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## Appeal Decisions

Hearing Held on 19 October 2021 (and closed in writing on 31 January 2022)

Site visit made on 19 October 2021

**by Laura Renaudon LLM LARTPI Solicitor**

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

**Decision date: 28 April 2022**

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### **Appeal Ref: APP/J1915/C/20/3248171 ("Appeal A")**

#### **Land adjacent to Long Leys Barn, Fanshaws Lane, Brickendon, Hertford**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Billy Saunders against an enforcement notice issued by East Hertfordshire District Council.
- The enforcement notice was issued on 4 February 2020.
- The breach of planning control as alleged in the notice is without planning permission, (i) the material change of use of the land to a residential caravan site; and (ii) operational development on the Land comprising the creation of an area of hardstanding.
- The requirements of the notice are to:
  - (i) Cease the use of the land as a residential caravan site;
  - (ii) Remove the caravan from the land;
  - (iii) Excavate all the material used to create the hardstanding; and
  - (iv) Following compliance with [the above steps] remove from the land all the resultant debris and restore the land to its condition prior to the hardstanding being created.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: the appeal is dismissed and the enforcement notice is upheld with variations as set out below in the Formal Decision**

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### **Appeal Ref: APP/J1915/C/20/3248170 ("Appeal B")**

#### **Land adjacent to Long Leys Barn, Fanshaws Lane, Brickendon, Hertford**

- 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 Billy Saunders, Emma Gaskin and Thomas Beany against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2099/FUL, dated 15 October 2019, was refused by notice dated 10 December 2019.
- The development proposed is described as 'Site to contain one static caravan, with parking for two vehicles and associated infrastructure (retrospective)'.

**Summary Decision: the appeal is dismissed.**

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### **Preliminary Matters**

1. At the Hearing, none of the appellants appeared. Instead the agent was accompanied by Mr Flynn and Ms O'Leary who stated they were presently in occupation of the site and had been so since 2019.

2. I therefore directed, after hearing from the parties on a number of matters, that the Hearing was to be adjourned in order to allow an exchange of written representations in relation to certain aspects, principally concerning the gypsy or traveller status of the site's occupants, the security of tenure of their occupation, any personal circumstances prayed in aid of a grant of planning permission and any matters relevant to the Appeal A appeal on ground (g). The deadline by which the appellants were to submit any such information was set at 12 November 2021.
3. Additionally it transpired that the registered owner of the land was a limited company, albeit one understood to be connected to Mr Saunders who is one of the appellants. The company had not been served with a copy of either the notice or the planning application. Service of documents was therefore directed to take place.
4. I viewed the appeal site unaccompanied from public vantage points the day before the Hearing took place, and subsequently undertook an accompanied site visit before adjourning the Hearing on site.

### **Main Issues**

5. The appeal site lies at the foot of Fanshaws Lane, a minor road leading from the village centre of Brickendon into open countryside and to the Grade II Listed Fanshaws and a smattering of residential properties. It falls within the Brickendon Conservation Area and within the Metropolitan Green Belt.
6. The main issues for consideration in the case were identified in my pre-hearing note. The common issues in the Appeal A ground (a) appeal and the Appeal B appeal are as follows:
  - Gypsy or Traveller status
  - Whether inappropriate development in the Green Belt ("GB"), to include consideration of the effects on openness and purposes of the GB
  - Any other asserted harm/policy conflicts
    - Character and appearance of the Brickendon Conservation area
    - Locational sustainability (HOU9 a)
    - Effect on highway safety and essential services (b)
    - Storage and utility services (c)
    - Size/location/scale (d)
    - Character of the area (g)
  - Whether harm to GB and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances, such other considerations potentially including
    - Need for and supply of sites
    - Availability of alternative sites
    - Personal circumstances and human rights including best interests of children
7. Additionally an objection was raised by the parish council, adopted to some extent at the Hearing by the Council, that the development adversely affects the setting of Fanshaws. I am obliged by legislation to have special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest which it possesses. A further main issue

in the case is therefore concerned with the effects of the proposal on this listed building as well as on other designated or non-designated heritage assets.

8. A further issue in the Appeal A appeal, if permission is not granted, is whether the time stipulated for compliance with the notice's requirements falls short of what should reasonably be allowed. The appellant seeks at least three years.

## **Reasons**

### **Gypsy or Traveller Status**

9. National planning policy for traveller sites ('the PPTS') applies to gypsies and travellers as defined in Annex 1 of the PPTS, meaning persons of nomadic habit of life but also including certain persons who have ceased to travel temporarily on certain specified grounds. The occupants of the appeal site are presently Mr Flynn and Ms O'Leary together with two children. Mr Flynn works as a wagon builder and painter, sometimes working from a workshop in Wales and travelling to fairs. Ms O'Leary is a vocalist/singer, performing at various events across the UK and internationally. Although one of the children is enrolled in school, it is not said that travelling has temporarily ceased on the ground of educational need, but that the family will continue to travel for economic and cultural purposes as is their custom.
10. The Council express scepticism as to whether the occupants of the site are gypsies or travellers for PPTS purposes, pointing out that no financial information has been provided in support of the claim. The information given is somewhat scant, I but have no reason not to believe that Mr Flynn has attended the various fairs in pursuit of his livelihood. Thus I accept that the family are gypsies and travellers for the purposes of the PPTS.

### **Green Belt**

11. The development as a whole on the appeal site results from engineering operations, to form a hardstanding area, and a material change of use from agriculture to residential, facilitated by the stationing of a mobile home. Such developments are not new buildings, as considered by paragraph 149 of the National Planning Policy Framework ("the Framework") but instead fall for consideration under paragraph 150 of the Framework. Application of the Framework policy relating to the Green Belt is incorporated into the East Herts District Plan 2018 ('the Local Plan') by policy GBR1. The appropriateness of developments falling within paragraph 150 depends on preserving the openness of the Green Belt and the absence of conflict with the purposes of including land within it.
12. The appellants' representative at the Hearing asserted that this is a small development and barely visible, and that caravans in the countryside are to be expected, where they are often associated with agricultural or recreational uses. Here however the occupation of the caravan is not in association with any use requiring a countryside location. It is straightforwardly a residential use, and has entailed laying hardcore on what was previously a field. It may be a small development in its own right, but that is not the relevant test for ascertaining whether it is inappropriate in the Green Belt.
13. The caravan may not be particularly prominent, and I accept that seeing caravans in a rural landscape is not unusual. However, whilst in visual terms the harm to the openness of the GB may not be significant, the presence of the

static caravan, with two parked vehicles and associated hardstanding and residential paraphernalia, on land previously devoid of such items has inevitably adversely impacted on the spatial aspect of the openness of the GB. As a result, the countryside has not been safeguarded from encroachment. Consequently I consider that the development does not preserve the openness of the Green Belt and is inconsistent with the purpose of safeguarding the countryside from encroachment, and is therefore inappropriate development in the GB. Moreover the PPTS sets out (at paragraph 16) that traveller sites in the GB are inappropriate development. The Framework requires that substantial weight is given to any harm to the GB.

### **Designated Heritage Assets**

14. Legislation (the Planning (Listed Buildings and Conservation Areas) Act 1990) requires me to have particular regard to the desirability of preserving the setting of a listed building when considering a planning application that affects that setting. (There are other duties relevant to listed buildings, but it is not suggested that any arise here.) The same Act also directs me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in which the site lies. The Framework tells me to weigh any public benefits of a development proposal against any harm to the significance of a designated heritage asset (where that harm is judged to be less than substantial).
15. Any benefits, public or otherwise, of the development will be considered below, but great weight should be given to any harm to significance, and any harm requires clear and convincing justification. The effect of development on the significance of non-designated assets should also be taken into account. Policies HA1, HA2 and HA7 of the Local Plan are consistent with the requirements of the Framework.
16. The context here is that the site lies immediately to the south of Fanshaws Lane, which at that point is a private road leading north then west away from the village through pasture land to the Grade II listed Jacobean-style mansion house known as Fanshaws. The conservation area appraisal and management plan document of 2014 ('the CA appraisal') records that the house (now an institutional commercial HQ) was listed in 1988. It lies beyond thick woodland and cannot be seen from the lane at the point where access to the appeal site is taken. It is surrounded by a number of buildings and a fine garden wall, although I understand that these do not form part of the statutory list, the land ownership having been severed by the time of the listing.
17. The Conservation Area extends from the village centre to the west side, and then south side (following a roughly 90° bend), of Fanshaws Lane to surround Fanshaws, woodland to its west, and a substantial area of pasture land rising back to the village to the south-east of the house. The appeal site is viewed in the context of this pasture land and from the historic, largely tree-lined, approach to the house. A small watercourse adjoins the appeal site and is crossed by Fanshaws Lane, with a tree belt leading away to the north alongside the watercourse to the west, and with an agricultural field to the east of the watercourse. On the south side of Fanshaws Lane, and to the east of the watercourse and north-east of a pond identified in the CA appraisal plan to be protected, lies the appeal site.

18. The development is visible on the approach to Fanshaws, very clearly so at close quarters, and lies rather incongruously to the east of the watercourse and away from the cluster of properties and the historic wall. Whilst not sited within the pasture of the 'important open spaces to be protected' identified in the CA appraisal plan, it nonetheless appears to me obviously to fall within the historic estate park land associated with the mansion.
19. Given its location in the field, to the far side of the watercourse and away from the cluster of properties to the west, the obviously residential caravan is out of keeping with the rural parkland setting of Fanshaws. That parkland setting makes an important contribution to the significance of Fanshaws, and to the Conservation Area. The visual intrusion caused by the caravan into that setting causes harm to the significance of these designated heritage assets. I do not consider that a landscaping condition requiring screening could overcome this harm, because that in itself would disturb the openness of the agricultural land east of the watercourse which is its defining characteristic.
20. Therefore I concur with the Council and the parish council that the development adversely affects the setting of Fanshaws and fails to conserve or enhance the Brickendon Conservation Area. I attribute great weight to these harms. I do not attach additional weight to the harm to the nearby non-designated heritage assets. This is because they fall within the setting of Fanshaws and indeed lie within the Conservation Area, and I do not find them to be harmed by the development in their own right but only as part of that overall context.
21. In terms of the public benefits that ought to be weighed against the identified harm to the designated heritage assets, no heritage benefits are identified. The Planning Practice Guidance sets out however that public benefits are not limited to such concerns, and they can be anything that delivers the economic social or environmental objectives as described in the Framework. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. I consider the benefits of the development below, but note at this stage that none of those considerations appear to me to amount to 'public' benefits capable of outweighing the harm to the interests of designated heritage assets when drawing the balance on this issue.

