



Appeal Decision

Site visit made on 17 January 2023

by **Luke Simpson BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th January 2023

Appeal Ref: APP/J1915/W/22/3293739

Land between 8 and 10 Fanshaws Lane, Brickendon SG13 8PF

- 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 Martin Jensen (Heydon Properties Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/1575/FUL, dated 2 June 2021, was refused by notice dated 29 October 2021.
 - The development proposed is described on the planning application form as 'Provision of new one bedroom "Share to Buy" or rental starter home.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within the Green Belt. The Council has concluded that it would not be inappropriate development within the terms of Framework Paragraph 149. I have no reason to disagree and I have considered this appeal on that basis.
3. Various planning applications have been submitted in relation to proposed development on the appeal site. Those highlighted in the Council's officer report¹ were either previously refused or withdrawn. Of particular relevance is an appeal dismissed under PINS reference APP/J1915/W/17/3177382 (the Previous Appeal) in November 2017. The conclusions reached by the Inspector in dismissing that appeal are a material consideration in considering this current appeal. Notwithstanding this and the other decisions previously made by the Council, I have determined this appeal on its own merits, with regard to the case-specific circumstances.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, including its effect on protected trees and the nearby Brickendon Conservation Area.

Reasons

5. Since the Previous Appeal, the appellant has revised the design of the proposed dwelling. The building would be smaller than previously proposed, with a single storey appearance. There is also less fenestration proposed on the west

¹ Council references: 3/19/1730/FUL, 3/16/2662/FUL, 3/16/0776/FUL, 3/15/2014/FUL

- elevation and the entrance would be provided to the south. The depth of the proposed dwelling has also been reduced.
6. Despite these revisions, the primary concerns which the Inspector raised in the Previous Appeal have not been overcome. Whilst I note that there is some variation in the layout, design and orientation of neighbouring dwellings, those in close proximity to the appeal site (particularly to the south) have relatively uniform layouts with wide frontages. Despite revisions to the design (notably the scale) of the proposed dwelling, its width would be particularly narrow in comparison to the neighbouring dwellings to the south. Indeed, it is the relationship with these neighbouring properties which is the most important, given that the proposal would be viewed in conjunction with them within the street scene.
 7. As a result, the proposal would appear as an awkward and cramped feature within the street scene which would be discordant with the prevailing character of the immediately surrounding area. This harm would be further exacerbated by the lack of fenestration or detailing on the front facing elevation. The proposed set back and low ridge height would not sufficiently mitigate this harm, as the dwelling would still be clearly visible from Fanshaws Lane.
 8. Part of the Brickendon Conservation Area (CA) is located opposite the appeal site. Under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Whilst outside of the CA, the appeal site is located within its setting given its close physical relationship with the CA. The CA primarily derives its significance from the proliferation of historic architecture and its verdant rural setting.
 9. The appeal site makes a minor contribution to the verdant and rural setting of the CA. Nonetheless, given the visual harm which would occur as a result of the proposal there would be less than substantial harm² to the heritage asset. This is because the cramped and awkward appearance of the dwelling would be experienced in conjunction with views out of, into and towards the CA.
 10. There are also several trees on the appeal site which are protected by a tree preservation order. Indeed, the previous appeal decision discussed the impact of the previous proposal on these trees and noted the absence of an arboricultural survey and assessment. The evidence before me indicates that two trees which were located towards the front of the appeal site have since been removed.
 11. The appellant submitted a Tree Survey Report and Arboricultural Impact Assessment (AIA) with the planning application. The AIA outlines that the proposed dwelling would be located within the root protection area of a Hornbeam (T2, Category B). This tree and the others on the site all contribute positively to the verdant character of the area. In this sense T2 is valuable and this is accepted by the appellant in their evidence³.
 12. The AIA makes clear that in order to prevent risk of impact to T2 from excavation for building foundations, suitable piling foundations should be designed and implemented within the RPA of this tree. The AIA suggests that suitable ground investigations (use of hand digging or airspade) should be

² Within the context of Framework Paragraph 202

³ Para 5.40 Appellant Statement of Case

undertaken to prevent impact and to determine an exact location for the piles that avoids any larger structural roots.

13. The provision of an Arboricultural Method Statement is necessary in advance of any grant of planning permission given the importance of this tree. The details provided within the AIA are not sufficiently precise to afford certainty that adverse effects on T2 could be avoided or mitigated appropriately. Without this information it is not possible to determine whether any additional harm would arise to the character and appearance of the area.
14. Nonetheless, even assuming that there would be no additional harm in this regard (which is a best-case scenario for the appellant), the harm caused by the cramped and awkward layout and design of the development would still result in an adverse impact on the character of the area and would lead to less than substantial harm to the nearby Brickendon Conservation Area.
15. Framework paragraph 202 requires that less than substantial harm to a heritage asset should be weighed against the public benefits of the proposal. There would be some public social and economic benefits resulting from the increase in the housing stock. However, these would be of limited weight given that only one dwelling is proposed. Indeed, they would not outweigh the less than substantial harm to the heritage asset, to which I afford great weight.
16. For these reasons the proposed development would be harmful to the character and appearance of the area and the setting of the CA. As such, it would conflict with District Plan⁴ Policies VIL1 and DES4 which collectively seek to ensure that development respects local character. There would also be a conflict with District Plan Policies HA1 and HA4 which collectively seek to ensure that the heritage assets are preserved, including where development is outside of but within the setting of Conservation Areas.
17. There would also be a conflict with District Plan Policy DES3 which in part requires that development proposals demonstrate how they will retain, protect and enhance existing landscape features which are of amenity value.
18. The proposal also conflicts with Framework Paragraph 130 which requires that developments are sympathetic to local character.

Conclusion

19. The proposed development would conflict with the development plan. None of the material considerations raised would outweigh this conflict. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR

⁴ East Herts District Plan (October 2018)



Appeal Decision

Site visit made on 17 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2023

Appeal Ref: APP/J1915/W/21/3287330

Folly Cottage, Bury Green, Little Hadham SG11 3ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Martin Gay against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/1585/ASDPN, dated 6 July 2021, was refused by notice dated 12 August 2021.
 - The development proposed is described on the application form as 'raising of the roof ridge to create second floor top of the original footprint of the building'
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for 'raising of the roof ridge to create second floor top of the original footprint of the building' at Folly Cottage, Bury Green, Little Hadham, SG11 3ES in accordance with the application, Ref 3/21/1585/ASDPN, dated 6 July 2021 and the plans submitted with it, including plan references: 1666.07A, 1666.02, 1666.03, 1666.08.

Preliminary Matter

2. I have had regard to the policies of the Framework in so far as they are material to the matters for which prior approval is sought.

