk, and massing of the building. New fencing defining a new western garden boundary and the proposed shed and bin store would result in further development adversely affecting the openness of the Green Belt. Even if the bin store and shed were to be omitted by suitably worded planning conditions, the new roof and a new fence would still result in an adverse effect upon the openness of the Green Belt.
11. The visibility of new fencing and hardstanding would be likely to be limited. However, the increased height and volume of the roof would be significantly visible above the boundary fence when passing on Parsonage Lane and from the car park of the neighbouring commercial use. Therefore, the proposed development would have a limited but harmful effect upon the visual and spatial openness of the Green Belt. Conditions could not adequately overcome the harm. The subdivision of the site would also result in limited increased residential paraphernalia, vehicular movements, parked cars and associated domestic activity. The increases would be small but would further negatively impact upon openness.
12. For the reasons set out above the proposed development would result in a limited harmful effect to the visual and spatial openness of the Green Belt, thereby constituting inappropriate development. The development would conflict with Policy GBR1 of the EHDP and paragraphs 137, 149g), 150b) and 150d) of the Framework insofar as these seek to keep Green Belt land permanently open and define and resist inappropriate development.
13. The Council has referred to paragraph 145 of the Framework in its second reason for refusal. However, as this relates to the beneficial use of the Green Belt with respect to matters such as access, outdoor sport, and recreation, retaining and enhance landscapes, biodiversity, and damaged and derelict land, it is of less relevance to this main issue than the paragraphs I have referred to.

Location

14. Policy DPS2 of the EHDP sets out the development strategy, seeking to deliver sustainable development in accordance with the specified hierarchy, of which the first location is sustainable brownfield sites. Being within a garden outside a built-up area, the site falls within the definition of previously developed land in Annex 2 of the Framework. Paragraph 3.1.2 of the EHDP defines sustainable development as providing growth while mitigating adverse economic, environmental, and social impacts. It is not put to me the development would meet any other locations in the hierarchy. Therefore, my findings in relation to Policy DPS2 are dependent upon whether the site is sustainable in the round, which I will return to later, in balancing any harm and benefits.
15. There are few services and facilities for day to day living in the immediate surrounds of the appeal site, although given its proximity to other dwellings

and businesses in the wider cluster, I do not regard it as isolated under the terms of paragraph 80 of the Framework.

16. However, it is approximately 500m from the A1184, which benefits from lighting, bus stops and a footway. Approximately 450m south of the junction is a public house, leisure centre and academy. Many services and facilities required for day to day living such as food stores, a post office, pharmacy, takeaways, public houses, professional services, schools, and clothing shops are located around Cambridge Road/ Station Road/Bell Street, a further approximately 0.5 – 1.5km into Sawbridgeworth, approximately 1.5 – 2.5km from the appeal site. The train station is some distance further. The limited facilities in Spellbrook are a similar distance to the north.
17. The section of Parsonage Lane to access the footway and bus routes is a narrow curving section of national speed limit road with no street lighting. Some sections of the verges are narrow, high, and lined with mature vegetation. Therefore, it would not be a particularly attractive or convenient route for many potential future occupiers seeking to walk or cycle to the A1184, for onward travel.
18. Access to larger supermarkets, more retail outlets and access to employment opportunities may necessitate trips to larger settlements such as Bishop's Stortford a short distance further to the north. Walking, cycling, or taking the bus would also not be particularly attractive or convenient given the route and distance. Therefore, it is unlikely that many trips to services and facilities would be by walking, cycling, or bus, with future occupiers mostly reliant upon a motor vehicle. Opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and the number of trips generated by this development and the distances to travel would be relatively limited. However, it would soon add up to a significant number of vehicular miles per year and associated vehicular emissions.
19. For the reasons set out above the development would not be well located to enable sustainable journeys to services and facilities. It would conflict with Policy TRA1 of the EHDP, which amongst other things seeks to ensure a range of sustainable transport options are available to occupants which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction. The harm may be limited, but nevertheless it attracts weight against the proposal.

Other considerations

20. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework is clear that substantial weight should be given to any identified harm to the Green Belt.
21. The development would result in a small economic benefit during construction and a small, sustained benefit to the local economy, services and facilities once occupied. The Council's 2021 HDT results show a delivery of 130% of housing requirements over the previous 3 years. I have not been provided with evidence in respect of the Council's housing land supply position. However, even if it were very acute, the provision of one additional dwelling making a more efficient use of the building and land would be a limited benefit. The development would improve the character and appearance of the building, and

further landscape planting and biodiversity enhancements could be secured by a suitably worded planning condition. However, given the nature of the proposal and the site, the evidence suggests the benefits in respect of these matters would be limited. I attribute the collective benefits moderate weight in favour of the scheme.

22. Planning permissions a short distance to the south of the appeal site permitted the conversion of and replacement of commercial buildings resulting in a small number of additional dwellings. However, given the plans, merits, material considerations and other circumstances surrounding their approval are not before me, I cannot make a fully reasoned comparison between those developments and this proposal. However, as they appear to relate to commercial buildings, the planning considerations such as the planning policies, pre-existing levels of activity and vehicle movements, is likely to have differed markedly to that of this domestic outbuilding. Therefore, those decisions are only attributed limited weight.
23. Compliance with policies such as those in respect of access, parking provision, the living conditions of neighbouring properties, and resource and energy efficiency, are all neutral matters in the planning balance.

Planning Balance

24. The factors and benefits set out by the appellant attract moderate weight overall. They would not clearly outweigh the harm identified to the Green Belt and the other harm in respect of sustainable access to services and facilities which taken together in combination carry substantial weight, so as to amount to the very special circumstances necessary to justify the proposal. Therefore, the development conflicts with the development plan and the Framework, as there are not very special circumstances demonstrated, that clearly outweigh the harm to the Green Belt.
25. Having regard to the findings above and the economic and social benefits of the development not outweighing the environmental harm to the Green Belt and other harm in respect of sustainable access to services and facilities, the site would not be a sustainable brownfield site, so the location of the development conflicts with Policy DPS2 of the EHDP.