### **Policies HOU9 (and/or HOU10)**

22. The appeal site is not allocated for development for the purpose of Part 1 of HOU9. Both HOU9 and HOU10 provide criteria to be applied to applications for traveller sites, the criteria being identical but the essential difference being whether the application is for persons of nomadic habit meeting the PPTS definition. As I consider that the occupants of the site do meet the PPTS definition, it is Local Plan policy HOU9 that applies.

#### (a): sustainability

23. The first criterion requires a site to be in a sustainable location in terms of accessibility to existing local services. The Council also cites policies TRA1 and DPS2. The former relates to sustainable transport and the latter to the general development strategy. Developments should be located in places which enable sustainable journeys to be made to key services and facilities.

24. The site is located within easy walking distance of the centre of Brickendon. Fanshaws Lane is unlit for the most part, but lightly trafficked. Brickendon itself is a 'Group 2' village lacking in many amenities including shops. Limited services are available in nearby villages but realistically trips to Hertford, some three miles away, will be required for access to main shops and services. The primary school in which the child of the family is presently enrolled is however in Bayford, some 1500m away. An intermittent bus service is available, and it was said at the Hearing that a school bus service is also provided to the village. A railway station lies less than a mile away from the site. The occupants of the site said at the Hearing that the car is taken out two or three times each day and that public transport is not in fact used.
25. The PPTS exhorts local planning authorities to very strictly limit new traveller sites in open countryside that is away from existing settlements. The appeal site is in my view sufficiently well-connected to Brickendon so as not to be 'away from' it for PPTS purposes. With such limited services and alternative means of travel available in Brickendon, the occupants of the appeal site would be likely to continue to rely on the private car, but overall I do not consider that the site is so unsustainable that it conflicts with criterion (a) of policy HOU9. This is because any gypsy or traveller site is unlikely to become available on land that is highly sustainably located within or on the edge of settlements providing services and facilities, and the trips involved here are relatively short.

*(b) and (c): highway safety and essential services; storage and utility services*

26. Criterion (b) of policy HOU9 requires the site to be suitable in terms of vehicular access to the highway, parking, turning, road safety and servicing arrangements and has access to essential services such as water supply, sewerage, drainage and waste disposal.
27. No objection is raised to the development by the local highway authority, and I perceive no conflict with those aspects of the policy.
28. Criterion (c) requires proposals to make adequate provision for storage, play, residential amenity and utility services.
29. The Council indicated that such remaining matters in the criteria could be overcome by the imposition of planning conditions, but at the Hearing and subsequently both the Council and the parish council have expressed concerns as to the security of the arrangements by which the mobile home has access to essential services. It was recorded that at one stage a generator was used to provide electricity, resulting in noise audible away from the site.
30. I have been supplied with a copy of what is described as an Assured Shorthold Tenancy agreement ('the Tenancy') between the present occupants and the owner of the site (BJS Sports, being the company associated with one of the appellants). The tenancy is dated and apparently signed on 10 December 2019, although with extraordinary prescience it provides for possession to be taken on 24 November 2021. I am informed by the appellants that when the site was purchased, it was purchased with an agreement that services would be provided. It appears that from the Land Registry title that a sale of part took place at some point, and the site appears to rely on the owners of the adjoining retained part for the provision of utility services. There is no express clause in the Tenancy that assures the tenants of such service provision and I have seen



no contractual arrangements with any third party about these, although some rights and easements enjoyed by the freeholder are found in the Land Registry entries.

31. Nonetheless, as the appellant points out, the mobile home was connected to all services at the time of the appeal site visit, and there was no suggestion that the generator remained in use. There is some uncertainty as to the security of supply but overall I agree with the position expressed by the Council's letter of 6 October 2021 that such matters could be secured by way of a planning condition if permission were to be granted.
32. The Council raises the concern that in order for the site to be adequately serviced with storage facilities this could, together with other domestic paraphernalia, introduce additional visual impacts resulting from the development, and I consider these below under criterion (g).

*(d): Size, location and scale*

33. The 'red line' of the Appeal B site is considerably smaller than the area covered by the enforcement notice to which the deemed planning application in Appeal A relates. The siting of the mobile home could however be controlled by a planning condition. Taking the site to mean the Appeal B area, the proposal is well related to the size of the site, with the mobile home standing in a modest fenced garden area with sufficient space for parking cars and for the family to relax outdoors.
34. It does not however relate well to the location of the site, principally for the reasons I have already given in relation to its impact on the Conservation Area and local heritage assets, and for the reasons considered below in relation to criterion (g) of the policy. I have not found it to be locationally unsustainable in relation to criterion (a) and it is not disproportionate in scale to the nearest settled community, but for reasons relating to the sensitivity of its surrounding landscape and historic assets it is not in appropriate location and thus there is conflict with this policy criterion.

*(g): Character of the area*

35. This criterion seeks to avoid undue harm to the visual amenity and character of the area, and assimilation into the surrounding landscape without significant adverse effect. In support of its case the Council also refers to policies DES2, DES3, DES4 and HA4, relating to design and landscape and to conservation areas, as well as to aspects of the CA Appraisal document.
36. For the reasons I have set out above in relation to the impact of the development on the heritage assets including the Conservation Area, I do not consider that the development can be successfully assimilated into the surrounding landscape. It was suggested at the Hearing by the appellants that the development is discreet and not really visible unless one is looking for it. I cannot agree with that assessment. The development is plainly visible in what is otherwise open pasture land, where the CA Appraisal document indicates that views from Fanshaws Lane are worthy of protection. Any additional storage facilities or other domestic paraphernalia would only augment what is already an unacceptable impact on the landscape resulting from the inappropriate land use. I have also set out above why I do not think that a screening condition could overcome the harm.

37. Therefore I find conflict with this policy criterion as well as with the design and landscape policies cited by the Council.

Conclusions in relation to policy HOU9

38. I therefore conclude in relation to policy HOU9 that not all of the policy criteria are met, with the significant exceptions of those aspects relating to the location of the site resulting from its conflict with the heritage assets and landscape. Thus there is overall conflict with the policy.

Other matters

39. I am also obliged to consider whether 'intentional unauthorised development' has occurred and if so what weight to give it. The parish council point out that the land was sold at a time when planning permission had been refused for the retention of the mobile home at the site and in full knowledge of that refusal. Nonetheless I am mindful that neither the appellants nor the present occupants of the site placed the mobile home on the land, and the present occupants were not the first to occupy it. Thus this consideration attracts very limited weight against the development.

**Other considerations**

40. I turn then to whether other considerations raised in support of the development would clearly outweigh the harm to the Green Belt and other harm identified.

Need for and supply of sites

41. Provision is made for specific sites allocated by the first part of policy HOU9 resulting from a needs assessment published in 2014 and updated in 2016, and found to have been robustly assessed by the Local Plan Inspector in 2018. Since then, an appeal has been allowed in 2019 at Wheelwrights Farm<sup>1</sup> with the Inspector there finding that it was reasonable to conclude that the Council had underestimated the need for pitches arising over the next five years.

42. I do not have the specific numbers before me that were available to the Wheelwrights Farm Inspector, but the Council explains that an anomaly to the 2016 needs update report was identified in 2019, in respect of four unauthorised pitches which had not been correctly assigned at a site known as Esbies. Work to further update the 2016 update report was reported by the Council to have been stymied by recent public health restrictions, although is said to be under commission. Based on the 2016 needs update, the Council refers to a total of 22 pitches having been either permitted or allocated between 2017/18 and 2025/26 against a (revised) position of identified need for nine pitches across the same time span. It was however acknowledged that a large number of these permitted pitches reflected needs not accounted for by the 2016 update report (including Little Hadham<sup>2</sup> having permitted 10 pitches on appeal in 2020.)

43. The needs assessment met with a great deal of criticism from the appellants, describing it as 'guess work'. The agent described two unmet need pitches in the district of which he was personally aware. It was suggested that the needs and provision should be assessed on a county-wide basis, with other districts in

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<sup>1</sup> APP/J1915/C/17/3174667 et al

<sup>2</sup> APP/J1915/W/19/3234671



the county admitting to a large unmet need and officials at the County Council having said that there are 121 families on their waiting list.

44. Nonetheless the approach of the Council, accepted as robust by the Local Plan Inspector, has been to assess need and allocate traveller site provision on a district-wide basis. In the absence of an up to date assessment it is difficult to assess the extent of unmet need, if any, in the area.
45. Although on the appellants' case there are considerable unmet needs across the County, I am not persuaded that there is a significant unmet need in the East Hertfordshire district at present, or that the Council has not made adequate provision for a 5 year supply of deliverable sites. Nonetheless I am mindful that any unmet need figures are to be treated as minima, not maxima, and the contribution of this site to meeting the accommodation needs of gypsies and travellers is a matter to which I attach considerable weight.