Main Issue

3. Under Article 3(1) and Class AA of Part 1 of Schedule 2 of the GPDO, planning permission is granted for the enlargement of a dwellinghouse by construction of additional storeys. The Council refused to grant prior approval in relation to paragraph AA.2, and in particular, the effect of the proposal on the external appearance of the dwellinghouse.
4. The Council has not argued that the proposal fails to comply with any other conditions, limitations or restrictions under Class AA, and I have no compelling reasons to find otherwise.
5. As such, the main issue in this appeal is whether prior approval should be granted under Class AA of Part 1 of Schedule 2 of the GPDO, having particular regard to the effect of the proposal on the external appearance of the dwellinghouse.

Reasons

6. Folly Cottage (the Host Property) is a two storey detached dwelling which, the planning history indicates, has been extended fairly significantly. The principal part of the dwelling is two storeys with two storey extensions of subservient height and appearance located on each wing.
7. The surrounding area has a rural character punctuated by large detached dwellings. The majority of these properties are set back from the highway and partially screened by trees and hedgerows. Whilst there are some similarities – terms of layout, size and orientation - the design of these buildings varies fairly significantly and there is no predominant overriding character in this regard.
8. This lack of uniformity is even further reduced given that residential buildings are not easily visible in conjunction with one another. I accept that nearby properties are typically between 1 and 2 storeys in scale. However, given the limited visual connection between these dwellings and the lack of uniformity in appearance, the proposed development would not be harmful to the character and appearance of the surrounding area.
9. In terms of the effect of the proposal on the appearance of the host property itself, there would be an increase in height, mass and bulk. However, the additional storey would be confined to the core of the dwelling, with the large extensions which currently exist to the sides and rear remaining unaltered. The existing extensions would remain as subservient features. As a result, the height of the dwelling would be gradually tapered to the sides, reducing the visual impact of its three-storey scale. As such, the proposal would not result in the principal elevation or side elevations having a disproportionate or incongruous appearance. Furthermore, the general design, materials and architectural detailing of the proposal would match the existing dwelling.
10. The proposed development would not be harmful to existing local character nor the character and appearance of the host property. Indeed, it would accord with Framework Paragraph 130(a to c) in this regard. I therefore find that the proposal would comply with paragraph AA.2(3)(a)(ii) of Class AA of Part 1 of Schedule 2 of the GPDO, which relates to the impact on the external appearance of the dwellinghouse.

Conditions

11. Planning permission granted for development under Article 3(1) and Schedule 2, Part 1, Class AA of the GPDO is subject to the conditions set out under Paragraphs AA.2(2) and (3). They are set out in the attached schedule for ease of reference. A condition specifying the plans is not necessary given that they are referred to earlier in this decision.

Conclusion

12. For the reasons given above, the appeal is allowed and prior approval is granted.

Luke Simpson

INSPECTOR

SCHEDULE OF CONDITIONS

Paragraph AA.2(2) conditions-

- (a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (b) the development must not include a window in any wall or roof slope forming a side elevation of the dwelling house;
- (c) the roof pitch of the principal part of the dwellinghouse following the development must be the same as the roof pitch of the existing dwellinghouse; and
- (d) following the development, the dwellinghouse must be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

Paragraph AA.2(3) conditions¹-

- (b) before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated;
- (c) the development must be completed within a period of 3 years starting with the date prior approval is granted;
- (d) the developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion; and
- (e) that notification must be in writing and include—
 - (i) the name of the developer;
 - (ii) the address of the dwellinghouse; and
 - (iii) the date of completion.

¹ Listed with the exception of condition 'a' which relates to obtaining prior approval (which is the subject of this appeal)



Appeal Decisions

Hearing held on 14 and 15 December 2022

Site visits made on 15 December 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal A Ref: APP/J1915/W/22/3303408

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Newman and Ms C Pepperell against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2907/OUT, dated 17 November 2021, was refused by notice dated 3 March 2022.
The development proposed is demolition and removal of all poultry houses and other buildings and the erection in their place of 12no detached dwelling houses (8no market houses and 4no affordable houses) with garages and car parking including the change of use of the land to C3 residential, together with alterations to the existing vehicular access and driveway off Whempstead Road with childrens' play space, new turning head and visitor car parking.
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Appeal B Ref: APP/J1915/W/22/3303413

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Newman and Ms C Pepperell against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2908/OUT, dated 17 November 2021, was refused by notice dated 3 March 2022.
 - The development proposed is demolition and removal of all poultry houses and other buildings and the erection in their place of 10 self-build / custom build units with garages and car parking including the change of use of the land to self-build residential plots, together with alterations to the existing vehicular access and driveway off Whempstead Road with childrens' play space, new turning head and visitor car parking.
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Appeal C Ref: APP/J1915/W/21/3288702

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Phillip Newman against East Hertfordshire District Council.
 - The application Ref 3/21/1760/FUL, is dated 2 July 2021.
 - The development proposed is a revised 'free go' planning application for the change of use and conversion of 5no poultry house buildings to form dwelling houses and the demolition and removal of two agricultural storage buildings and their replacement with 1no detached one bedroom dwelling house, to provide, overall, 6no dwelling houses, together with car parking, electric charger points, secure cycle storage for 2no bicycles for each dwelling, air source heat pump enclosures, a double garage for one of the
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dwelling houses, a turning head, refuse and recycling bins enclosures, and post and rail fencing to define maintenance strips for each of the dwelling houses, and the continued use of the existing vehicular access.

Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is dismissed and planning permission is refused.

Preliminary Matters

4. This decision relates to three appeals which were dealt with at a joint Hearing involving a total of five appeals. The remaining two appeals (Refs: APP/J1915/W/21/3288588 and APP/J1915/W/21/3288595) occupy adjacent lying sites and are dealt with in separate decisions.
5. Appeals A and B involve outline proposals¹ which relate to the same site, although each scheme differs in terms of the type and quantum of housing proposed. Appeal C occupies part of the same site area as Appeals A and B, but it also differs in terms of the type and quantum of housing proposed, and involves the partial conversion of existing buildings. It is a detailed proposal as opposed to an outline. I have considered each proposal on its individual merits. However, to avoid duplication, I refer to the three schemes together, except where otherwise indicated.
6. Appeal C *only* results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council's evidence includes the reasons why the planning application would have been refused had it been empowered to do so.
7. The Council's reasons for refusal in relation to Appeals A and B did not cite a lack of mitigation in respect of infrastructure. However, during the Hearing it was confirmed that financial contributions were deemed necessary by the Council to provide infrastructure and services to support the housing associated with these schemes. As a result, Unilateral Undertakings (UU) under Section 106 of the Town and Country Planning Act 1990 were submitted by the appellants following the Hearing. I address this in my reasoning.
8. Prior to the Hearing, a Statement of Common Ground (SoCG) was submitted setting out the areas of agreement and disagreement in relation to each appeal proposal. I used this in part to form the main issues in each appeal. The SoCG also included disagreement over whether or not the Council could demonstrate a 5-year housing land supply (HLS). I also address this later in my reasoning.