Conclusion

26. The proposed development would be contrary to the development plan and the National Planning Policy Framework taken as a whole, and there are no considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR



Appeal Decision

Hearing held on 9 February 2022

Site visit made on 10 February 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2022

Appeal Ref: APP/J1915/W/21/3276833

Toad Hall, Sacombe Green, Sacombe SG12 0JQ

- 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 Rachel Milton against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2077/FUL, dated 20 October 2020, was refused by notice dated 25 February 2021.
 - The development proposed is described as Creation of 4x three-bedroom dwellings and 4x B1 office use units and associated car parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development description in the banner heading above is taken from the application form. The decision notice and Statement of Common Ground (SoCG) refer to boundary works set out on the plans and the office use as Use Class E, reflecting changes to the Town and Country Planning (Use Classes) Order 1987. It was agreed the appeal scheme would be determined on the basis of being for the 'Creation of 4 three-bedroom dwellings and 4 office use units (Class E) together with associated car parking and boundary works'.
3. The Council's fourth reason for refusal does not specify which future occupiers of the proposed development it alleges would experience unsatisfactory living conditions. It was clarified the concerns relate to houses 1 and 2, which is reflected in my setting out of the main issues below.
4. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021, and the 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. The Council and the Appellant were given the opportunity to comment upon the implications of these for their cases, which I have taken into account in determining this appeal.
5. Following the closure of the Hearing an interested party submitted additional comments in respect of the demand for the proposed accommodation. However, as they were submitted after the closure of the event, I have not had regard to the comments in determining the appeal.

Main Issues

6. The main issues are:

- whether or not the proposed development is compliant with policies for the protection and development of equestrian facilities;
- whether or not the proposed development would be in a suitable location having regard to its location in the countryside and the accessibility of services and facilities;
- the effect of the proposed development upon the character and appearance of the area; and,
- whether or not the proposed development would provide suitable living conditions for the future occupiers of houses 1 and 2 with particular reference to the adequacy of private outdoor space provision.

Reasons

Protection of equestrian facilities

7. The East Herts District Plan (2018) (the LP) seeks existing equestrian buildings should wherever possible, be re-used. Policy CFLR6 of the LP states proposals resulting in the loss of equestrian facilities, should be accompanied by an Equestrian Needs Assessment (ENA) demonstrating the facilities are no longer needed. No ENA is provided. The Council stated at the hearing there is no specification in LP policies or other guidance of what an ENA should comprise. It advised it would expect an ENA to amongst other things, provide evidence demonstrating the facility has sought to be retained, other equestrian uses have been explored, and sufficient information provided to demonstrate it is not viable. The appellant did not disagree with these expectations.
8. No substantive evidence has been provided that the site has been marketed at a realistic value for sale or let, or other specialist valuation evidence provided. Such information would have provided a good indication of whether or not the appeal site premises is no longer needed, as required by CFLR6.
9. The appellant's financial information suggests the business has been operating at a loss since the year ending 31 March 2018, which have increased, such that I am informed it is expected to close. However, at my visit a significant number of animals were in the main and an additional building. It is not clear from the evidence I heard, if and how many are from the appellant's other premises, how many are in the ownership of the appellant and her family, and how many are customers specific to the appeal site premises.
10. The written financial information is limited in detail, although certain larger costs such maintenance and cleaning in relation to the construction and repair of the buildings were explained. I heard nothing to lead me to doubt these are not accurate. The previous annual insurance costs are not explicitly set out. There was also not sufficient clarity in respect of business rate expenditure. However, even if this was significantly less than quoted, the business would still have made losses based upon the figures I am provided with.
11. A number of reasons were advanced for the stables and livery making losses. I am informed there has been a continued year on year national downturn in riding participation, exacerbated by the Covid-19 pandemic. However, detailed

figures are not before me. There was also conflicting evidence as to whether any such national trends are reflected locally. It is advanced there is a high prevalence of other competitor businesses in the area, resulting in a high rate of vacancies at the appeal site and closure of another premises. However, the evidence I heard from the appellant and an interested party was contradictory. There is not sufficient substantive evidence to demonstrate either the number stable or livery spaces is particularly high for the area, or the specific reasons another stable has closed.

12. I am provided with some details of other businesses in the area and facilities and services they offer, which I am informed, cannot be offered by the appeal site business. Some facilities such as an indoor arena would clearly be costly, although do not seem to be offered by all competitors. While noting the size of the appeal site enterprise, the reasons why many of the other services, facilities and events cannot be offered at the appeal site is not fully clear. While I am informed the business has offered a greater range of services without success, the full range and details could not be explained at the hearing. Overall, it is not demonstrated that business losses are as a result of inherent limitations with the premises and/or that the premises are no longer needed.
13. For the reasons set out above the proposed development conflicts with Policy CFLR6 of the LP for the protection and development of equestrian facilities. Amongst other things it seeks to resist the loss of equestrian facilities, unless it is demonstrated the facilities are no longer needed.
14. The Council's reason for refusal refers to Policies ED1 and ED2 of the LP. However, as this site is in use as an equestrian and not a B Class or B Class-related Sui Generis use, their relevance to this main issue is not clear, and I have not concluded against these policies.

Location

15. The spatial strategy directs development to ensure it takes place in the most suitable locations in the District including where it is sustainable. Policy DPS2 of the LP seeks to deliver sustainable development in accordance with a hierarchy. The last location in the hierarchy is limited development within the villages, which from what I heard is not solely restricted to Group 1 and 2 villages. Part II of Policy VILL3 does not refer to limited infill development 'only' being permitted within Group 3 villages when identified in an adopted Neighbourhood Plan. Therefore, based upon what I heard, neither of these policies, in principle, preclude development at Sacombe Green.
16. The appeal site comprises the eastern most grouping of the cluster of buildings of Sacombe Green. Its proximity to other buildings means its location and layout relates reasonably well to the settlement. While Marshall's Lane is narrow, the speed limit is 30mph, there is good forward visibility, and it appears to have limited vehicle movements along it. I see no reason it would not be used as a shared surface within the immediate vicinity of the appeal site, which leads me to conclude the site relates reasonably well to the settlement in terms of its connectivity. I was not provided with substantive evidence the scale of this proposal would result in harm having regard to the potential cumulative impact of development in the locality. For these reasons I do not find a conflict with Policy VILL3 Parts II and III(a) and (b).