#### Availability of alternative sites

46. No party to the appeal has identified any presently-available alternative site to which the present occupants of the site might relocate, and no details of any search for alternative accommodation by the present occupants has been provided. It appears that the original appellants have lived elsewhere since at some point since the application was made. Permission has previously been granted to one of the appellants (Mr Saunders) elsewhere but that site has been vacated.
47. The Council explained at the Hearing that approximately a third of the district's area lies within the Green Belt. A number of sites have come forward satisfying the criteria-based policy of HOU9. Five sites, together providing 19 pitches, have been delivered in the period 2017/18 to 2020/21, of which one was an allocated site and another (Wheelwrights Farm) was found to be in conflict with provisions of the development plan but allowed for reasons relating to unmet need and the personal circumstances of the appellant and his family. The remaining three sites (16 pitches) were found, on appeal or otherwise, to meet the policy criteria of HOU9.
48. I accept what the appellants have to say about the difficulties in securing land for gypsy and traveller site development at an affordable price. However it is clear that sites have been coming forward in satisfaction of the relevant policy criteria and I have no grounds to conclude that this could not continue, or that there is any overall policy failure in the district. I therefore give the lack of an identified suitable and available alternative site little weight in favour of the appeals.

#### Personal circumstances including human rights and best interests of children

49. The medical condition of one of the adult occupants of the site was described to me at the Hearing and in subsequent correspondence. No medical records have been provided, but I have no reason to doubt the account given. Whilst no particular advantage of living specifically on the appeal site has been advanced, I accept generally that a settled base would be conducive to the health and well-being of all the site's occupants and I give this moderate weight.
50. Additionally, one of the two children on the site has been enrolled in school since January 2020. Correspondence from the Head Teacher indicates that the child has settled in well and is doing well both academically and socially. Based

on the age of the child I would expect her to have recently entered junior school. A stable and settled education is undoubtedly in the child's best interests and, whilst the possibility of finding an alternative site that would allow the child to remain at the school cannot be excluded, equally I have no information upon which to conclude that dismissing the appeal would not result in some educational and social disruption to this child. I am given no information as to the other child living at the site but accept that a settled home is likely to be in her best interests too.

51. The best interests of children are a primary consideration, and no other factor in the appeal is inherently more important. These interests attract significant weight, and in particular the educational continuity for the younger child that would be likely to result if the appeals are allowed.
52. My attention is also drawn to human rights considerations arising from the European Convention requiring the protection of property (A1P1) and respect for the home and private life (article 8). To dismiss the appeals would be to interfere with these qualified rights. This is justifiable where there is a clear legal basis for the interference, which in this case would relate to the regulation of land use in the exercise of development control measures, and the interference is necessary in a democratic society. I consider below whether this is the case. It is also necessary not to deny the right to education (A2P1). I am also mindful of my duties to facilitate the way of life of gypsies and travellers, and to eliminate discrimination, promote equality of opportunity and foster good relations where relevant protected characteristics arising under the Equality Act 2010 are concerned. I am mindful of all these matters in reaching my conclusions.

#### *Other Green Belt decisions*

53. Reference is made to nearby planning permissions including one for an extension to a nearby house, and it is suggested that the Council's approach to the loss of openness is inconsistent. I do not have the details of any other applications before me, or the particular aspects of Green Belt policy which may have been applicable to them. I therefore attach other decisions made by the Council only limited weight.

#### **Conclusions on the ground (a) and planning appeals**

54. Drawing all these points together, I give significant weight to the interests of the children in acquiring a settled home on the site from which the younger child can attend school locally. I also attribute moderate weight to the advantages to the health and well-being of all the site's occupants of securing permanent living arrangements, and in particular to the identified medical condition of one of the adults. The contribution of the site to meeting the accommodation needs of gypsies and travellers in the area attracts considerable weight, and I also attach some limited weight to the lack of any identified suitable and available alternative. Additionally, if the appeals were to be allowed then any interference with the established home and family life of the site's occupants would be avoided. An authorised settled home would potentially assist the family's integration into the local community and foster good relations.
55. The question then arises whether these factors in favour of allowing the appeals are considerations of such sufficient weight as to clearly outweigh the

harm to the Green Belt and other harm arising from the development, such that the necessary very special circumstances exist to justify allowing the appeals. I have concluded that they do not.

56. Turning first to the requirement to weigh the public benefits of the development against the harm to designated heritage assets, although each of the factors in favour of the development involves some consideration of the public interest, as does any matter relevant to a planning determination, they do not amount to 'public benefits' for the purposes of the Framework. No heritage benefits arise. The benefits of any planning permission granted would essentially be limited to the family living on the site and would not be of the nature or of a scale to be of benefit to the public at large, and it was not contended otherwise at the Hearing.
57. Here, I have found the development to be inappropriate in the Green Belt because it does not preserve openness and is inconsistent with the Green Belt purpose of safeguarding the countryside from encroachment. I give substantial weight to this harm. Harm arises not only to the Green Belt but in a number of other ways. I have found no clear or convincing justification for the harm caused to the significance of the designated heritage assets, and I am enjoined by the Framework to attach great weight to those harms which are not outweighed by public benefits. I have also concluded that there is conflict with the development plan in other respects, principally arising from the adverse impact on the landscape, and that, although there is compliance with a number of aspects of policy HOU9, the policy criteria are as a whole not met.
58. On balance, and conscious of the disruption to the family's living arrangements that my decision is likely to cause, I conclude that there are no material considerations of sufficient weight to overcome the conflict with the development plan or as to amount to very special circumstances justifying the grant of permission. Although I attribute significant weight to the interests of the children, together with additional moderate weight to the advantages to health and well-being, considerable weight to meeting accommodation needs and some limited weight to the lack of identified alternatives, these matters are insufficient to clearly outweigh the harm to the Green Belt and other harm identified. I find that the inevitable interference with the family's qualified rights to private life and their home is a justified and proportionate response that is necessary to give credence to the very restrictive planning policies that apply to the appeal site. Accordingly, very special circumstances to justify a grant of planning permission do not exist.
59. I am asked by the appellants to consider granting a temporary permission if a permanent permission is not forthcoming. Allowing a temporary permission would avoid (or at least postpone) the identified interference with the family's human rights. It would also potentially temporarily limit the harm caused by the development. However, although I have attributed considerable weight to the contribution of the site to the accommodation needs of gypsies and travellers, I have not found there to be any significant shortfall in supply and I have attached only limited weight to the absence of identified alternatives, in the light of the Council's record of policy-compliant sites coming forward. Although the impending needs assessment update may result in the identification of a greater level of need in the area, potentially requiring additional allocations, it would not appear likely to alter the ability of sites to come forward that are consistent with the policy criteria of HOU9. Given the very substantial policy

objections to the development that exist at this site, without realistic prospect of future change, I do not consider this a suitable case for allowing a temporary permission. It is still necessary to attribute substantial weight to any Green Belt harm, even if temporally limited, and I do not consider that this and the other identified harm is clearly outweighed by the remaining factors in favour of the development, and consider that the interference with the family's human rights would still be a justified and proportionate response. Very special circumstances justifying a temporary grant of planning permission do not exist.

### **The appeal on ground (g)**

60. Therefore I turn to whether the period specified in the enforcement notice for compliance falls short of what should reasonably be allowed. The appellants' written case on ground (g) of March 2020 apparently relates to the former occupants of the site, with no additional matters raised in more recent correspondence (or at the Hearing) in relation to the present occupants. However the case made there could apply equally to the present occupants of the site: the primary matter relied on relates to the enrolment of the child in school and the possibility of her ending up homeless and without a school to go to. A further matter raised is the ability of contractors to complete the necessary works within the four months stipulated by the Council.
61. Whilst the physical works of removing the mobile home and restoring the site should be readily manageable within the four months given, I accept that such a period would be likely to lead to disruption to the child's education. This is a right it is necessary not to deny, and one I consider essential to her best interests. Although on the information before me it does not seem unlikely that an alternative site could be found, this is likely to take some time. If a relocation leads to the child having to change schools then it is desirable that this should take place between academic years. Given the date of my decision, there appears to me a real risk that any such arrangements might not be capable of completion before the start of the next academic year in September. I shall therefore extend the period to 16 months to allow for the completion of the next academic year.

### **Conclusions and Formal Decisions**

62. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application under Appeal A and shall dismiss the appeal under Appeal B.

### **Appeal A**

63. It is directed that the enforcement notice be varied by deleting "Four" from paragraph 6 of the notice and replacing it with "Sixteen". Subject to that variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal B**

64. The appeal is dismissed.

*Laura Renaudon*  
INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

Patrick Flynn	Site Resident
Selina O'Leary	Site Resident
Joseph Jones	Agent

### FOR THE COUNCIL:

Eilis Edmonds	Principal Planning Officer (Development Management)
Kay Mead	Principal Planning Officer (Policy)
Suzanne Armstrong	Planning Enforcement Officer
Victoria Wilders	Legal Services Manager
Annabel Graham Paul	of Counsel

### FOR THE PARISH COUNCIL:

Tony Roberts	Chair, Brickendon Liberty Parish Council
Edward Long	Solicitor, of Birketts LLP



## Appeal Decision

Site visit made on 17 February 2022

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 7 March 2022**

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**Appeal Ref: APP/J1915/W/21/3273228**

**Land rear of 3 – 5 Beech Close, Ware SG12 9NQ**

**Grid Ref Easting: 535529, Grid Ref Northing: 213491**

- 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 Messrs. Wilson, Endersby, and McFiggans against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0963/FUL, dated 21 May 2020, was refused by notice dated 11 November 2020.
  - The development proposed is 'Change of use of land from sports/recreational use to residential garden'.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are: i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect on the openness of the Green Belt; ii) the effect of the proposal on the character and appearance of the area; and iii) if the proposal would constitute inappropriate development, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to allow the appeal.