¹ Appeal A reserves appearance and landscaping. Appeal B reserves all matters except for access.

Main Issues

9. As a result of the foregoing, the main issues in these appeals are:
- Whether or not the appeal sites are an appropriate location for housing, having particular regard to local and national policies and the accessibility of services and facilities.
 - The extent to which the proposals would affect the employment generating potential of the appeal sites, and any harm arising as a result.
 - Whether the proposals would make adequate provision for infrastructure (Appeals A and B).
 - The effect of the proposal on the character and appearance of the area (Appeal A).
 - The effect of the proposals on highway safety (Appeals A and B).

Reasons

Location

10. According to the East Herts District Plan 2018 (DP) the appeal sites are located within the *Rural Area Beyond the Green Belt*. Policy GBR2 of the DP lists the types of development that will normally be permitted in these areas. Under criterion (e) of this policy, this includes limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations, where appropriate to the character, appearance and setting of the area.
11. There is no definition of 'limited infilling' in the DP. However, the word 'limited' preceding the word 'infilling' indicates to me that only a restricted form of infilling would be acceptable. In the absence of strict criteria, I have not only considered the quantum of development in each case, but also the characteristics of the proposals in relation to their surroundings.
12. In this regard, the built form proposed in each case would be generally situated some distance to the rear of a linear arrangement of housing which faces Whempstead Road. To the south of the appeal sites a scheme involving up to 13 houses was allowed on appeal at *Gosmore Paddock*². Assuming this scheme is built out, it would link the housing along Whempstead Road with the looser arrangement of housing located generally to the south and east of the appeal sites. As a result, housing would occupy land generally beyond the southern, western and eastern boundaries of the proposals.
13. In contrast, the land generally to the north of the appeal sites is considerably more rural in character. This is despite the presence of a large house and associated outbuildings³, along with several agricultural buildings, some of which have permission to be converted to dwellings⁴. Overall, these buildings occupy a relatively small proportion of a much wider area of countryside.
14. Whilst I appreciate that Appeal C would largely involve the conversion of existing agricultural buildings, it would also involve a new build dwelling and a garage along with the use of the surrounding land for residential purposes. Therefore, it would not be an appropriate type of development under criterion (d) of GBR2, nor is this argument advanced by the appellants. Therefore, the

² Appeal Ref: APP/J1915/W/17/3184877 – up to 13 dwellings

³ Referred to as 'Lingfields'

⁴ Including Moles Farm

- proposal would introduce six new dwellings and associated development beyond the built-up area of the village.
15. As a result, and applicable to all the appeal schemes, they would not occupy a space in between areas characterised by housing; rather, they would extend housing in a northerly direction and away from the settlement in a manner which could not be described as 'infilling'.
 16. Moreover, as well as not being a form of infill, the proposals accompanying Appeal A and Appeal B would not be limited either, this due to the footprint and overall scale of the built form proposed which would be greater than the spatial extent of the buildings that currently exist on the site.
 17. In respect of the previously developed nature of the appeal sites, in 2008 a Lawful Development Certificate (LDC) was issued⁵. It certified that specific areas had been used for the storage and maintenance of skips, containers and cages, with the remaining land having been in agricultural use. Furthermore, there is no disagreement between the main parties that a proportion of the appeal sites comprises previously developed land.
 18. However, elements of the new build associated with each of the schemes would occupy land which is not previously developed. In any event, irrespective of the extent of previously developed land utilised, Policy GBR2(e) also requires that such schemes are in sustainable locations.
 19. In this regard, Benington is identified as a *Group 2 village* in the DP⁶, indicative of a smaller village with access to some services and facilities. Policy VILL2 of the DP relates to proposals within group 2 village boundaries, but whilst the appeal sites lie close to Benington, they lie outside of it. Nevertheless, I accept that locations outside settlement boundaries may not necessarily be unsustainable, depending on the accessibility of services and facilities.
 20. The southern part of Benington is the closest part of the settlement to the appeal sites, lying within suitable walking distance. However, this part of Benington contains limited facilities, including an agricultural business with an associated retail area, and a public house. The northern part of Benington lies further away and although still within theoretical walking distance⁷, it offers limited provisions, including a primary school, churches and a village hall. The appellants also refer to a branch doctors' surgery within Benington, although no details concerning the extent of health services available have been provided. In any event, these facilities together would not be sufficient to meet the day to day needs of future occupiers of the proposals.
 21. As a result, residents would have to travel further afield to food stores, shops, larger places of employment, and secondary or higher educational establishments, all of which are located outside Benington and out of range so that walking or cycling would not be a practical or realistic option. I appreciate that bus stops are located along Whempstead Road within comfortable walking distance of the proposals⁸, but the bus services are limited in frequency⁹.

⁵ East Herts Council Certificate Ref - 3/08/0151/CL – under S191 of the TCPA 1990

⁶ Benington comprises two separate boundaries as depicted by document HD4 (annexe A of this decision)

⁷ Approximately 1.6km away from the appeal sites

⁸ Circa 200m according to SoCG

⁹ See paragraph 2.6.1 of appellants appeal statement

22. Therefore, despite proposals to improve access to bus stops in the form of pedestrian footway improvements and potential improvements to cycle infrastructure¹⁰, the fundamental lack of daily bus services would be unlikely to reduce the propensity of future occupiers to travel to access shops, facilities and places of employment by car.
23. As a result, the proposals would not be an appropriate location for housing, having particular regard to local and national policies and the accessibility of services and facilities. The schemes would conflict with Policy GBR2, which requires, amongst other matters, that proposals in rural areas beyond the Green Belt are permitted provided they comprise limited infilling, or the partial redevelopment of previously developed sites in sustainable locations. The schemes would also conflict with Policies DPS2 and TRA1 of the DP which require, in summary, that development is located in places which enable sustainable journeys to be made to key services and facilities, and that sustainable brownfield sites are prioritised.