17. The general support for new employment use in Policies ED1, ED2 and ED4 of the LP is subject to it being located or accessed sustainably. Sacombe Green is a Group 3 village which paragraph 10.3.11 of the LP identifies as characteristically having a poor range of services and facilities with it often necessary for residents of such villages to travel for most of their daily needs. Policy GBR2 of the LP permits (d) the replacement and conversion of buildings, as well as (e) the partial or complete redevelopment of previously developed sites, in sustainable locations.
18. A church and bus stop approximately 800m and 1km (respectively) west of the appeal site are accessed along a narrow unlit road with some high maturely vegetated verges, and by a rural right of way. These are unlikely to be viewed as particularly attractive or convenient by future occupiers to walk or cycle to access those facilities. Facilities such as a church, primary school, petrol station, convenience store and bus stop are at High Cross, approximately 2.3km away. The narrow, unlit winding highway route to these facilities with limited refuge opportunities, would not be likely to be particularly attractive or convenient for occupants or users of the appeal site walk or cycle along.
19. For most requirements for day to day living such as larger food and clothing stores, secondary education, a range of leisure and employment opportunities, professional and medical services, or dining out, trips to other settlements would be frequently required. Many facilities at the nearest larger settlements of Watton at Stone, Hertford or Ware are approximately 3.8 – 8km from the appeal site. The distance and nature of the highway and rights of way routes to these are not likely to be regarded as particularly attractive or convenient by many future occupiers, employees, and visitors to the site for walking and cycling. While there might be some reduction in vehicular movements if the development was a type of live/work proposal, occupiers and users of the appeal site are likely to rely upon a motor vehicle for the majority of journeys. Given the distance to many services and facilities, this would soon add up to a considerable number of vehicular miles and associated emissions per year.
20. Opportunities to maximise sustainable transport solutions will vary between rural and urban areas, and the number of trips may be limited compared to a viable use of the appeal site. However, the vehicle movements and associated vehicular mileage from the existing use is not provided. Therefore, it is not demonstrated that as a material consideration, these are equal to greater than the proposed use, off-setting the harm from private vehicle journeys from the proposed development.
21. Impacts from carbon emissions would diminish as combustion engines are replaced by ultra-low emission and electric vehicles. Nevertheless, the development would be likely to be constructed in the short term, so it is not clear that future occupiers would use these vehicles. Moreover, while electric vehicle charging points could be provided, it is by no means certain that all occupiers would use an electronic vehicle, or that such a requirement could be enforced. Accordingly, this cannot be relied upon as a means of mitigating the significantly inaccessible location of the site in the short to medium term.
22. For the reasons set out above, the location of the development in the countryside at a Group 3 village would not in principle conflict with Policies DPS2 or VILL3, the relevant provisions of which I have referred to above. It would be located where it would enhance or maintain the vitality of rural

communities and not be isolated from a settlement, so does not conflict with paragraphs 79 and 80 of the Framework. However, the development would not be in a suitable location having regard to the accessibility of services and facilities, in conflict with the aims of Policies TRA1, GBR2(e), and DPS2 of the LP. Amongst other things, these seek to ensure development is located sustainably to enable sustainable journeys to be made to key services and facilities to aid carbon emission reduction. It would also conflict with the aims of paragraphs 104 and 105 of the Framework, which seek to promote walking, cycling and public transport.

23. As Policy DES4 which is referred to in the Council's first reason for refusal, mainly relates to design-related considerations, it is of less relevance to this main issue than the policies I have referred to above.

Character and appearance

24. Sacombe Green is an informal cluster of dwellings and rural buildings. While they do not have one overriding architectural style, a distinctive characteristic is the relatively low density sporadic informal layout often within generous spacious plots and surrounds, and mature landscaped areas. The appeal site buildings may be of little architectural merit. However, these and the appeal site as a whole is in keeping with and contributes positively to the character and appearance of the area given the functional rural layout, and the setting of the buildings within wide open rural and maturely landscaped surrounds.
25. The status of a sheeted covered structure present at my visit, that is not on the plans before me, is not clear. Therefore, I have not had regard to it in my assessment of the built development. Having regard to the survey plan before me, the proposed development would result in a small increase in the footprint of buildings, with a significant reduction in hardstanding area. However, there would be a comparatively significant increase in the volume, resulting in an increased bulk and mass of new buildings. The proposed walled patio areas around dwellings 1 and 2, would result in the perception of a further increased amount of built development at the appeal site.
26. The dwellings would be at a density of 8 per hectare for the overall site, although this does not include the office building. The design of the reused main building and sensitive use of materials, demonstrates some aspects of good design, and the position of hardstanding areas would broadly reflect the existing appeal site arrangement. However, the subdivision of the appeal site with multiple gardens and parking areas, the size and number of windows on the buildings, and associated residential paraphernalia would result in the appeal site taking on a much more domesticated appearance.
27. The development would concentrate the built development in a similar area of the site as existing buildings. However, even if the timber shed was utilised for storage, the design of the site layout, close proximity of new buildings, the subdivision of the appeal site into many plots and garden areas, would result in a somewhat dense domesticated form of development with multiple buildings and small plots concentrated in one part of the site, at the edge of the settlement. This would be markedly and harmfully at odds with the surrounding pattern of development and is not typical of layouts in the area.
28. Despite some mature landscaping to the north and west, the appeal buildings are clearly visible through gaps between trees from some neighbouring

dwellings, significant sections of Marshall's Lane, as well as open land to the south and east. Therefore, the development would not be viewed in isolation. Once matured additional planting would mitigate the visibility of the development to a degree. However, this is likely to take several years to mature sufficiently and would not fully mitigate the harm. Therefore, there would still be harm to the character and appearance of the area. The evidence does not demonstrate this and other planning conditions, could adequately overcome or mitigate the harm.