### Reasons

#### *Whether Inappropriate and Openness*

3. Policy GBR1 of the East Herts District Plan (2018) (DP) requires proposals within the Green Belt to be considered in line with the Framework, amongst other things. Paragraph 147 of the National Planning Policy Framework (2021) (the Framework) explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
4. The appeal site is an area of land which currently forms part of the training grounds of Hertford Rugby Club, within the Metropolitan Green Belt. It is proposed to extend the private rear gardens of three properties into the rugby club's grounds, thereby changing the use of a slim portion of that land. Paragraph 150 of the Framework confirms that material changes in the use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.



5. Paragraph 137 of the Framework states: 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Paragraph 138 identifies five purposes Green Belts serve, including, amongst other things, to assist in safeguarding the countryside from encroachment. Openness is therefore an essential characteristic of the Green Belt, which has spatial and visual aspects.
6. The grounds of the rugby club are a wide open space of playing pitches and hard surfaced parking areas, bounded to the north and east by the rear boundaries of residential properties. A golf course and fields lie to the south and west. The appeal site therefore forms part of the boundary between the countryside and the built development of Ware.
7. A hard surfaced track runs around the eastern edge of the rugby club grounds, leaving a small, raised bank alongside the boundaries of the rear gardens of 3 – 5 Beech Close. The appeal site has been described as an unused parcel of land with a sense of containment from the track, but I saw it to form part of the same open space as the wider rugby club grounds, albeit unused for the playing of sport due to its position between the track and boundary. The proposal would include the erection of close boarded fencing to enclose the appeal site, which would be lined with native species hedging along the western elevation.
8. The proposal would therefore introduce solid boundary fencing to an area of open land forming part of the Green Belt. As the proposal would result in that area of open land becoming part of what are currently domestic gardens, it would be unreasonable to seek to prohibit the erection of ancillary buildings, any means of enclosure or other development within that space by conditions. Even in the absence of any further development within the appeal site, it would be fully enclosed by the proposed solid boundary fencing. The proposal would therefore materially reduce the openness of the Green Belt visually and spatially by enclosing the currently open area of land and introducing three parcels of private residential garden use.
9. The reduction to the openness of the Green Belt would be very small and the level of harm to the openness of the Green Belt would therefore be low. However, the proposal would also represent the encroachment of the residential area of Ware into the countryside. The level of encroachment would also be very small, but this would conflict with one of the purposes of including land within the Green Belt. The proposal would therefore constitute inappropriate development and harm the openness of the Green Belt, contrary to Policy GBR1 and the Framework. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt.

#### *Character and Appearance*

10. The proposed development would result in a very small loss of open countryside. The extended boundary fencing of 3 – 5 Beech Close would be seen from within the rugby club's grounds and in the context of existing residential boundary fencing abutting those grounds its impact on the character and appearance of the wider countryside would be minimal.
11. The location of the appeal site, directly at the end of modestly sized existing private gardens, would relate well to the existing garden space at 3 – 5 Beech

Close and neighbouring properties. The proposed mixed species hedging along the western elevation would soften the appearance of the proposed boundary fencing, which would be an improvement in comparison to the appearance of the existing exposed close boarded fencing.

12. The proposed development would not therefore materially harm the character or appearance of the area and would accord with Policies DES4 and HOU12 of the DP. These require development, including proposed changes of use of land to residential garden, to respect the character and appearance of the surrounding area and landscape, to be well related to other residential land, and to include the provision of appropriate landscaping and boundary treatment.

#### *Other Considerations*

13. Paragraph 148 of the Framework explains that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. I have seen copies of undated letters from The Richard Hale Association, the trustees of which own the appeal site. Those letters explain that the proposal would create funds to be reinvested in facilities for the playing of community sport by the rugby club, through the sale of the appeal site. The letters explain that the land is not, and will not, reasonably be used for recreational purposes or maintained by the rugby club, and that the club is largely operated by volunteers and provides benefits for the wider community by offering opportunities for school children to take part in rugby, amongst other things. I have also been referred to the strain that the Covid-19 pandemic has placed on the funding of the club.
15. I do not doubt the significant benefits offered by the rugby club to the local community or the demand for rugby facilities outlined in the Council's Open Space, Sport and Recreation Supplementary Planning Document (2020) (SPD) and Playing Pitch Strategy (2017) (PPS). However, I have not been provided with any information which suggests the future operation or community benefits of the rugby club would be reliant on the funds from the sale of the appeal site. I appreciate that further benefits could be provided by the rugby club to the local community if it were to receive those funds, but that would always be the case and would suggest further sales of land, possibly to the many owners of other neighbouring residential properties, may also be necessary.
16. I have not been provided with full copies of the SPD and PPS, but from the extracts provided it is clear that there is demand for new rugby pitch provision, community access to education pitches and enhancements to current pitches across the district. The excerpts provided suggest the Council's strategy to address these demands relies on financial contributions from new housing developments and there may be a site specific action plan, which I have not been provided with a copy of. I have also not been provided with a breakdown of the total funds the proposal would secure for the rugby club and what proportion of facilities and equipment that level of funding would secure over any specific period for me to fully assess the magnitude of such benefits.

17. Notwithstanding the above, I attach significant weight to the financial benefits to the rugby club and local community which would likely result from the proposal. However, even that significant weight would not be sufficient to constitute the very special circumstances necessary to clearly outweigh the substantial weight which the Framework advises should be assigned to any harm to the Green Belt.

### **Conclusion**

18. The proposed development would not harm the character or appearance of the area, but it would constitute inappropriate development in the Green Belt and it would harm the openness of the Green Belt. For the reasons set out above, the harm identified would not be outweighed by any other considerations and the very special circumstances required to justify the proposal have not been demonstrated. The proposed development would therefore be contrary to the development plan and the Framework, and the appeal is dismissed.

*L Douglas*

INSPECTOR



## Appeal Decision

Site visit made on 7 February 2022

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

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

**Decision date: 3 March 2022**

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**Appeal Ref: APP/J1915/W/21/3273513**

**Woodside, Broxbourne Common, BROXBOURNE, EN10 7QT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Susan Tepper against the decision of East Herts Council.
  - The application Ref 3/20/1529/FUL, dated 11 August 2020, was refused by notice dated 4 November 2020.
  - The development proposed is the conversion of annexe to separate dwelling house.
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion of annexe to separate dwelling house at Woodside, BROXBOURNE, EN10 7QT in accordance with the terms of the application, Ref 3/20/1529/FUL, dated 11 August 2020, and the plans submitted with it, subject to the conditions at the end of this decision.

### Main Issue

2. The Council has concluded that the development is not inappropriate development in the Green Belt, and I have no reason to disagree. The main issue therefore is whether, having regard to local and national planning policy, because of its location in the countryside, the proposal would be a sustainable form of development.

### Reasons

3. Policy DPS2 of the East Herts District Plan 2018 (DP) sets out the strategy for sustainable development in the district, concentrating development in urban areas, on sustainable brownfield sites, and in villages. DP policy TRA1 promotes sustainable transport and indicates that development should primarily be located in places which enable sustainable journeys to be made to key services and facilities, to help reduce carbon emissions.
4. While the annexe stands outside any settlement boundary, it is part of a hamlet. It is not isolated in the terms of the Framework<sup>1</sup>. Nonetheless, it is more than a convenient walking distance from the nearest local services and facilities. While surrounding villages are within cycling distance, the lack of street-lighting and the distances to them would deter the elderly, infirm, and those with young children from cycling or walking to them. Moreover, there are no bus services which pass within walking distance of the site. In these circumstances, it is likely that future occupiers would rely on the private car as the means of transport to reach services and facilities, for most journeys.

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<sup>1</sup> National Planning Policy Framework, paragraph 80

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5. Notwithstanding this, the Council has acknowledged that the building had been converted to ancillary living accommodation and has granted a Certificate of Lawful Use for the ancillary use of a garage/outbuilding as an annexe. Its present use therefore has the potential for its occupiers to generate trips to reach services and facilities by car.
6. The proposal would not change the amount of accommodation. More significantly, there is no substantive evidence that the change of use of the building to a separate dwelling would result in a greater number of trips than may be generated today under its use as ancillary accommodation.
7. I acknowledge that the appeal site lies outside any settlement boundary which suggests that future occupiers would be likely to rely on their own private transport to access services and facilities. However, because of their proximity, they would, at least, be relatively short trips. More significantly, in these particular circumstances, and despite its location in the countryside, because the building already has a residential use, albeit ancillary, I am unable to conclude other than that the proposed change of use to a separate dwelling would be a sustainable form of development.
8. There would be no conflict with DP policies DPS2 and TRA1, nor with the sustainable transport objectives of the Framework which recognises in paragraph 105 that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, which should be taken into account in decision-making.

### **Other Matters**

9. The new boundary walls and the boarded fences and ledged and braced gates would not look out of place in this rural setting in either their form, height or their siting. These alterations would preserve the significance of the listed building and its setting, to the desirability of the preservation of which section 66(1) of the Act requires me to have special regard, and for which the Council has granted listed building consent<sup>2</sup> with a condition for materials samples.
10. Similarly, I find no harm to the significance of the grade II listed building, which is described as a house, now 2 houses, or to its setting, from the change of use of the annexe from ancillary residential to separate residential, especially here where the two buildings already appear so clearly physically separated.

### **Conditions and Conclusion**

11. In addition to the statutory time condition [1], a condition for the approved plans [2] is necessary for certainty. The Council suggested that a condition to restrict permitted development be applied. While the Framework indicates that planning conditions should not be used to restrict national permitted development rights, because of the site's location in the Green Belt, and the proximity of the annexe to the listed building, a condition to remove permitted development rights from the new dwelling for enlargements and freestanding buildings, as well as gates, fences, and walls is necessary to preserve openness and the significance of the listed building and its setting. Condition [3] would not prevent such development, but would bring it under planning control. For the reasons above, and taking account of all matters raised, I conclude that the appeal should be allowed.