Employment

24. Policy ED1(iii) of the DP requires that development which would cause the loss of a site/premises which is currently, or was last, in employment use will only be permitted if its retention has been fully explored, including whether improvements to the existing site would make it more attractive, and evidence to show that it has been marketed. Policy ED2(iii) similarly requires evidence to show that agricultural or other businesses in rural areas are no longer viable.
25. The appeal sites are not allocated for employment purposes in the DP. However, the LDC confirms historic storage and maintenance of skips and other containers, along with agricultural uses on the remaining land. In relation to the latter, it was put to me during the Hearing by the appellants that the existing poultry sheds had not been in use for a period in excess of 12 years, and other agricultural activities ceased on the appeal sites approximately 8 years ago. Furthermore, there was no evidence of activities indicative of a current agricultural business when I visited the site, nor do I have any substantive evidence before me to suggest otherwise.
26. Aside from this, the appeal sites have mainly been used for the storage of skips and containers, along with their occasional maintenance and repair. This involves vehicles occasionally travelling to and from the site to collect and return them. According to the appellants, no employee is directly employed at the site, nor have they been in the past. Therefore, whilst the appeal sites support limited current and historic businesses, this land is peripheral, and the associated headquarters and employment base appear to be located elsewhere.
27. Overall, I conclude that the appeal sites have historically made, and currently make, a limited employment contribution to the local area. Nevertheless, their future potential for employment purposes has not been explored. As such there would be conflict with Policies ED1 and ED2 of the DP as there is limited information suggesting marketing or exploration of the sites for employment purposes, or relevant viability justification.

¹⁰ Submitted as planning obligations as part of Unilateral Undertakings associated with Appeal A and Appeal B

Infrastructure (Appeal A and B)

28. The submitted UUs propose financial contributions towards meeting the need for additional infrastructure arising from the developments. Contributions towards library services, education, waste, transport and youth services are proposed in accordance with the Council's guidance¹¹. The Council has provided justification for each of the contributions sought, and I find that they are necessary, related direct to the developments, and fairly related in scale and kind. Therefore, the contributions sought would meet the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the National Planning Policy Framework (Framework).
29. In respect of affordable housing, Policy HOU3 of the DP requires provision to be made for developments of more than 10 dwellings, or any development where the floor space would be greater than 1000m². Appeal A proposes affordable housing in line with this policy. However, no affordable housing is proposed as part of appeal B.
30. In this regard, I am aware that appeal B proposes 'self-build' dwellings¹². However, there is nothing within Policy HOU3 to suggest that self-build developments should not make appropriate affordable housing provision. Whilst this policy allows an exemption for viability reasons, no detailed viability information accompanies this appeal. Moreover, self-build housing is not listed as a type of affordable housing in annexe 2 of the Framework, and the definition of 'self-build' contained in the same annexe recognises that this form of housing can either be market or affordable. Consequently, I see no reason why the proposal should be exempt from providing affordable housing.
31. Based on the indicative details accompanying Appeal B, the floorspace thresholds set out in Policy HOU3 would be exceeded by the proposal¹³. Even if that was not the case, the Framework requires affordable housing to be provided for schemes involving 10 or more dwellings¹⁴. As a result, Appeal B would fail to secure appropriate financial contributions towards affordable housing as required by Policy HOU3 of the DP and the Framework.

Character and appearance (Appeal A)

32. In respect of Appeal A, the proposed dwellings would be a mix of single-storey and one and a half storeys, comprising several courtyards laid out in a linear arrangement. Examples of cul-de-sac housing are evident in the locality along Whempstead Road. Despite the relatively low density of the development proposed in this case, this would also be in keeping with the more dispersed arrangement of housing evident in the locality.
33. Notwithstanding this, the Council are concerned that the proposal would be a departure from the prevailing pattern of existing housing in the area, which either fronts onto the road, or involves dwellings directly facing each other. Whilst that might be the case for housing generally to the west of the site, dwellings to the south have a less regimented pattern, with numerous dwellings set back in their plots and at angles relative to the street and each

¹¹ Hertfordshire County Council – Guide to Developer Infrastructure Contributions 2021

¹² In accordance with the Self-Build and Custom Housebuilding Act 2015 (as amended)

¹³ The Design and Access statement confirms footprints likely to be in excess

¹⁴ Paragraph 65 of the Framework

- other. The style of housing is equally varied. In this regard, the proposal would be in keeping with the varied composition of the streets in the area.
34. In terms of existing trees, Policy DES3 of the DP requires proposals to demonstrate how they will retain, protect and enhance existing landscape features of amenity value. It is noteworthy that whilst the submitted topographical surveys give an indication of tree location and canopy spread, no detailed assessment of existing trees either within or close to the site has been provided in support of the appeal. Therefore, I have based my consideration on the evidence before me and the observations I made on my site visit.
35. The proposed dwellings would occupy land which contains hardstanding, poultry sheds and skips, as well as grassland and an assortment of vegetation. The number of trees in this area is limited, and I saw no evidence on my site visit to suggest that the proposed dwellings would directly impact on trees that make a significant positive contribution to the visual amenity of the area.
36. However, the trees close to the site's boundaries generally make a positive contribution to the area's verdant character, whilst also affording the site a degree of screening from nearby properties. Be that as it may, the proposed dwellings would mostly be positioned a significant distance away from the boundaries thus reducing the likelihood of impacts on these trees through damage to their roots.
37. The Council raises particular concerns that the dwelling associated with proposed plot no.6 would be sited close to an existing boundary tree. The plans suggest that the building would be outside the canopy spread of this tree, but I accept that the construction of its foundations in particular could undermine the tree's roots. However, this tree is one of many along this boundary and individually it makes a limited contribution to the visual amenity of the area. There is nothing to suggest potential harm to any of the other trees close by. Therefore, even if this tree was lost, the verdant character of this boundary would remain.
38. A number of other smaller trees would also be affected by the development. This includes trees located in between the pond and the dwelling proposed in association with plot no.1, along with trees on either side of the existing access. The proposal would involve a new service margin alongside this access, along with partial widening to provide visitor car parking, all of which has the potential to disturb these trees. However, even if I was to assume an unlikely worst-case scenario, that all the trees potentially affected would be lost, the visual contribution they make to the area is limited.
39. Moreover, given that 'landscaping' is a reserved matter, and sufficient space within the site would remain so that compensatory planting could be provided, I am satisfied that planning conditions could be imposed to identify trees to be retained, details of tree protection during construction, and details of compensatory landscaping.
40. Finally, whilst I note the Council's concerns relating to the lack of surveillance of the proposed play area, this could be addressed by the considerate positioning of windows within proposed dwellings as part of reserved matters, 'appearance', appropriate landscaping, and the provision of specific details of the play area. These details could be secured by planning conditions.

41. Overall, I am satisfied that the proposal would not harm the character and appearance of the area. It would not conflict with Policies DES3, DES4 and HOU2 of the DP which require, amongst other matters, that development is of a high standard of design and layout to reflect and promote distinctiveness, and that landscaping features of amenity value, including mature trees, shrubs and hedgerows, are retained, protected and enhanced with provision made for new green infrastructure.