29. For the reasons set out above the proposed development would not be in keeping with and would be harmful to the character and appearance of the area, in conflict with Policies GBR2 and DES4 of the LP. In combination and amongst other things these require that development is compatible with, respects and improves the character and appearance of the area, including with reference to the design and layout, and improves local distinctiveness.
30. The retention of existing landscape features and additional planting, secured by a planning condition, would ensure the development would not conflict with Policy DES3 of the LP as it would retain, protect, and enhance existing landscape features. However, this does not overcome the harm I have found.

Living conditions

31. Private outdoor space is of benefit to well-being, and of functional use for household and leisure activities, such as drying clothes, play space, sitting outside, fresh air, gardening, and other hobbies. The Council confirmed it does not have quantified standards for such space in new dwellings. The size of the dwellings is such that they could be of appeal for families with children.
32. The private outdoor space for house 1 would be distributed between two separate small areas of a limited width and depth. Their size and shape would have very limited scope for use for many leisure activities, feeling somewhat cramped for future occupiers. This is particularly so as a result of them being separate spaces at almost opposite ends of the dwelling. These spaces would not provide satisfactory living conditions to the future occupiers of house 1.
33. The private space on house 2 appears slightly larger. While it is lacking in depth, its width along the property would be supplemented by the southern patio area, which could be made sufficiently private with an adequate wall height secured by suitably worded planning conditions. The overall space would be of an adequate shape and size. However, the outlook of the larger space would be highly dominated by the proximity to house 3. This would feel highly overbearing and oppressive for a significant proportion of the space, such that it would not be adequately mitigated by the good outlook to the northeast. Therefore, it would provide poor quality unsatisfactory living conditions.
34. The wider grounds available for access by future occupiers, would have limited useable space outside of the hardstanding and new landscaping areas, of limited functionality and use. The wider rights of way network and lanes would provide opportunities for walking and cycling in the area. However, such spaces and resources, do not have the same level of privacy, functionality, or benefits that adequate quality private outdoor space would have. For similar reasons, while I am of the view the generous indoor space partly off-sets the inadequate outdoor spaces, it does not fully compensate or mitigate the harm from the absence of a sufficient quantity and quality of outdoor space.

Although prospective purchasers would be aware of the garden limitations, all occupiers should be provided with good quality living conditions including from adequate private outdoor space.

35. For the reasons set out above the proposed development would not provide satisfactory living conditions to the occupiers of houses 1 and 2, with particular reference to private outdoor space provision. This would conflict with the aims of Policy DES4 of the LP which seeks that development is of a high standard of design that does not result significant detrimental impacts on the amenity of occupiers. It would also conflict with paragraph 130f) of the Framework which expects development to provide a high standard of amenity for future users.

Other Matters

36. The previously dismissed appeal at this site was in relation to a different scheme and considered against different development plan policies, as well as preceding the Framework. Therefore, it is of limited relevance. The schemes at the East Herts Equestrian Centre were in the Green Belt, relate to the conversion of existing buildings and are significantly closer to a Group 1 settlement with a range of services and facilities. Ref. 3/19/1597/FUL was the subject of an ENA exploring other equestrian uses. The proposal at Courtyard Garden Lodge was for the reuse of a building for a single dwelling only, significantly closer to services and facilities at a Group 2 Village and Buntingford. Therefore, the examples provided are not directly comparable to or justify allowing this appeal proposal, which I have considered on its own merits and impacts.
37. Concerns are suggested by the Council in respect of the location of the offices resulting in noise and disturbance to house 4. From what I heard and the evidence before me in respect of the layout and likely use of the units and garden, subject to the imposition of suitably worded planning conditions the development would be unlikely to result in harmful living conditions from noise and disturbance.

Planning Balance

38. While it is suggested there has been an under delivery of housing in the area in previous years, I am informed that the Council has a 2021 HDT measurement of 130% and can demonstrate a Housing Land Supply (HLS) of in excess of 5 years. However, a 5 year HLS should not be viewed as a ceiling.
39. The proposed development would utilise previously developed land to provide a moderate temporary economic benefit during construction and a modest on-going spend in the local economy once occupied. There would be likely to be an increase in people employed at the site helping to meet demand for small office accommodation, compliant with the thrust of employment land related policies, which would be a moderate benefit. As a windfall site for four dwellings and offices it would make a small contribution to the objective of significantly boosting the supply of housing, and would be likely to enhance the vitality of rural communities, resulting in a limited social benefit. As a small to medium sized site, it is likely to be built out relatively quickly.
40. The development could secure a moderate net gain in biodiversity by means of a suitably worded planning condition. The landscape improvement that could be secured is likely to take several years and would overall be a limited benefit.

Resource and energy efficiency construction and consumption of the new buildings, is unlikely to result in any overall net gain in renewable energy production but does appear to be likely to result in reduced energy use compared to the existing use, such that it would be a limited overall benefit. Overall, the benefits are attributed moderate weight in favour of the scheme.

41. If I were to agree the development is or could be made compliant with policies in respect of matters such as flood risk, drainage, parking provision, highway access and safety, protected species, detailed design and materials, and the living conditions of future and neighbouring occupiers, these would all be neutral matters in the planning balance. My findings in respect of compliance with some of the locational policies of the LP are also a neutral matter.
42. However, the proposed development conflicts with policies for the loss of equine facilities and it is poorly located for access to services and facilities. It would result in harm to the character and appearance of the area and would not provide satisfactory living conditions to the future occupiers with reference to private outdoor space. The policy conflicts and harm are such that these matters attract significant weight against the scheme, which outweighs the benefits of the development. Therefore, the appeal should not succeed.