*Patrick Whelan*  
INSPECTOR

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<sup>2</sup> LPA Ref 3/20/1530/LBC

## 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:
  - 92/LP01B LOCATION PLAN
  - 92/01 MEASURED SURVEY of Annex to Woodside Cottage
  - 92/02 NEW Boundary Wall Proposed plan
  - 92/03 NEW Boundary Wall Proposed Elevation
  - 92/SP01C EXISTING SITE PLAN of Woodside and Annexe
  - 92/SP02C "WOODSIDE" PROPOSED SITE PLAN of the house at Woodside
  - 92/SP03C "WOODSIDE VIEW" PROPOSED SITE PLAN of the annexe at Woodside
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or enlargements as provided for within Schedule 2, Part 1, Class A, and no buildings etc. as provided for within Schedule 2, Part 1, Class E, and no gates, fences, walls etc. as provided for within Schedule 2, Part 2, Class A of that Order shall be constructed on the new dwelling, as identified on drawing 92/SP03C "WOODSIDE VIEW" PROPOSED SITE PLAN of the annexe at Woodside, as WOODSIDE VIEW 1a, and on the land within the area defined by the red-line indicated on that same drawing.

END OF SCHEDULE OF CONDITIONS





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## Appeal Decisions

Site visit made on 25 January 2022

**by Martin Chandler BSc, MA, MRTPI**

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

**Decision date: 16 March 2022**

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### **Appeal A Ref: APP/J1915/W/21/3272506**

#### **Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD**

- 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 Bishops Stortford Lawn Tennis Club against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/2355/FUL, dated 23 November 2020, was refused by notice dated 23 February 2021.
  - The development proposed is Construction of two padel courts with canopy over & with associated floodlights & external works.
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### **Appeal B Ref: APP/J1915/W/21/3275195**

#### **Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD**

- 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 Bishops Stortford Lawn Tennis Club against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/0638/FUL, dated 11 March 2021, was refused by notice dated 13 May 2021.
  - The development proposed is Construction of two padel courts with associated floodlights & external works.
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## **Decisions**

1. Appeal A is allowed, and planning permission is granted for the construction of two Padel courts with canopy over and with associated floodlights and external works, at Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD, in accordance with application Ref: 3/20/2355/FUL, dated 23 November 2020, and subject to the conditions in the attached schedule.
2. Appeal B is allowed, and planning permission is granted for the construction of two Padel courts with associated floodlights and external works, at Bishops Stortford Lawn Tennis Club, Cricketfield Lane, Bishops Stortford CM23 2TD, in accordance with application Ref: 3/21/0638/FUL, dated 11 March 2021, and subject to the conditions in the attached schedule.

## **Main Issues**

3. The main issues common to both appeals are:
  - i) whether the proposals would constitute inappropriate development in the Green Belt;

- ii) the effect on the character and appearance of the surrounding area; and
  - iii) whether the proposals make appropriate provision for car parking, and if not, the effect of any under provision.
4. In addition, in relation to Appeal A, a further main issue is whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Inappropriate Development*

5. The fundamental aim of Green Belt policy in the National Planning Policy Framework (the Framework) is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
6. Paragraph 143 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. The construction of new buildings should be regarded as inappropriate development in the Green Belt. However, an identified exception set out within the Framework relates to the provision of appropriate facilities (in the connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. Both proposals relate to the provision of new facilities for outdoor sport. Specifically, the proposals would make provision for Padel courts to facilitate and encourage participation in a growing sport. In both instances, the courts would be located in the same position on the site. This would be close to the entrance of the site and adjacent to existing tennis courts with their associated means of enclosures and floodlighting.
8. The principal difference between the two appeals relates to the proposed enclosure of the courts. Appeal A would introduce a tall structure with a barrelled roof thereby enabling use of the courts in all weathers. Appeal B does not propose such a structure.
9. The appeal site is a tennis centre and due to this use, there are a number of enclosures and lighting columns as well as courts themselves. This provides the site with an active use which impacts upon the openness of the Green Belt. In addition, there is a large building to the west of the specific location for the courts proposed. Built form is also apparent beyond the site and also opposite and it is in this context that the site for the proposed courts is experienced.
10. Despite this, Appeal A would introduce a degree of built form that would materially alter the openness of the site. It would be located on an area which currently has no built form, and which enables views to the existing courts. It also helps to provide the site with a degree of spaciousness when viewed from the site entrance and the public realm beyond. The introduction of a structure, albeit one with open sides, would, by its very nature, demonstrably alter the openness of the site. It would impact upon existing views both within and beyond the site and reduce the spaciousness that the site currently helps to

afford. Consequently, both visually and spatially, the proposal in Appeal A would reduce the openness of the Green Belt. Despite this effect, due to the surrounding context, I find that the impact on openness would only cause limited harm to the Green Belt.

11. Appeal B would introduce the same number of courts but without the associated structure. The built form would therefore only consist of the courts and associated enclosures and lighting columns. In light of the context in which the area would be experienced, I am satisfied that views into the site would not be materially altered, and the existing spaciousness would be preserved. Consequently, from both a visual and spatial perspective, this proposal would not harm the openness of the Green Belt.
12. I therefore conclude that having regard to Appeal A, the proposal would represent inappropriate development within the Green Belt. On this basis it would fail to comply with the Green Belt protection aims of the Framework as well as Policy GB1 of the East Herts District Plan (2018) (DP).
13. In contrast, in my judgement, due to the context of the appeal site, I am satisfied that Appeal B would preserve the openness of the Green Belt. I therefore conclude that it would not represent inappropriate development within the Green Belt, and that accordingly, it would comply with the Green Belt protection aims of the Framework as well as the same Policy identified above.

#### *Character and Appearance*

14. As identified above, the appeal site is host to numerous structures and courts that are associated within the Tennis Centre use. In addition, the surrounding environment contains a substantial presence of built form. As a consequence, the location of the proposed Padel Courts would be experienced within this well-established built context.
15. The location of the proposed courts would be close to the entrance of the site. However, due to the topography of the broader site, they would be located at a lower level than much of the existing built form. Accordingly, the courts would not dominate the site or be imposing when viewed from the site entrance. Instead, in both instances, I am satisfied that they would appear as a complementary addition to the well-established tennis centre which would not compromise the appearance of the broader site.
16. As a consequence, I conclude that for both appeals, the proposals would not harm the character and appearance of the surrounding area. They would therefore comply with Policies DES2, DES3 and DES4 of the DP. Taken together, these seek amongst other things, development of a high standard of design which conserves the character of the district's landscape.

#### *Car Parking Provision*

17. The Council point to an under provision of car parking on the site for the existing number of courts. Accordingly, in their view, an additional two courts would worsen the current situation. They also state that the appellant has not provided justification for what is perceived to be an under supply.
18. The under provision of car parking spaces is acknowledged. However, despite the Council's concerns relating to this matter, no evidence has been provided

to substantiate their concerns. For example, it has not been demonstrated that the existing parking provision is giving rise to indiscriminate car parking that is causing highway safety concerns. Nor has it been implied that the additional courts would worsen such a situation, or even generate one.

19. The concerns of the Council are understood. However, without substantive evidence, I have no reason to consider that an under supply of car parking spaces on site would give rise to highway safety concerns.
20. Consequently, based on the evidence before me, I conclude that the amount of parking spaces provided on the site would not have any detrimental effect on highway safety. The proposal would therefore comply with Policy TRA3 of the DP which establishes the parameters for sustainable transport.

### *Other Considerations*

21. Due to my findings set out above, it is not necessary to consider this matter in relation to Appeal B. Accordingly, the following assessment relates solely to Appeal A.
22. Based on the evidence before me, the proposal stems from the national desire to integrate, build, accelerate and scale Padel as a sport within Great Britain. The Lawn Tennis Association seeks to provide 400 Padel courts by 2023 and accordingly, they have provided support to the proposal. The appellant also points to the housing growth that is forthcoming in the area and the need to provide additional sport and recreational facilities. The proposal would play a role in providing such facilities and the evidence suggests that it would also create opportunities for collaboration with schools to promote participation. In addition, the appellant suggests that the proposal garners support from the Council's Open Space, Sport and Recreation Supplementary Planning Document, as well as the Neighbourhood Plan.
23. The Framework is clear in how it promotes healthy and safe communities. Paragraph 98 confirms that access to a network of opportunities for sport and physical activity is important for the health and well-being of communities, and the benefits of physical activity for mental health are incredibly well-documented. As a consequence, I find that the opportunities of the proposal for promoting physical and mental well-being are a fundamental benefit of the proposal. Accordingly, this matter attracts very substantial weight in favour of the development.
24. Paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt. It also confirms that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
25. As identified above, the proposal would represent inappropriate development and would cause some limited harm to the openness of the Green Belt. Due to the limited harm to openness, despite giving substantial weight to this matter, I find that this should be on the lower end of the spectrum of substantial weight. In contrast, due to the benefits that the proposal would facilitate, I find that the contribution towards a healthy community should attract very substantial weight, to such an extent that would clearly outweigh the harm that would be caused to the Green Belt. Consequently, on the basis of the other

considerations before me, I conclude that the very special circumstances necessary to justify the proposal do exist.

### **Conditions**

26. In light of my findings for both appeals, conditions are necessary to control and manage the implementation of either proposal. Due to the nature and similarity of the proposals, I am satisfied that the conditions can be duplicated but two schedules are set out below because two decisions are being made.
27. Conditions 1 and 2 are necessary in the interests of clarity and precision. Condition 3 is necessary to the archaeological sensitivities of the site, and condition 4 is necessary to ensure proposed lighting is sensitive to its surroundings. This condition has been amalgamated with other suggested conditions by the Council so as to provide a clearer decision.
28. Condition 5 is necessary to promote sustainable modes of transport, and condition 6 is necessary to ensure that the developments are sympathetic to their surrounding context. Condition 7 is necessary to ensure a suitable landscaping scheme is proposed and conditions 8 – 10 are necessary to protect the amenities of neighbouring land users. Finally, condition 11 is necessary to ensure suitable tree protection.
29. Where conditions require information to be provided prior to the commencement of development, the appellant has confirmed their acceptance in writing.
30. The Council suggested additional conditions in relation to the provision of electric vehicle charging, and turning space on site. However, on the basis of the evidence before me, I find that these conditions fail to meet the tests established within the Framework. Accordingly, they have not been imposed.