Highway safety (Appeals A and B)

42. The proposals would utilise an existing access from Whempstead Road which serves the existing dwelling at no.1, and historically served the agricultural use, along with the commercial storage element. There is nothing to suggest that the carriageway widths proposed would prevent the safe passing of cars along its length.
43. However, the Council contends that the appellants' swept path analysis of the junction with Whempstead Road tracks a 10.8m long refuse vehicle, as opposed to a vehicle with a length of 12.2m. Therefore, according to the Council, an unsuitable vehicle length has been assessed. Whilst no justification for the accommodation of a larger vehicle has been advanced by the Council, I have assumed that the 12.2m long vehicle is representative of refuse vehicles used in this part of the District.
44. Be that as it may, I see no reason why a larger refuse vehicle would not be capable of safely manoeuvring into the site, notwithstanding the vehicle dimensions detailed on the submitted plans. Refuse vehicles would be infrequent visitors to the schemes. Moreover, the appellants have referred to *Manual for Streets*, which advises *inter alia* that large vehicles that use the street infrequently do not need to be fully accommodated.
45. Furthermore, to my mind drivers of refuse vehicles are generally accustomed to navigating substandard roads and addressing other road vehicles and hazards on a regular basis. There is no robust evidence before me to contradict the observations I made on my site visit, which suggests that Whempstead Road is not particularly busy. As a result and given the limited volume of traffic generated by up to 12 dwellings, drivers of refuse vehicles and cars would have sufficient time and space to manoeuvre safely in order to allow each vehicle to pass both along the proposed access itself, and at its junction with Whempstead Road.
46. For the foregoing reasons, and in the absence of any information concerning local accidents which would lead me to question the overall safety of the junction and this stretch of Whempstead Road, I conclude that there would be no unacceptable impact on highway safety as a result of either proposal.
47. The proposals would, therefore, not conflict with Policy TRA2 of the DP which, amongst other things, requires that development is acceptable in highway safety terms.

Other Matters

48. I acknowledge that there are locational parallels between these appeals and the housing allowed on appeal at Gosmore Paddock. Indeed, my conclusions on the accessibility of services and facilities for future occupiers of these

appeals resonates with that decision. Crucially, however, the circumstances of that case were materially different for several reasons.

49. Firstly, the local policy context was different in relation to that appeal as the current DP had not been adopted at that time. Secondly, the Gosmore Paddock scheme was considered to be *'within a built-up area'*¹⁵, unlike the appeal sites in this case which are outside the defined settlement boundary. Finally, as I will come onto in my planning balance, the Council's housing land supply shortfall at the time of that decision was considered to be more significant than it is in this case.
50. In common with that appeal decision, the acceptability of these appeals involves balancing any findings that would weigh for and against each proposal, which I do in my planning balance. Given the clear differences outlined above, I am not bound to reach the same decision as the Gosmore Paddock Inspector.
51. Other appeals have also been referred to by the appellants¹⁶. However, the policy context in both appeals was different given the sites lie within a different local authority area. Moreover, one of the schemes was found to be reasonably well situated in respect of services and facilities, unlike the appeal schemes before me. The other proposal was considered to be sufficiently enclosed by adjoining developments. Again, that is not the case here. Therefore, the conclusions drawn in these cases are not sufficiently similar to the appeals before me to warrant me reaching the same overall conclusions.

Planning Balance

Housing Land Supply (HLS)

52. The DP seeks to deliver a minimum of 18,458 new homes over the plan period. Accompanying the Council's evidence in the case of these appeals was a Housing Land Supply and Position Statement dated 2019. Shortly before the Hearing the Council provided an updated position statement, dated November 2022. According to this, the Council's HLS is 5.8 years. This equates to 7,516 deliverable dwellings in comparison with the HLS 5-year requirement of 6,483 dwellings¹⁷.
53. The appellants' concerns mainly relate to several of the sites allocated in the DP which the Council considers to be deliverable, and upon which the Council have relied to inform their latest HLS position. Annex 2 of the Framework states *'where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years'*.
54. I note that neither the 2019 nor 2022 position statements produced by the Council follow the annual position statement criteria set out in paragraph 75 of the Framework. Nevertheless, they represent the Council's best available evidence on HLS, and the appellants have had the opportunity to address both position statements as part of this appeal. I have therefore, considered these

¹⁵ Paragraph 51 of appeal ref: APP/J1915/W/17/3184877

¹⁶ Appeal refs: APP/L3245/W/20/3260022 and APP/B1930/W/20/3249093

¹⁷ This also includes the previous shortfall additional buffer requirement – Five Year Land Supply Position Statement – November 2022 – East Herts Council

documents in determining whether clear evidence exists that those sites contested by the appellants are deliverable.

55. In respect of two of the sites, despite outline planning applications for housing having been submitted in 2019, they have not yet been determined¹⁸. I appreciate that the masterplanning process on both sites has progressed and a statement of common ground has been signed with developer(s) confirming intentions and delivery milestones. However, in both cases anticipated timescales for the delivery of housing were set out in the 2019 position statement, but none of those timescales have been met. This undermines my confidence in the future milestones set out in the 2022 position statement, particularly as no planning permission yet exists, and reserved matters and planning conditions submissions will be required before substantive works can commence in order to deliver housing according to the timescales outlined.
56. Moreover, it is put to me by the Council that one of these schemes has been delayed due to viability issues. However, I have not been provided with specific details of the viability issues, nor the outcome of viability considerations, and this further reduces confidence that planning permission will subsequently be granted as per the anticipated timescales.
57. A further contested site¹⁹ only recently received an associated planning application for housing, but at the time of the Hearing it was yet to be validated. On this basis, the Council's anticipated resolution to grant in the first quarter of 2023 seems incredibly optimistic given the early stages of the formal consultation process.
58. Similarly, an outline planning application was submitted for another allocated site in July 2022²⁰. Not only is this application yet to be determined, but it appears to straddle an adjacent Council's administrative boundary. The implications of this are not immediately apparent, but it seems reasonably likely that this will add further complexity. In addition, I have no assurance that the anticipated March 2023 outline planning application determination is likely.
59. Both the latter sites also have signed statements of common ground with respective applicants, but none of the timescales set out previously in 2019 have been met. Given this, and that there is no planning permission in place on either site, and subsequent reserved matters and condition discharge applications will be required, clear evidence of deliverability is lacking.
60. All of the above leads me to question the overall deliverability of the Council's anticipated supply of housing. In line with the appellants' assessment²¹, the four sites above account for *circa* 1800 dwellings. As such, in omitting these sites from the anticipated 5-year HLS, the Council's deliverable supply of housing would fall short of the 5-year HLS requirement by approximately 760 dwellings. This would represent a moderate shortfall.
61. Nevertheless, this means that the Council are unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 68 of the Framework. Therefore, the policies which are the most important for