Conclusion

43. The proposed development would be contrary to the development plan and the Framework taken as a whole. There are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Hayden Todd, BRP (Hons) RTPI (Planning Consultant, Aitchison Rafferty)

Mr Matthew Briffa, RIBA (Architect, Briffa Phillips)

Miss Leigh Brown (Personal Consultant)

Mr Danie Erasmus (Group Operations Manager, Uavend)

FOR THE COUNCIL

Mr Nick Reed (Planning Officer, East Hertfordshire District Council)

Ms Rachael Collard (Principal Planning Officer, East Hertfordshire District Council)

INTERESTED PARTIES

Ms Elizabeth Gregg-Smith;

Mr Steve Russell;



Appeal Decision

Site visit made on 18 January 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2022

Appeal Ref: APP/J1915/W/21/3281067

Elizabeth Rd SF, Elizabeth Rd, Bishops Stortford CM23 3RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Hutchison 3G UK Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0496/TEL, dated 26 February 2021, was refused by notice dated 21 April 2021.
 - The development proposed is described as Mast 15m monopole – grey, cabinets – grey.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) requires an assessment of the proposed development on the basis of its siting and appearance, taking into account any representations received. My determination has been made on the same basis.

Planning Policy

3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have nevertheless had regard to the policies of the East Herts District Plan (2018) (the EHDP) and the National Planning Policy Framework (2021) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposed development upon the character and appearance of the area; and,
 - if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The appeal site forms part of grassed area divided and lined with pedestrian paths, planted with a few medium sized trees, and amongst other things accommodates an existing cabinet, bin, and signage close to its curving Elizabeth Road frontage. It is lined by a parade of shops to its rear, a gable and boundary of a residential dwelling on one side, and the other by an access and parking area. On the opposite of Elizabeth Road is another grassed area with larger trees between the junctions Havers Lane and Norfolk Way. Due to its open and verdant nature and its prominent visibility the appeal site and surrounding green space makes a positive contribution to the character and appearance of the area.
6. The surrounds include mostly 2 and 2.5 storey buildings, limited trees, street furniture such as cabinets/kiosks, street signage, thin profile streetlamps, a CCTV pole, a post box, and bus stops. Therefore, vertical features are clearly visible nearby. However, based upon the plans before me and from what I saw, the monopole would be approximately 10m higher than the nearest streetlamps and approximately 6m higher than the closest two storey buildings. It would also be considerably higher than the CCTV pole and 2.5 storey buildings to its south. At up to approximately 0.8m, the monopole would be considerably greater in diameter than nearby lamps and poles. Consequently, the monopole would be a considerably taller more substantial structure highly visible above nearby dwellings and vertical features.
7. A small number of trees on the opposite side of the road might be of a similar height, although they are some approximately 35m away and significantly different in appearance. Therefore, the monopole would not relate well to or be in keeping with the small collection of attractive street trees. Given its surroundings, its substantial height, shape, upper diameter, and siting on open land elevated above some of its surrounds, the monopole would be a highly imposing, dominant, and discordant presence in the street scene and townscape in the vicinity of the appeal site.
8. Screening from surrounding features such as trees and buildings would be rather limited. The monopole would be significantly visible from a number of nearby properties, gardens, and be visible for some distance along the highway, particularly to the north and west of the appeal site. While the colour of the monopole might be secured by a suitably worded condition, this would not overcome the harm. Furthermore, in combination with existing streetlamps and the signage, kiosks/cabinets, and other furniture nearby, the new monopole and four new cabinets would result in a somewhat cluttered public realm around the appeal site and this section of Elizabeth Road.
9. Therefore, for the reasons set out above, the siting and appearance of the monopole would be highly prominent, at odds with and result in significant harm to the character and appearance of the area.

Alternative sites

10. The need for a mast is not questioned. However, as the siting and appearance of the mast is significantly harmful, consideration needs to be given to whether other alternative less harmful sites exist. I am informed this new site is primarily required to upgrade the appellant's network to provide new 5G

- technology, but it would also provide improved 3G and 4G network coverage and capacity.
11. The need for new sites with separation from certain other equipment, suggests that some other existing sites could not be re-used or upgraded for 5G use. I viewed a number of the alternative locations advanced at my visit. Of the four initial alternatives (numbered 1-4 in the further search), I have no reason to disagree with the reasons they are unsuitable. The further search accompanying the appeal provides a coverage plan of a much smaller area. It shows 4G coverage only, not 5G which would occupy the upper 3 antennas and which I am informed provides the primary requirement for the new monopole.
 12. The coverage plan shows the appeal site is within an area requiring 4G uplift, close to extensive areas with good coverage to its west and northeast. The most extensive areas with no 4G are shown further to the southeast (including sites 7 and 8), which I am informed are within a different cell area, although whether this is in relation to 4G, 5G or both is not clear. The proximity of sites 5, 6 and 9 to heritage assets, suggests they would not be suitable. However, given the appeal site area already receives 4G coverage, the information does not explain why any existing 4G sites cannot be upgraded, to provide for the current deficiency in 4G coverage.
 13. Given the coverage plan is based upon 4G the evidence does not clearly define the area of search for 5G, so there is insufficient information to understand the full defined area of search. Furthermore, on the plan there also appears to be significant areas that are not entirely residential, and it is not clear why much of these are ruled out for 5G. For the above reasons there is ambiguity and I do not consider the site evaluation and associated evidence to be sufficiently robust. Therefore, I cannot conclude with reasonable certainty that other less harmful locations do not exist, and the only way to meet the appellant's need is through this appeal proposal, which weighs against the scheme.

Other Matters

14. The appeal site lies approximately 110m from a southwestern boundary of the Bishop's Stortford Conservation Area (BSCA), of which the closest part of it to the appeal site comprises the maturely landscaped Apton Road cemetery. The significance of this part of the asset derives from its maturely landscaped burial grounds that contain a considerable number of sizeable trees and shrubs within historic boundary walls. The topography, intervening buildings and mature vegetation mean there would be little intervisibility with the appeal proposal, including from within the cemetery. Therefore, it would not result in a harmful effect upon the significance of the BSCA.
15. Approximately 75m south of the appeal site is 77 Norfolk Way which is a Grade II listed building. It derives its significance from its C16th architectural features. Given the topography and the height and proximity of surrounding residential buildings, the setting of the listed building is very limited. It is well screened from the appeal site with little if any intervisibility between the development and the listed building. Therefore, based upon what I saw and the evidence before me, there would be no harm to the setting and significance of the designated heritage asset.