### **Conclusion**

31. For the reasons identified above, both appeals should be allowed.

*Martin Chandler*

INSPECTOR

## APPEAL A - SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby approved shall be carried out in accordance with the following drawing numbers: 08B.20.LP Rev A; 08B.20.10; 08B.20.11; 08B.20.12.
- 3) No development or groundworks shall take place until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to commencement of the development hereby approved, details of external artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following:
  - a) Lighting contours to demonstrate that the vertical illumination of neighbouring premises is in accordance with the recommendations of the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'.
  - b) measures to minimise use of lighting and prevent glare and sky glow by correctly using, locating, aiming and shielding luminaires.
  - c) a plan detailing the aiming angle and light spill of the proposed lighting for each Padel court.
  - d) Confirmation that the intensity of illumination shall be controlled at a level that is within the limit recommended by the Institution of Lighting Professionals in the publication 'Technical Report No 5: Brightness of Illuminated Advertisements' and 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011'.

The approved details shall be implemented prior to use of the development and thereafter be permanently retained.

- 5) Prior to the first use of the development hereby permitted, a scheme for the parking of 8 cycles shall be submitted detailing the position of the cycle parking and the dimensions of the cycle storage and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
- 6) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans, or in materials which have been approved in writing by the Local Planning Authority.
- 7) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or



contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

- 8) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 9) The use of the Padel courts hereby approved shall be restricted to the hours 08:00 to 22:00.
- 10) Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a condition such as not emit dust or deposit mud, slurry or other debris on the highway, in particular( but without prejudice to the foregoing) efficient means shall be installed prior to commencement of the development and thereafter maintained and employed at all times during construction of the development of cleaning the wheels of all lorries leaving the site.
- 11) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

## APPEAL B – SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
  - 2) The development hereby approved shall be carried out in accordance with the following drawing numbers: 08B.20.LP Rev A; 08B.20.10A; 08B.20.11A; and 08B.20.12A.
  - 3) No development or groundworks shall take place until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
  - 4) Prior to commencement of the development hereby approved, details of external artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following:
    - a) Lighting contours to demonstrate that the vertical illumination of neighbouring premises is in accordance with the recommendations of the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'.
    - b) measures to minimise use of lighting and prevent glare and sky glow by correctly using, locating, aiming and shielding luminaires.
    - c) a plan detailing the aiming angle and light spill of the proposed lighting for each Padel court.
    - d) Confirmation that the intensity of illumination shall be controlled at a level that is within the limit recommended by the Institution of Lighting Professionals in the publication 'Technical Report No 5: Brightness of Illuminated Advertisements' and 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011'.
- The approved details shall be implemented prior to use of the development and thereafter be permanently retained.
- 5) Prior to the first use of the development hereby permitted, a scheme for the parking of 8 cycles shall be submitted detailing the position of the cycle parking and the dimensions of the cycle storage and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
  - 6) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans, or in materials which have been approved in writing by the Local Planning Authority.
  - 7) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or

contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

- 8) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 9) The use of the Padel courts hereby approved shall be restricted to the hours 08:00 to 22:00.
- 10) Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a condition such as not emit dust or deposit mud, slurry or other debris on the highway, in particular( but without prejudice to the foregoing) efficient means shall be installed prior to commencement of the development and thereafter maintained and employed at all times during construction of the development of cleaning the wheels of all lorries leaving the site.
- 11) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.



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# Appeal Decision

Site visit made on 21 February 2022

**by A.Graham BA(hons) MAued IHBC**

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

**Decision date: 25<sup>th</sup> March 2022**

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**Appeal Ref: APP/J1915/D/21/3284047**

**47 Claud Hamilton Way, Hertford SG14 1SR**

- 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 Xiaoxiao Zhao against the decision of East Herts District Council.
  - The application Ref 3/21/0836/HH, dated 25 March 2021, was refused by notice dated 9 July 2021.
  - The proposed development is for erection of air conditioning unit.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issue is the impact of the proposal upon the living conditions of neighbours.

## Reasons

3. The appeal property is a mid terrace house within this row of modern neo classical style townhouses on the fringes of Hertford town centre. The houses front Claud Hamilton Drive and are three storeys in height with gardens backing onto scrubland to the rear. Number 47 is located towards the Mead Lane end of the terrace.
4. The proposal is for an external air conditioning unit to be installed within the property to help mitigate internal temperatures associated with Climate Change and global heating and to ensure a comfortable environment for the Appellant's and their children. This would include both an internal vent system and external air conditioning unit to be wall mounted.
5. The proposed air conditioning unit would be erected to the rear wall of the property and have approximate dimensions of 70cm in height, 84cm in width and 36cm in depth. The location of the proposed unit would be above the appellant's existing patio doors and below what appears to be a bedroom window with a set of French doors and Juliet balcony being located not far away at first floor level that serves another room. The nearest neighbouring property also has a small window and patio doors nearest to where the proposed unit would be installed but the location of the unit would be around 1m from the neighbour's boundary.

6. In assessing this appeal I give great weight to the Appellant's desire to help mitigate Climate Change and associated heat events. I consider that such a unit would indeed help modify the internal temperature of the property and make it more comfortable for residents. I also note the lack of objections raised by neighbours.
7. Notwithstanding these largely personal benefits associated with this proposal however, I have evidence before me that the proposed air conditioning unit would not meet the associated British Standards<sup>1</sup> for such units in regards associated noise output in decibels (dB) when running. Whilst I accept the evidence within the Appellant's appeal statement that the noise would not, in their opinion, be that great, it would nevertheless exceed the British Standards that are intended to protect the amenities of residents from such interference. I consider therefore that the relevant British Standards are in place for a very good reason and should be followed unless there are extenuating circumstances as to why they should not.
8. I have no evidence before me as to any such extenuating circumstances that exist and although I note that the associated noise would not perhaps be perceptible by the Appellants, I consider that other neighbours, either now or in the future, would potentially suffer a loss of living conditions through what could likely amount to excessive noise. I consider that this could especially occur on summer evenings when most neighbours would likely have no choice but to have their windows open. I consider that in such cases this would magnify the associated noise from the air conditioning unit and lead to further harm to the living conditions of immediate neighbours.
9. Whilst I acknowledge therefore the Appellant's reasoning for wishing to install such a device, I consider it must be possible to obtain a similar unit that could meet the associated British Standards and as such would largely mitigate these concerns. As this appeal stands however, I have not been persuaded that this device would suitably protect the living conditions of neighbours from excess noise and as such I consider this proposal would be contrary to Policy EQ2 of the East Herts District Plan (2018) that seeks to mitigate the impact of noise pollution.

### **Conclusion**

10. For the reasons above, considering all other matters raised, I dismiss the appeal.

*A Graham*

INSPECTOR

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<sup>1</sup> British Standard BS8233:2014 and British Standard BS4142:2014=A1:2019.



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## Appeal Decision

Site visit made on 21 February 2022

**by A.Graham BA(hons) MAued IHBC**

an Inspector appointed by the Secretary of State

Decision date: 29 March 2022.

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**Appeal Ref: APP/J1915/D/21/3283955**  
**77 Mandeville Road, Hertford SG13 8JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Hardy against the decision of East Herts District Council.
  - The application Ref 3/21/1176/HH, dated 4 May 2021, was refused by notice dated 30 July 2021.
  - The proposed development is for creation of terracing to front garden with installation of decking and planters (retrospective).
- 

### Decision

1. The appeal is allowed and planning permission is granted for creation of terracing to front garden with installation of decking and planters (retrospective) as per application reference 3/21/1176/HH dated 4 May 2021 subject to the standard condition requiring that the development hereby permitted shall be carried out in accordance with the following approved plans; ISH-21May/2021 (Site/Block Plan – Proposed).

### Main Issues

2. The main issue is the impact of the proposal upon the character and appearance of the area.

### Reasons

3. The appeal property is a 1960's/70's end terrace house built as part of what appears to be a 'Radburn' type residential development. Typical of the nature of such housing developments many houses sit upon steep topography with largely unenclosed front gardens and parking courts to the rear. I consider that the location of number 77 Mandeville Road is therefore typical of this character with terraces standing high above the road with long, often stepped front access. Notably the appeal property is set back from the adjoining terrace of houses and as such appears more recessive into the streetscene when viewed from the entrance into Mandeville Road lower down the hill.
4. The proposal before me seeks retrospective planning permission for the landscaping, terracing and associated balustrading of the site in order to create off street car parking and to improve the useability of such a sloping garden through stepped terracing. The proposal has used generally high quality materials in the form of seasoned oak sleepers, colourful shrub planting and stainless steel and glass balustrades.



5. Although I saw on my site visit that several properties have landscaped their gardens with small hedges, shrubs and other planting I consider that, given time, the proposal before me would similarly 'naturalise' and that its current 'new' appearance would suitably embed into its setting. Ultimately, although I consider that any change to such a steep garden would appear prominent here, at least until such time that the planting has matured, I consider that, due to the quality of materials, landscaping used and the generous set back behind the adjoining terrace, that the proposal does not cause sufficient harm to the character and appearance of the area that would lead me to dismiss this appeal.
6. In light of this I find the proposal has created a landscaping scheme of some quality and I consider that this is in consort with the intentions of Policies HOUS11 and DES4 of the East Herts District Plan 2018 which seek to achieve such quality in proposals within the district.

**Conclusion**

7. For the reasons above, taking into account all other matters raised, I allow the appeal subject to the conditions outlined above.