¹⁸ Sites GA1:the Gilston Area and HERT3:West Herford North

¹⁹ WARE2: Land north and east of Ware

²⁰ EWEL 1: Land east of Welwyn Garden City

²¹ Annex A – HD1

determining these schemes are deemed to be out of date. In such circumstances, paragraph 11d)(ii) of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Benefits

62. The number of dwellings proposed in each of the appeals ranges from 6 to 12. Whilst this is a relatively limited number of houses, in light of the Council's housing land supply shortfall, and the Framework's objective of significantly boosting housing supply, it is a matter which carries moderate weight in favour of the appeals.
63. Moreover, Appeal B proposes 10 self-build plots. The Council accepted during the Hearing that at approximately 39 names were on the Council's register for self-build/custom-build plots. Whilst I was told that plots had been granted planning permission in the District, none of them appear to have been built out. Therefore, limited progress has been made to address the shortfall and associated requirement under the Self Build and Custom Housebuilding Act 2015.
64. As such, the proposed 10 self-build plots associated with Appeal B would make a notable contribution towards addressing a considerable lack of delivery in the District. This attracts significant weight in favour.
65. Affordable housing would be provided in accordance with local policy requirements in association with Appeal A. Whilst the four units proposed would constitute a relatively low level of provision, they would contribute towards an unmet need across the District. Therefore, this attracts moderate weight in favour.
66. There would be benefits to the local economy, both during construction and indirectly through a likely increase in local spending by future residents. There would also be additional Council tax receipts for the Council as a result of residential occupation. In all cases, due to the relatively small scale of the developments, these benefits would be limited.
67. In terms of environmental benefits, the proposals would include sustainable construction techniques and measures to reduce energy demands for future occupiers of each dwelling proposed. There would also be scope to provide additional native planting, and the potential to support biodiversity improvements on site. However, the details provided in respect of biodiversity and landscaping are limited. As a result, and given the limited scale of the developments, the environmental benefits would be limited in all cases.
68. The schemes would result in the removal of the commercial use and HGV traffic associated with it. However, this is a low-key use which does not generate significant activity. Therefore, its removal would provide only limited benefit to the local environment.
69. In terms of harm, the proposals would not comprise limited infilling, and whilst each of the schemes would utilise previously developed land to varying degrees, they would not occupy sustainable locations; with future occupiers being heavily reliant on the private car to make journeys to services and facilities.

70. The Framework²² recognises that proposals that enhance or maintain the vitality of rural communities, including supporting services in villages nearby, may be acceptable even in locations that are not well served by public transport. However, these considerations carry limited weight in these appeals as the proposals would lie outside the settlement boundary, which is where growth should be focused, and in an unsustainable location.
71. Therefore, the schemes would be contrary to Policies DPS2, TRA1 and GBR2 of the DP. Overall, there would be conflict with the development plan when read as a whole. This attracts significant weight against the appeals.
72. There would also be conflict with Policies ED1 and ED2 of the DP. However, the contributions made by the appeal sites to local employment is limited. As such, I attribute only limited weight to these policy conflicts.
73. Appeal B would not address the DP requirement to provide affordable housing. This also weighs significantly against the scheme.
74. Whilst the appeal schemes would not result in harm to the character and appearance of the area or highway safety, these considerations neither attract weight for or against the developments.

To summarise my findings in each case:

75. Appeal A - as a result of the proposal's location outside the settlement boundary, in an unsustainable location, it would be contrary to the development plan. This carries significant weight against. There would be limited conflict with employment policies. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the moderate benefits associated with 12 houses and four affordable units, along with the other benefits outlined. As a result, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
76. Appeal B - as a result of the proposal's location outside the settlement boundary, in an unsustainable location, it would be contrary to the development plan. This carries significant weight against. The lack of affordable housing as required by policy also attracts significant weight against the appeal. There would be limited conflict with employment policies. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the significant weight afforded to the provision of self-build housing, along with the other benefits outlined. As a result, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
77. Appeal C - as with appeals A and B, the proposal's location outside the settlement boundary in an unsustainable location and the conflict with the development plan is a matter which carries significant weight against the appeal. There would also be some limited conflict with employment policies. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the moderate benefits associated with six new houses, along with the other benefits outlined. The proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

²² Paragraphs 79 and 85 of the Framework

Conclusion

78. These decisions should be taken in accordance with the development plan, and no material considerations indicate otherwise. This leads me to conclude that these appeals should be dismissed.

M Woodward

INSPECTOR

Annexe A:

Hearing Documents

HD1 – Appellant document ‘East Herts Five Year Land Supply notes’

HD2 – Appeal decision ref: APP/J1915/W/22/3301655

HD3 – Delegated Officer Report for Application Number: 3/19/1569/ARPN (East Herts)

HD4 – East Herts District Plan 2018 extract showing settlement boundaries of Benington

HD5 – Council and appellant agreed list of ‘approved plans’

HD6 – Council recommended conditions ‘self-build’

Annexe B: APPEARANCES

FOR THE APPELLANT:

| | |
|---------------|------------------------|
| David Lane | DLA Town Planning Ltd. |
| Simon Andrews | DLA Town Planning Ltd. |
| Chris Watts | Agent |
| Mr Newman | Appellant |
| Ms Pepperell | Appellant |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-----------------------------------|---|
| David Lamb BA (Hons) Dip TP MRTPI | Principal Planning Officer (Development Management) |
| George Pavey Bsc (Hons) Msc | Principal Planning Officer (Planning Policy) |
| Ellen Neumann | Assistant Planning Officer (Development Management) |



Appeal Decisions

Hearing held on 14 and 15 December 2022

Site visit made on 15 December 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2023

Appeal Ref: APP/J1915/W/21/3288595

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr P Newman and Ms C Pepperell against East Hertfordshire District Council.
 - The application Ref 3/21/1805/FUL, is dated 8 July 2021.
 - The development proposed is the demolition and removal of the existing house, and its replacement with a pair of semi-detached houses (1no three bedroom, and 1no four bedroom), with car parking and detached incidental home office at the rear for both houses, air source heat pumps enclosures, recycling and refuse bins enclosure, and secure cycle storage facilities.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition and removal of the existing house, and its replacement with a pair of semi-detached houses (1no three bedroom, and 1no four bedroom), with car parking and detached incidental home office at the rear for both houses, air source heat pumps enclosures, recycling and refuse bins enclosure, and secure cycle storage facilities at 1 Whempstead Road, Benington SG2 7BX in accordance with the terms of the application, Ref 3/21/1805/FUL, dated 8 July 2021, subject to the conditions in the attached Schedule.