Planning Balance & Conclusion

16. Paragraph 114 of the Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). There is need to provide increased network capacity as data use grows, including as a result of the effects of the Covid-19 pandemic. Improving mobile connectivity and digital inclusion would have economic, social, health, educational, well-being, and sustainability benefits.
17. Based upon the limited extract of appeal Ref APP/L1765/W/18/3197522, the Inspector concluded the harm to be limited in finding it was outweighed by the benefits of that development. This is different to my conclusion in respect of the harm from this appeal proposal, and so is not directly comparable to this proposal. While I have been provided with three other full decision letters, the full details, circumstances, and evidence before those Inspectors are not before me, so a fully reasoned and justified comparison is not possible.
18. Appeal Ref APP/P4065/W/19/3241791 was for the upgrade of a pre-existing mast, which was an accepted part of the street scene, and the wording of that decision suggests those surrounding vertical features were of a greater height than those surrounding this appeal site. Ref APP/G5180/W/19/3231491 was located close to an existing 10m high mast and that Inspector was satisfied that evidence in respect of alternative sites was sufficiently robust. In decision Ref APP/Z4310/W/21/3269643 the Inspector found the monopole would not be highly noticeable in the context of other similar structures. This is not the case for this appeal proposal in relation to the surrounding vertical structures. Therefore, none of the examples are directly comparable to this appeal proposal.
19. There would be tangible benefits arising from the development outlined above. However, the siting and appearance of the monopole would result in significant harm to the character and appearance of the area. While options for siting the development will be limited by technical and operational constraints, the evidence does not demonstrate that there are no alternative sites available which would be less obtrusive and harmful. Therefore, prior approval should be refused.
20. For the reasons given above, the appeal should not succeed.

Dan Szymanski

INSPECTOR



Appeal Decision

Site visit made on 19 January 2022

by **H Miles BA(hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **07 FEBRUARY 2022**

Appeal Ref: APP/J1915/W/21/3279322

11, 13, 15 London Road, Sawbridgeworth CM21 9EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Geoffrey Hewson of Swayprime Ltd against East Hertfordshire District Council.
 - The application Ref 3/21/0539/FUL, is dated 24 February 2021.
 - The development proposed is creation of a crossover to the newly levelled parking area and 2 off-street parking spaces for the 11, 13 and 15 London Rd properties.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs Hoskins against Elmbridge Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. There is dispute between the main parties as to whether the appeal site is within the Sawbridgeworth Conservation Area (CA). However, contrary to a previous appeal decision¹ the map provided clearly shows the appeal site outside the boundary of the CA and I shall consider the appeal on this basis.
4. It is not in dispute that the development has been carried out. For the avoidance of doubt, the fact that development has occurred has had no bearing on my decision.

Main Issues

5. The main issues are the effect of the proposed development on; the character and appearance of the area including with respect to the setting of the CA, and highway safety.

Reasons

Character and Appearance

6. The appeal site is opposite the properties on the corner of London Road and Springhall Road and close to properties on London Road beyond Maylins Drive which are within the CA. Therefore, there is a visual relationship between 11-

¹ APP/J1915/W/19/3243572

- 15 London Road and the CA. As such the appeal site forms part of the surroundings from which the heritage asset is experienced.
7. Sawbridgeworth Conservation Area appears to be characterised, as a whole, by the historic layout and buildings associated with Sawbridgeworth town centre. The part of the CA close to the appeal site includes traditional residential properties peripheral to the centre. Although their detailing varies, characteristics in common include planting to front gardens and front boundaries. This arrangement provides a soft landscaped separation between the buildings and the road and a shared front boundary appearance which appear to be part of the historic pattern of development in this area. These elements therefore make a positive contribution to the significance of the CA.
 8. Outside the CA this part of London Road, including the terrace that the appeal site is part of, shares the attractive characteristics of dwellings being mainly set back from the street with landscaped front gardens and boundaries which generally include some planting. Furthermore, the road has a noticeable incline and therefore changes in levels within and between plots are also an important part of this area. At 11-15 London Road properties are at a lower level than the road and this increases along the row, with 15 having the greatest difference. Some front gardens have been hard surfaced, although these are uncommon and do not form an overriding feature of the area.
 9. The car parking area results in a large area of hard surfacing spanning the frontage of three properties. This is a stark urban feature, harmful to the soft landscaped pattern of development to front gardens in a conspicuous location.
 10. The land has been raised up to road level. This increases the prominence of this incongruous feature, as well as creating stepped gardens which undermine the sunken appearance of these gardens and consequently detracts from the characteristic topography in this location.
 11. The inclusion of black painted metal railings as boundary treatment would be similar to that found nearby. However, the size of the planting area would limit the extent of the boundary landscaping that could be provided. Consequently, this would remain discordant with the boundary treatment in this area and would be unlikely to provide screening to the extent that the hardstanding would not be visible.
 12. The proposed development is seen in views towards and from within the CA. It is a visually jarring disruption to the prevalent front boundary and front garden treatment in this area within and outside the CA boundary, which contributes to the significance of the CA. This inappropriate feature is therefore harmful to the setting of the CA.
 13. The suggested change of material to permeable paving allowing wildflowers to grow through, would reduce issues with gravel spilling onto the road. However, taking into account the proposed use, it is unlikely that any planting would be sufficient to create a soft landscaped appearance. As such this does not overcome the harm identified above.
 14. Therefore, the proposed development would have a harmful effect on the character and appearance of the area including the setting of the CA. As such, in this respect, it would be contrary to policies HOU11, DES4 and HA4 of the East Herts District Plan 2018. Together these require all new development

including works within residential curtilages to be of a high standard of design, to respect the character of the surrounding area, including with particular regard to landscaping and to preserve or enhance the setting of the CA.

15. Policy DES2, in the main, refers to the character or distinctive features of the district's landscape. As such, the policies set out above are more relevant to this main issue.

Highway Safety

16. The proposed plan shows two car parking spaces with the remainder of the hard surface area available for manoeuvres. A condition could be attached which would require that this layout is maintained. On this basis I see no reason why cars could not safely enter and exit the site in a forward gear.