*A Graham*

INSPECTOR



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# Appeal Decision

Site visit made on 14 February 2022

**by Rebecca Thomas MRTPI**

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

**Decision date: 04 April 2022**

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**Appeal Ref: APP/J1915/D/21/3283921**

**4 Vicarage Road, Buntingford, Hertfordshire SG9 9BE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Alexandra Kanold against the decision of East Herts Council.
  - The application Ref 3/21/1312/HH, dated 12 May 2021, was refused by notice dated 9 July 2021.
  - The development proposed is first floor front extensions and front porch canopy.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue raised by this appeal is the effect of the proposed development on the character and appearance of the existing building and the surrounding area.

## Reasons

3. The appeal site is a two-storey semi-detached dwelling located in a cul-de-sac, in a residential area. The property is built of pale brick with a tile roof. There is an existing flat roofed element sits forward of the main elevation, with the garage also having a flat roof, set behind this element. The first floor adjoining the neighbour is recessed, and this element would be extended as part of the development.
4. The area is characterised by semi-detached dwellings which are constructed in similar materials, featuring timber cladding and similar recessed elevations and flat roofed elements. I was able to see on my site visit that many properties have been extended by providing 'infill' extensions to the first floor above the garage elements. I was also able to see some other variations on alterations, including gable features and pitched roofs, although these were far fewer in number. The area is characterised by its relatively uniform appearance and any additions, on the whole, respect the flat roofed elements and do not appear to significantly extend beyond the original footprints or elevations, nor deviate from the main characteristics of the original dwellings.
5. The infill of the first floor above the garage would not extend beyond the main front elevation of the dwelling. Whilst I was able to see that the neighbour has not been extended, given the extensions in the street and local area of similar appearance I do not consider that this would result in significant harm to the

overall character and appearance to the dwelling or local area. Nonetheless, the proposal to extend the first floor to include a gable feature with the gabled porch below is not a feature which is common throughout the street and the local area. Whilst I accept that there are nearby properties with gabled porch extensions or other, these are the exception and do not contribute to the overall character and appearance, rather are noticeable in their differences, and appear as a stark alteration in the area which is primarily uniform and regular in appearance.

6. Although the council does not raise specific concerns with regard to the porch extension, I consider that the development should be assessed as a whole and find that that the proposal to provide a gable porch feature, combined with a first floor gabled feature to the front elevation represents a stark contrast to the extensions and alterations that I was able to see in the local area. The height and the prominence of the proposed development is at odds with the character of the original dwelling, its immediate adjoining neighbour and the local area. Despite the use of matching materials, and the set-down of the proposed development from the main ridge of the existing dwelling, the bulk of the proposal would be dominant and prominent as seen from the street and would unacceptably diminish the character, appearance and integrity of the host building, resulting in harm to the character and appearance of the surrounding area.
7. The appeal proposals would therefore conflict with the objectives of the District Plan<sup>1</sup> Policies DES4 and HOU11, which set out criteria for assessing extensions to dwellings, including consideration of size, scale, mass, form, siting, design and materials of construction which should be appropriate to the character, appearance and setting of the existing dwelling and the surrounding area. In particular, the proposal would fail to be of high standard of design and layout to reflect and promote local distinctiveness.

### **Other Matters**

8. I have had regard to the appellant's ground of appeal and to the presence of other properties within the vicinity, some of which appear to have been extended, however I am not aware of the particular circumstances in these cases and in any event, I must consider the appeal scheme on its own merits. The existence of other extensions in the locality does not justify the harm I have identified nor does the lack of objections from neighbours or the Town Council, or the benefits of providing additional living space.
9. Whilst the principle of development has not been disputed by either party, and the National Planning Policy Framework advocates innovation through design, this must not be at the expense of the local character and surrounding built environment.
10. Whilst I have given the appellant's personal circumstances consideration, I am mindful of the advice contained in Planning Practice Guidance<sup>2</sup> that in general planning is concerned with land use in the public interest. It is also probable that the proposed development would remain long after the current personal circumstances cease to be relevant.

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<sup>1</sup> East Herts District Plan (2018)

<sup>2</sup> Paragraph 008 Reference ID: 21b-008-20140306 – What is a material planning consideration?

**Conclusion**

11. For the reasons set out above, I find that the proposal conflicts with the development plan as a whole and the appeal should be dismissed.

*Rebecca Thomas*

INSPECTOR



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# Appeal Decision

Site visit made on 14 February 2022

**by Rebecca Thomas MRTPI**

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

**Decision date: 04 April 2022**

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**Appeal Ref: APP/J1915/D/21/3284927**

**3 Bradcote, Moor Green, Ardeley, Stevenage, Hertfordshire SG2 7AT**

- 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 Goldings Estates Ltd (Eugene Flannery) against the decision of East Herts Council.
  - The application Ref 3/21/1462/HH, dated 28 May 2021, was refused by notice dated 10 August 2021.
  - The development proposed is Demolition of single storey rear extension. Erection of a two storey side extension, single and two storey rear extension and insertion of a window to front elevation.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the Moor Green Conservation Area (CA).

## Reasons

3. The appeal site is a semi-detached property located in a rural area. The house is part of a small group of similar post-war properties, featuring hipped gables, rendered walls and set in well-sized plots with parking and garden space to the frontages. The appeal site appears to have minimal alterations, whilst the attached neighbour has been extended with a two-storey hipped gable extension to the side. With the exception of the adjoining neighbour, the houses in this row of similar properties do not have significant alterations or extensions. This small group of properties are set in plots with generous space between the pairs of dwellings, and this combined with the set back from the roadside and large rear gardens, results in a spacious and open character in this rural area. In addition to this, the minimal alterations contribute to the relatively uniform appearance, reflecting the original character of the dwellings.
4. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that, in the exercise of the statutory duty, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

5. The proposed development would introduce a side extension which would be set below the ridge of the original dwelling and set back from the existing elevation. The proposal would introduce a covered porch and entrance to the front elevation, which would be gabled to the end, with a link to the original roof. The gabled two-storey element would extend along the side of the dwelling and the plot for approximately 14.8m. The extension would make use of most of the plot width as seen from the road, extending the dwelling close to its boundary.
6. Whilst I acknowledge that the proposed extension would be reduced in height and set back from the front elevation, the development represents a significant and bulky addition to the house and the plot, with additions which depart from the original appearance and character of the original. The extent of the proposed development across the width of the plot, combined with its height, and length of the gabled extension along the side elevation would significantly diminish the original character of the dwelling, being at odds with the original dwelling and significantly unbalancing the existing pair of dwellings. Whilst the appellant considers that the appeal site is of little design merit, nonetheless the development as proposed would result in harm to the character and appearance of the dwelling and its setting within this small group of buildings and within the CA. I therefore find that the proposal would fail to preserve or enhance the character or appearance of the CA and its significance as a designated heritage asset.
7. I consider that the harm to the CA would be localised, and in respect of the significance of the designated heritage asset as a whole, less than substantial harm would result. Paragraph 202 of the National Planning Policy Framework (The Framework) requires that such harm is weighed against the public benefits of the proposal.
8. The appellant states that the existing house is not of adequate size to support modern larger family living. In addition, the proposal would upgrade, enlarge and modernise the property and would improve the heating and insulation standards, make it more energy efficient, improve sustainability and make it suitable for modern family living. I do not have any evidence to substantiate that the dwelling as it currently stands is substandard for family living, and even so, the benefits of any additional space would be principally of private benefit. Although I recognise that improvements to the efficiency and the use of low carbon heat sources would be a positive aspect, I am not persuaded that this would only be possible through the development proposed. Consequently, I find that there are no public benefits that would outweigh the harm that would be caused to the significance of the CA as a designated heritage asset.
9. Accordingly, I conclude that the proposal would cause harm to the character and appearance of the host dwelling and would fail to preserve or enhance the character or appearance of the CA. There would be conflict with Policy HA4 of the District Plan<sup>1</sup>, which expects that (amongst other things) extensions to existing buildings preserve or enhance the special interest, character and appearance of the area, including being complementary and sympathetic to the parent building. There would also be conflict with Policies DES4 and HOU11 of the District Plan which expect new development to be of high standard of design and layout to reflect and promote local distinctiveness, to be of size,

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<sup>1</sup> East Herts District Plan (October 2018)

scale, mass form, siting and design appropriate to the character appearance and setting of the existing dwelling and surrounding area. There would also be conflict with Sections 12 and 16 of the Framework, relating to design and the historic environment.

10. The appellant refers to a number of other paragraphs within the Framework, stating that these relate to the appeal proposal. For the reasons set out above, I find that the appeal proposals conflict with the District Plan and Sections 12 and 16 of the Framework and I do not consider that the paragraphs referred to by the appellant support the proposal.

### **Other Matters**

11. I note that there have been no objections from neighbours. Nonetheless, each appeal must be determined on its own merits and this alone is not sufficient to overcome the harm identified.

### **Conclusion**

12. For the reasons given above, having considered the development plan as a whole and all other relevant material consideration, I conclude that the appeal should be dismissed.

*Rebecca Thomas*

INSPECTOR





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## Appeal Decision

Site visit made on 14 February 2022

**by Rebecca Thomas MRTPI**

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

**Decision date: 05 April 2022**

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**Appeal Ref: APP/J1915/D/21/3289148**

**2 The Close, Moor Green Road, Ardeley, Stevenage, Hertfordshire SG2 7AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Eugene Flannery against the decision of East Herts Council.
  - The application Ref 3/21/1482/HH, dated 2 June 2021, was refused by notice dated 25 November 2021.
  - The development proposed is Single storey rear extension and incorporating existing outbuildings into main dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for Single storey rear extension and incorporating existing outbuildings into main dwelling at 2 The Close, Moor Green Road, Ardeley, Stevenage, Hertfordshire SG2 7AN in accordance with the terms of the application, Ref 3/21/1482/HH, dated 2 June 2021, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GA 001 P rev 0 GA 002 PL rev 0; GA 003 PL rev 0; GA 004 PL rev 0; GA 005 PL rev 01; GA 006 PL rev 0; GA 007 PL rev 0; GA 008 PL rev 0.
  - 3) All new external work and finishes and work of making good shall match existing original work adjacent in respect of materials used, detailed execution and finished appearance except where indicated otherwise on the drawings and application hereby approved.