Preliminary Matters

2. This decision relates to a single appeal which was dealt with at a joint Hearing involving a total of five appeals. The remaining four appeals (Refs: APP/J1915/W/22/3303408, APP/J1915/W/22/3303413, APP/J1915/W/21/3288702, and APP/J1915/W/21/3288588) occupy adjacent lying sites and are dealt with in separate decisions.
3. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council's statement of case includes the reasons why the planning application would have been refused had it been empowered to do so.
4. Prior to the Hearing a Statement of Common Ground (SoCG) was submitted setting out the areas of agreement and disagreement in relation to this appeal. I have taken this into account along with the evidence before me in order to determine the main issues in this appeal.

Main Issues

5. As a result of the above, the main issues in this case are:
- Whether or not the proposal would be in an appropriate location for housing, having particular regard to the character and appearance of the area, and the accessibility of services and facilities.

Reasons

Location and character

6. According to the East Herts District Plan 2018 (DP) the appeal site is located within the Rural Area Beyond the Green Belt. Policy GBR2 of the DP lists the types of development that will normally be permitted in these areas. Criterion (d) of this policy permits the replacement, extension or alteration of a building subject to appropriate scale, size, mass and form in relation to the prevailing character and appearance of the surroundings.
7. The proposal would involve the replacement of an existing dwelling with two new dwellings. There is nothing contained within Policy GBR2(d) to suggest that the number of dwellings proposed, or that the size of the replacement building, cannot exceed the existing. However, the policy indicates that the existing context, including character and appearance, is an important consideration.
8. In this regard, the appeal site is currently occupied by a single detached dwelling. It has a simple, understated design; its contribution to the area mainly derived from its uniform appearance and set-back from the street, in keeping with the generally linear arrangement of nearby houses along Whempstead Road. The dwelling is well screened from the street by a line of trees which run close to the front boundary of the property.
9. The proposed dwellings would reflect the style of the existing dwelling and be of comparable height. They would be positioned in the same general location as the existing dwelling and would retain the linear form of the street. Whilst there is no proposal to remove the trees along the frontage, they are not protected and even if they were removed, the additional footprint, width and overall scale of the built form in comparison with the existing would not appear significantly greater, nor incongruous, in the street. Moreover, the notable gap to the existing property to the south would largely be retained. Furthermore, the large rear garden/amenity spaces proposed would be in keeping with the spacious garden spaces of several plots nearby.
10. For these reasons, and despite the appeal site's location outside the settlement boundary, the proposal would not diminish the verdant character of the surrounding countryside. It would be an appropriate response to the local character and identity.
11. No detailed assessment of existing trees either within, or close to, the site has been provided in support of the appeal. However, there is no proposal to fell any trees. Whilst I appreciate that the proposed dwellings would potentially encroach into the root protection area of several trees located close to the side boundary of the appeal site, this area comprises a mix of vegetation, including coniferous trees. Collectively, it forms a verdant boundary which is partially visible from the street. None of the trees likely to be affected make a significant contribution individually, and the loss of trees along this boundary

could be tolerated without causing undue visual harm, subject to compensatory planting which could be secured by planning condition.

12. I realise that the Council's case is partly predicated on alleged conflict with Policy GBR2 criterion (e), which relates to infill and development on brownfield land. However, the proposal would be a type of development which I deem acceptable in accordance with Policy GBR2(d). Therefore, it is not necessary for me to consider the proposal against any of the other exceptions listed in the policy. I also find no conflict with Policies HOU2, DES3 and DES4 of the DP which require, amongst other matters, that development is of a high standard of design and layout to reflect and promote distinctiveness, and that landscaping features of amenity value, including mature trees, shrubs and hedgerows, are retained, protected and enhanced with provision made for new green infrastructure.

Accessibility

13. Benington is identified as a *Group 2 village* in the DP¹, indicative of a smaller village with access to some services and facilities. The appeal site lies beyond the settlement boundary. However, locations outside settlement boundaries may not necessarily be unsustainable, depending on the accessibility of services and facilities.
14. The southern area of Benington is the closest part of the settlement to the appeal site, lying within suitable walking distance. However, the range of facilities in this part of Benington is limited, and includes an agricultural business with an associated retail area, and a public house. The northern part of Benington lies further away and although still within theoretical walking distance, it offers limited provisions, including a primary school, churches and a village hall. The appellants also refer to a branch doctors' surgery within Benington, although no details concerning the extent of health services available have been provided. In any event, these facilities together would not be sufficient to meet the day to day needs of future occupiers of the proposals.
15. As a result, future residents of the dwellings would have to travel further afield to food stores, shops, larger places of employment, and secondary or higher educational establishments, all of which are located outside Benington and out of range so that walking or cycling would not be a practical or realistic option. I appreciate that bus stops are located along Whempstead Road within comfortable walking distance of the proposals², but the bus services are limited in frequency³.
16. Given the location of the proposal away from services and facilities required to meet day-to-day needs, and the fundamental lack of daily bus services, it is likely that future occupiers traveling to access shops, facilities and places of employment would do so by private car, which is the least sustainable travel option.

Conclusion on Main Issues

17. The proposal would address the requirements of Policy GBR2 which states that replacement buildings will be permitted provided that, amongst other matters,

¹ Benington comprises two separate boundaries as depicted by document HD4 (annexe A of this decision)

² Circa 200m according to SoCG

³ See paragraph 2.6.1 of appellant appeal statement

the built form is appropriate to the character, appearance and setting of the area.

18. Unlike the other appeal schemes considered at the same Hearing on nearby sites⁴, this proposal would be a form of development supported by Policy GBR2 of the DP, meaning it would be an appropriate type of rural development. With this in mind, I have also taken into account paragraphs 79 and 85 of the National Planning Policy Framework (the Framework) which recognise that proposals that meet local business and community needs and enhance or maintain the vitality of rural communities, including supporting services in villages nearby, may be acceptable even in locations that are not well served by public transport
19. Therefore, despite the locational shortcomings of this site, the net addition of one dwelling would not undermine the spatial strategy for the District given the DPs support for replacement buildings in rural areas. With this context in mind, and having regard to the Framework, I attribute limited weight to the conflict with Policies TRA1 and DPS2 of the DP in this case.

Other Matters

20. The Council refer to the *Gosmore Paddock* appeal in their evidence⁵. However, the case was different to this appeal for several reasons, not least as it did not involve a replacement building, thus the planning policy context was different. Moreover, the DP had not been adopted at the time of that decision. Therefore, the conclusions drawn in that case were not sufficiently similar to the appeal before me to warrant me departing from the decision I have taken in this case.