17. London Road is a busy main road and the formation of a new access in this location would be contrary to the advice in Policy 5F of the Local Transport Plan (May 2018) (LTP) which requires that special circumstances should be demonstrated for a new access in this location. There are a limited number of movements associated with vehicles entering and exiting two residential parking spaces in a forward gear. This is an important main road, however it has not been demonstrated that, in these circumstances, the development is harmful to highway safety.

18. Therefore, the proposed development would not have a harmful effect on highway safety. As such it would not be contrary to development plan Policies DES4, TRA2 and TRA3 of the East Herts District Plan 2018. Together these seek a high standard of design and safe car parking arrangements which are acceptable in highway safety terms.

19. Policy HOU11 mainly relates to the design and character of the dwelling and therefore the policies set out above are more relevant to this main issue.

Conclusion

20. Whilst I do not find harm with regard to highway safety, this is a neutral factor. This does not, therefore, overcome the public and permanent harm to the character and appearance of the area including the setting of the CA, identified above.

21. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR



Costs Decision

Site visit made on 19 January 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 FEBRUARY 2022

Costs application in relation to Appeal Ref: APP/J1915/W/21/3279322 11, 13, 15 London Road, Sawbridgeworth CM21 9EH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Geoffrey Hewson of Swayprime Ltd for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for creation of a crossover to the newly levelled parking area and 2 off-street parking spaces for the 11, 13 and 15 London Rd properties.
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Decision

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

Reasons

2. An award of costs may be allowed where it is found that a party behaves unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case is that the Council did not determine the planning application within the statutory time limit, and therefore the appellant has incurred wasted costs in submitting the appeal.
4. It can be seen in the Council's evidence that if they had determined the application, it would have been refused. Therefore, although it is unfortunate that the application was not determined within the statutory time limit, the appeal would have been necessary in any case. Furthermore, it can be seen in my main decision that I do not find that this is development that should clearly be permitted.
5. Consequently, for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated.
6. For this reason, neither a full nor partial award of costs is justified.

H Miles

INSPECTOR



Appeal Decision

Site visit made on 4 January 2022

by John Gunn Dip TP, Dip DBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/J1915/D/21/3283160

19 Firs Walk, Tewin Wood, Tewin, Hertfordshire AL6 0NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Valentin Mangu and Andreea Vrancea against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/1664/PNHH, dated 23 June 2021, was refused by notice dated 4 August 2021.
 - The development proposed is a single storey side (depth 8m, width 5.5m, height 3.8m and eaves 2.4m) and single storey rear extension (depth 7.9m, width 5.2m, height 3.4m and eaves height 2.4m).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 1, Class A4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a single storey side (depth 8m, width 5.5m, height 3.8m and eaves 2.4m) and single storey rear extension (depth 7.9m, width 5.2m, height 3.4m and eaves height 2.4m) at 19 Firs Walk, Tewin Wood, Tewin, Hertfordshire AL6 0NY in accordance with the details submitted pursuant to Article 3 and Schedule 2, Part 1 Paragraph A4 (2) of the GPDO.

Preliminary Matter

2. I have taken the description of development above from the Council's decision notice and the appeal form as it is more succinct than the description included in the planning application form.

Main Issues

3. The main issues are:
 - whether the development would be permitted development (PD) under Schedule 2, Part 1, Class A of the GPDO, and
 - if the proposal is PD under the provisions of the GPDO, whether prior approval should be granted.

Reasons

Permitted development

4. Clause (ja) of Class A, Part 1 of Schedule 2 of the GPDO states that development is not permitted 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)”. Sub-paragraph (j)(iii) confirms that where the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would have a width greater than half the width of the original dwellinghouse, development is not permitted.
5. The proposed development would involve the erection of two distinct extensions. A gap of approximately 0.45 metre would exist between the flank wall of the proposed rear extension and the flank wall of the proposed side extension. A smaller gap of 0.34 metre would exist between the flank wall of the proposed rear extension and the flank wall of the existing kitchen. The roofs would project a short distance beyond the respective walls of the proposed extensions. Therefore, whilst the extensions would be close to each other, and to the earlier kitchen extension, they would not be physically linked.
6. I note the findings of the Inspector in appeal Ref APP/M4320/W/17/3178679, referred to in the Delegated Officer Report. In summary their reasoning was that as an approximate gap of 250mm was ‘too narrow to be material’, the scheme in that instance did not comply with the relevant limitations of the applicable GPDO provisions. I note that decision references other cases where reasoning was along a similar theme (albeit, it seems, with narrower ‘gaps’ between proposals, or elements thereof, of around 25mm to 50mm). It may be logical in certain circumstances to consider such matters, however there is no yardstick set in the GPDO, or elsewhere, as to the factors to consider in terms of compliance with GPDO limitations. The precise circumstances related to that case, obviously proposed different sized extensions in relation to a different sized original building.
7. Whilst, appreciating that consistency is important in appeal decisions, in my view the principal consideration is whether or not a scheme would comply with GPDO limitations in strict dimensional terms. Within that frame of reference, the scheme before me would be separated by a gap of between 0.34 to 0.45 metres, and both the side and rear extensions would individually comply with the respective limitations of permitted development rights in their own respects, as set out by the appellants. That latter point, significantly, is borne out by the subsequent approval of similar applications 3/21/2902/PNHH and 3/21/2467/PNHH, which separately confirm the compliance of the same sized side and rear extensions with GPDO requirements.
8. Moreover, I would note that 0.34 to 0.45 metres is a larger separation between elements of a scheme than that considered by the inspector in respect of the aforementioned appeal (and the Inspectors who dealt with schemes referred to in their decision). In my view visually the two elements of the scheme would also be read as distinct on account of the roof pitch proposed to each, in addition to the gap between them.
9. In light of the above I conclude that the proposed development would be ‘permitted development’ under Schedule 2, Part 1, Class A of the Town and

Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Prior approval

10. On the basis that the Council have carried out the correct consultation and no objections have been received, I need not consider the impact of the proposal on the amenity of adjoining occupiers.