### Procedural Matters

2. The Council finds in its decision that there would be a neutral impact upon the character and appearance of the Ardeley Conservation Area. Nonetheless, Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that, in the exercise of the statutory duty, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area and so this shall remain part of my consideration.

## **Main Issue**

3. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the Ardeley Conservation Area (CA).

## **Reasons**

4. The appeal site is mid-terraced two storey dwelling located at the edge of the Ardeley CA. It is a white painted rendered building, with a small outbuilding located to the rear. The dwelling benefits from a sizeable rear garden, set at an angle from the rear of the house. At the time of my site visit I was able to see a number of alterations being carried out to the neighbouring property. The proposed development would incorporate the existing outbuilding and provide a single storey extension to the rear of the dwelling. The development would provide a flat roof, with glazed doors to the rear and side elevations of the extension.
5. The proposal, whilst unusual in its layout, makes use of the plot shape and size, and respects the character and appearance of the appeal dwelling and takes its cues from the shape of the existing outbuilding and layout, and would not detract from the original character or appearance of the dwelling. The use of timber boarding and glazing to the southern and eastern elevations would help to clearly identify the proposed development as later additions, with the single storey nature of the development limiting the impact to the house and terrace as a whole, whilst retaining an adequate amount of garden space to the rear.
6. Whilst the extension would be of a sizeable length, it remains within the confines of the space associated with the dwelling and its plot, and this combined with its limited height would respect the open nature of the local area. The proposal would be at best glimpsed and not easily visible from the street and would not interfere with the overall character and appearance of the CA, and whilst there is no positive enhancement or preservation, there is neither any harm identified to the CA. The scale of the development, being single storey and retained within the existing garden area would ensure that the plot and area would retain its open character. In addition to this, I was able to see the sporadic developments of smaller domestic buildings in the local area, such as garages and garden sheds, located beyond the extent of the development as proposed.
7. I therefore conclude that the proposal would be consistent with the preservation of the character and appearance of the Ardeley Conservation Area. It would comply with Policy HA4 of the District Plan<sup>1</sup>, which expects that (amongst other things) extensions to existing buildings will be permitted provided that they preserve or enhance the special interest, character and appearance of the area, including being complementary and sympathetic to the parent building. There would also be no conflict with Policies DES4 and HOU11 of the District Plan which expect new development to be of high standard of design and layout to reflect and promote local distinctiveness, to be of size, scale, mass form, siting and design appropriate to the character appearance and setting of the existing dwelling and surrounding area. The development would also accord with Sections 12 and 16 of the Framework, relating to design and the historic environment.

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<sup>1</sup> East Herts District Plan (October 2018)

### **Other Matters**

8. I note that there are concerns raised with regard to the impact of the development on sunlight to neighbouring gardens. Whilst the development would project beyond the existing outbuilding, it would remain of modest height and taking into account the orientation of the development on its own plot, would not impact on sunlight or outlook to occupiers of neighbouring properties.

### **Conditions**

9. In addition to the standard timescale for implementation condition, it is necessary to attach a condition to confirm the approved drawings in the interests of certainty. Given the nature of the proposed development and its location within a Conservation Area, I have considered it necessary to attach conditions relating to the materials to be employed in the construction.

### **Conclusion**

10. I have found neither harm to the setting of the Ardeley Conservation area nor the character and appearance of the host dwelling. I therefore conclude that, subject to the above conditions and having had regard to all other matters raised, the appeal is allowed.

*Rebecca Thomas*

INSPECTOR



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## Appeal Decision

Site visit made on 21 February 2022

**by A.Graham BA(hons) MAued IHBC**

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

**Decision date: 25<sup>th</sup> March 2022**

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**Appeal Ref: APP/J1915/D/21/3288843**

**55 King Edward's Road, Ware, Hertfordshire SG12 7EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Demicoli against the decision of East Herts District Council.
  - The application Ref 3/21/2131/HH, dated 12 August 2021, was refused by notice dated 27 October 2021.
  - The proposed development is for single storey side extension and proposed front porch.
- 

### Decision

1. The appeal is allowed and planning permission is granted for erection of single storey side extension and proposed front porch at 55 King Edward's Road, Ware in accordance with the terms of the application Ref: 3/21/2131/HH dated 12 August 2021, subject to the following conditions:
  - i) The development hereby permitted shall begin not later than three years from the date of this decision.
  - ii) The development shall be carried out in accordance with the following approved plans: 782-2-PLN-601 and 782-2-COM-600.
  - iii) 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.

### Procedural Matter

2. The description of development in the heading above has been taken from the Appellant's application form. In Part E of the appeal form it is stated that the description of development is the same as this description and neither of the main parties has provided written confirmation that this description is erroneous. Accordingly, I have used the one given on the original planning application form.

### Main Issues

3. The main issue is the impact of the proposal upon the character and appearance of the area.

## Reasons

4. The appeal property is a light rendered end of terrace house that is located at the corner of King Edward's Road and Bowling Road. The property already contains a two storey rear extension and modest two storey side extension that may be original to the house. There is also a single storey rear extension along the boundary to number 53 King Edwards Road and a detached garage to the rear of the plot. I also saw on my site visit that a single storey side extension with pitched roof was extant on the site and this is part subject of this appeal.
5. It appears that the property already has permission for a single storey side extension with flat roof and parapet wall within the same or very similar location to where the current side extension is located. The main difference in this appeal is the fact that the roof of the extension has been altered from a flat roof to a pitched roof with rooflights. There is also the inclusion in the proposal to construct a lean to, timber frame porch to the front end of the side elevation.
6. In assessing this appeal I am aware of the overriding character of the area of the appeal site in what is a relatively densely populated area of terrace and semi detached houses, the vast majority of which exhibit diverse but complimentary design attributes. I consider that one of these attributes is the simplicity of traditional roof forms and details that include simple pitched or mono pitched roofs either over front bay windows, to rear outshot extensions or, sometimes where space allows, to the sides of properties.
7. I consider that the proposal before me utilises these design prompts in the proposed design and therefore I find no conflict between the extension as erected and the character and appearance of the area as a whole. Indeed, I would go so far as to suggest that a lean too pitched roof would be preferable to that of a flat roof that could be seen as something of an alien intervention into the area as well as having the potential to appear more over dominant. Similarly I find no cumulative harm through the simple forms and design of the proposed porch extension for the same reasons.
8. Although both these extensions would be visible from the streetscene to some degree, I consider that they do represent an appropriate design response to this context that they would not appear unduly prominent, awkward or intrusive. As such I conclude that the requirements for good residential and household design quality contained within Policies DES4 and HOU11 of the East Herts District Plan and the requirements of the National Planning Policy Framework, have been duly met.

## Conclusion

9. For the reasons above, taking into account all other matters raised, I allow the appeal subject to the conditions outlined above that I am satisfied meet the requirements outlined within the Planning Practice Guidance.

*A Graham*

INSPECTOR



## Appeal Decision

Site visit made on 21 February 2022

**by A.Graham BA(hons) MAued IHBC**

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

**Decision date: 25<sup>th</sup> March 2022**

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**Appeal Ref: APP/J1915/D/21/3288260**  
**304A Ware Road, Hertford SG13 7ER**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs L & S Peffers against the decision of East Herts District Council.
  - The application Ref 3/21/2396/HH, dated 2 September 2021, was refused by notice dated 10 November 2021.
  - The proposed development is for part single, part two storey front extension.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

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

### Reasons

3. Number 304A Ware Road forms a central property within what is a largely uniform terrace of relatively modern houses that is set somewhat higher than Ware Road behind a stone wall and hedging. The row of houses, despite the two end units seemingly having two storey side extensions, maintains a generally uniform appearance where vertical brick pier party wall features are contrasted with more horizontal fenestration, tile hanging and weather board cladding.
4. Although I accept that this part of Ware Road does exhibit a variety of residential building forms and designs, I consider that the terrace to which the appeal property belongs does have a certain amount of design intent and quality that has been largely preserved through later modifications.
5. The proposal seeks to demolish the existing porch to the front of the house and replace it with a part single and part two storey extension that would protrude from the front of the building by around one metre. The single storey element would run the whole length of the front façade whilst the two storey would extend over the existing third bedroom window and would culminate in a modest hipped roof form. Internally this proposal would slightly extend the living accommodation by extending bedroom 3 and would enable a W/C to be created along with a modest living room extension at ground floor.

6. In assessing this appeal I am aware of the East Herts District Plan Policies DES4 and HOU11 that reflect the National Planning Policy Framework (The Framework) in their aspiration for improving design quality and ensuring new development and house extensions are both well designed and responsive to the original dwelling or its particular context.
7. As mentioned above, although I consider that the character of the local area does contain a mix of dwelling types and designs, I also consider the existing terrace of houses does maintain a consistency of design that I consider is desirable and important to respond to.
8. The proposal before me however would disrupt the design aesthetic of the terrace through the introduction of a two storey front extension within its centre. This would not only unbalance the appearance of the terrace but it would also introduce a change in materiality and forms as well as more contrived roof forms that I consider would be harmful to the existing house and to the terrace to which it belongs.
9. In light of this I do not consider that the proposal before me represents an appropriate design response to this property. Whilst I do consider that there may be ways to extend this property that would potentially be able to avoid the harm that I have identified above, I conclude that the proposal before me fails to meet the criteria for high quality design as outlined in Policies DES4 and HOU11 of the East Herts District Plan.

### **Conclusion**

10. For the reasons above, taking into account all other matters raised, I dismiss the appeal.

*A Graham*

INSPECTOR