Other matters

11. I have taken into consideration the two applications referred to by the appellants, relating to developments falling within Class A, that have been approved by the Council. However, every case has to be determined on its own merits and these do not alter the conclusions that I have reached above.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

John Gunn

INSPECTOR



Appeal Decision

Site visit made on 19 January 2022

by **H Miles BA(hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 FEBRUARY 2022

Appeal Ref: **APP/J1915/W/21/3277292**

Hertford Golf Course, London Road, Hertford SG13 7NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Belview Golf Ltd against the decision of East Hertfordshire District Council.
 - The application Ref X/20/0221/CND, dated 2 June 2020, sought approval of details pursuant to conditions no 3, 4, 5, 6, 7, 10, 11, 12, 16, 17 and 18 of a planning permission Ref 3/17/1867/FUL, as granted on 14 May 2019 under appeal Ref APP/J1915/W/18/3212628.
 - The application was decided by notice dated 4 February 2021. Details of conditions 3, 4, 5, 6, 7, 12, 16 and 17 were approved. Details of conditions 10, 11 and 18 were refused.
 - The development proposed is: the change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping
 - The details for which approval is sought are: a Surface Water Sustainable Drainage Scheme (SWSDS)
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Decision

1. The appeal is dismissed, and the details are refused namely the SWSDS submitted in pursuance of condition 10 attached to planning permission Ref 3/17/1867/FUL, as granted on 14 May 2019 under appeal Ref APP/J1915/W/18/3212628.

Preliminary Matters

Background

2. Planning permission was granted at appeal for the use of the site as a golf course, subject to conditions, a number of which required information to be submitted to and approved by the Local Planning Authority (LPA). An application was submitted for approval of the details relating to eleven of these conditions. Eight of which were approved.
3. The three conditions which were not discharged related to the SWSDS, flood risk assessment (FRA) and surface water management strategy (SWMS). Condition 11 requires details to be submitted following the implementation of the SWSDS, as this has not occurred such details cannot be approved. Condition 18 is a restrictive condition requiring the permission to be carried out in accordance with the FRA and SWMS, and does not require details to be approved. Conditions 11 and 18 are therefore not part of this appeal.

4. Condition 10 requires the approval of a SWSDS. The full text of the condition and reason is set out in the schedule at the end of this decision.

Amended plans

5. Information including details of the western drainage layout, a catchment analysis, hydraulic model for the hydrological catchment and whole site, modelling for drainage design to accommodate a 1 in 100 year 40% event, changes and further details to manholes, and additional details of headwall, baffles, swale slopes amongst other things as well as updates to drawings following a site survey in March 2021, which were not before the Council at the time it made its decision, were submitted with the original appeal submission. Changes of location and specification for manholes and connected drainage and details of private drainage were submitted during the appeal process.
6. Also, during the course of the appeal a revised application was submitted to the LPA seeking to discharge condition 10 (LPA ref X/21/0353/CND). The appellant states that, taking into account the amended plans listed above, I have been provided with the details that accompanied this revised application. I acknowledge that this information is different to that considered under LPA reference X/20/0221/CND.
7. I have sought the main parties' comments on the information set out above. Due to the nature of this application, the LPA did not undertake public consultation.
8. In the circumstances of this appeal; there is a live planning application with the LPA seeking to discharge the same condition with comparable evidence that has been submitted to me, the main parties have been made aware of this information and have been given the opportunity to comment, and the additional information submitted at appeal provides further details but not significant changes to the overall scheme. For the reasons above, the parties would not be prejudiced if I were to consider these plans, and therefore the appeal is assessed on the basis of the amended plans.

Main Issue

9. The main issue is whether the proposed Surface Water Sustainable Drainage Scheme would secure the implementation of an acceptable drainage strategy and a surface water drainage system.

Reasons

10. I have been provided with the Lead Local Flood Authority's (LLFA) responses which identify that they are satisfied with the majority of the information submitted. I have no reason to come to a different conclusion to the Council and the appellant's professional advisors on the agreed matters. However, the provision of details of the reprofiling of the ordinary watercourse and the outfall arrangement have not been agreed. These details are provided with this appeal.
11. The LLFA have raised serious concerns with the proposed arrangement. The 90 degree angle to the outfall to the watercourse is unacceptable. Additionally, the haybales proposed as a temporary method to deal with silt and debris pose a risk of obstruction. Furthermore, the advice from the LLFA is that the details before me may not obtain land drainage consent.

12. These arrangements constitute part of how the SWSDS functions and therefore are an intrinsic part of it. I am not presented with an acceptable solution to this element of the strategy. This would mean that the SWSDS could not fully function as submitted thereby reducing the risk of flooding to an acceptable level.
13. The environmental permit is separate to planning legislation. Nevertheless, if this permit was not granted these aspects could not occur. Therefore, I am not satisfied that the SWSDS could be implemented as proposed and consequently the site and surroundings may be at risk from flooding.
14. Policy WAT5 of the East Herts District Plan October 2018 (DP) relates to Sustainable Drainage and sets out the requirements that SUDS should achieve. However, for the reasons above, if the SWSDS did not operate effectively as proposed and could not be implemented, these aims would not be realised. As such the proposed development would be contrary to this policy.
15. Therefore, the proposed SWSDS would not secure the implementation of an acceptable surface water drainage system or drainage strategy. As such it would be contrary to Policy WAT5 of the DP, the aims of which are set out above.

Conclusion

16. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR

Schedule – Condition 10

Condition 10 of the planning permission Ref 3/17/1867/FUL, granted on 14 May 2019 under appeal Ref APP/J1915/W/18/3212628 states:

No development shall commence at the site before a Surface Water Sustainable Drainage Scheme (SWSDS) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- detailed engineered drawings of the proposed sustainable drainage features including their size, volume, depth and any inlet/outlet features and all corresponding calculations/modelling for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year + climate change rainfall events;
- a site plan with the final topographical levels of the site;
- details of any changes to the current surface water flow routes arising from the changes to the site levels and an assessment of their impacts on the ordinary watercourse which arise within and adjacent to the development site; and
- details of any exceedance flow paths for rainfall events in excess of the 1 in 100 year + climate change rainfall event that are beyond the design capacity of the system.

The development shall be carried out in accordance with the approved scheme prior to the first use of the site as a golf course.

The reason given for the condition is to secure the details and implementation of the drainage strategy and surface water drainage system