Planning Balance

21. The proposal would be in accordance with Policy GBR2 of the DP, which specifically supports the type of development proposed. There would be limited conflict with Policy TRA1 and DPS2 of the DP. No conflict with other policies in the DP has been identified.
22. Moreover, the Council are unable to demonstrate a 5-year supply of deliverable housing sites⁶. The adverse impacts arising from the development would be limited, and whilst the benefits of one net additional dwelling would also be limited, the harm would not clearly and demonstrably outweigh the benefits associated with the provision of housing. The proposal would constitute sustainable development which leads me to conclude that the appeal should be allowed.

Conditions

23. The Council and the appellants have agreed a range of conditions that are considered necessary in the event that planning permission is granted. I have largely attached these in the overall form suggested, but have altered the wording as necessary to improve their precision and otherwise ensure accordance with the relevant tests contained within paragraph 56 of the

⁴ Appeal refs: APP/J1915/W/22/3303408, APP/J1915/W/22/3303413, APP/J1915/W/21/3288702, and APP/J1915/W/21/3288588

⁵ Appeal Ref: APP/J1915/W/17/3184877 – up to 13 dwellings

⁶ As per appeal refs: APP/J1915/W/22/3303408, APP/J1915/W/22/3303413, APP/J1915/W/21/3288702

Framework. I have also amalgamated suggested conditions where appropriate.

24. I have applied the standard '3 year' time limit condition, and conditions detailing the approved plans, for certainty. Conditions relating to materials, boundary treatments and landscaping are necessary to ensure the character and appearance of the area would not be harmed.
25. Conditions requiring vehicle electric charging points and restrictions on the emissions from installed boilers are necessary to meet a supplementary planning document and Policy EQ4 of the DP. The submission of a construction management plan is necessary to protect nearby occupiers from harmful impacts on their living conditions, and to mitigate highway safety impacts by measures including reducing the likelihood of mud and other debris from being deposited on the highway.
26. The submission of a biodiversity mitigation and enhancement scheme is required in accordance with the Framework. Measures to protect existing trees are required in the interests of the character and appearance of the area, as is a condition requiring the submission of landscaping details. Details of surface water drainage are required as limited information was submitted with the appeal, and in the interests of preventing an increase in flood risk. However, I have altered the condition suggested by the Council to make it more concise. Contaminated land conditions are necessary given the previously developed nature of the site, in the interests of the local environment.
27. It is necessary to ensure car parking is laid out before the dwellings are occupied, in the interests of highway safety, and a condition is imposed to reflect this.
28. I have not imposed a condition relating to cycle parking as the submitted plans show that cycle storage would be provided within the approved incidental office space. Moreover, whilst the Council suggests conditions which would involve the removal of permitted development rights relating to householder extensions, paragraph 54 of the Framework states that permitted development rights should not be removed unless there is clear justification to do so. Contrary to the Council's stated justification for these conditions, the site does not lie in the Green Belt, and given its existing use mainly for residential purposes, I do not see any clear reason for these restrictions to be imposed.
29. Finally, the conditions imposed relating to drainage, construction management and contamination are pre-commencement as it is necessary to agree details relating to those matters before any works take place on the site.

Conclusion

30. For the reasons set out above, the appeal is allowed, and planning permission is granted subject to the following conditions.

M Woodward

INSPECTOR

Annex A:

Hearing Documents

HD1 – Appellant document ‘East Herts Five Year Land Supply notes’

HD2 – Appeal decision ref: APP/J1915/W/22/3301655

HD3 – Delegated Officer Report for Application Number: 3/19/1569/ARPN (East Herts)

HD4 – East Herts District Plan 2018 extract showing settlement boundaries of Benington

HD5 – Council and appellant agreed list of ‘approved plans’

HD6 – Council recommended conditions ‘self-build’

Annex B: APPEARANCES

FOR THE APPELLANT:

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| David Lane | DLA Town Planning Ltd. |
| Simon Andrews | DLA Town Planning Ltd. |
| Chris Watts | Agent |
| Mr Newman | Appellant |
| Ms Pepperell | Appellant |

FOR THE LOCAL PLANNING AUTHORITY:

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|-----------------------------------|---|
| David Lamb BA (Hons) Dip TP MRTPI | Principal Planning Officer (Development Management) |
| George Pavey Bsc (Hons) Msc | Principal Planning Officer (Planning Policy) |
| Ellen Neumann | Assistant Planning Officer (Development Management) |

Annex C: Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20_12-201 Rev A, 20_12-62, 20_12-61, 20_12-60-2, 20_12-60-1, 20_12-14, 20_12-25 Rev A, 20_12-81 Rev A, Location Plan.
- 3) Prior to any above ground construction works being commenced, the external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
- 4) Development shall not commence, excluding works of demolition, until full details of surface water drainage systems to serve the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be implemented in accordance with the approved details and completed prior to the occupation of the development.
- 5) Development shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall, where applicable, provide for:
 - i) Measures to ensure that vehicles exiting the site do not deposit mud or other detritus on the public highway;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the location of temporary buildings and facilities to be used by site operatives during construction;
 - v) the hours that delivery vehicles will be permitted to arrive and depart and arrangements for their loading and unloading;
 - vi) hours of operation, clearance, and construction works.

The measures set out in the CEMP shall be carried out and complied with in full during the construction of development.
- 6) Prior to any construction works, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme 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 an implementation timetable. The scheme shall also include details of measures to protect trees within and immediately adjoining the site during the construction period. The development shall be implemented in accordance with the approved details and timetable.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be

replaced as soon as is reasonably practicable with species, size and number as those originally approved.

- 8) No development above slab level shall take place until a Biodiversity Mitigation and Enhancement Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include details of any new habitat to be created along with management and maintenance details. The Strategy shall include a timetable for implementation. The development shall be carried out in accordance with the approved details.
- 9) Development shall not commence until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of, and a timetable for the submission of, the following reports and information:

(i) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites - Code of Practice.

(ii) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.

(iii) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

(vi) If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.

(v) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Development shall be carried out in accordance with the approved details and timetable.

- 10) Prior to the first occupation of the development hereby approved, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning

Authority. The development shall be implemented in accordance with the approved details prior to first occupation.

- 11) Prior to first occupation of the development, a single electric vehicle charging point per dwelling shall be provided, the specification of which shall be submitted to and agreed in writing with the Local Planning Authority prior to occupation.
- 12) Any gas-fired boiler(s) installed shall meet a minimum standard of <40 mgNO_x/kWh.
- 13) Prior to first occupation of the development, all on site vehicular parking and turning areas shall be provided and surfaced as indicated on the drawing (20_12-201 Rev A). Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge onto the highway.

End of Schedule



Appeal Decisions

Hearing held on 14 and 15 December 2022

Site visit made on 15 December 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2023

Appeal Ref: APP/J1915/W/21/3288588

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Phillip Newman against East Hertfordshire District Council.
 - The application Ref 3/21/1811/FUL, is dated 8 July 2021.
 - The development proposed is the proposed redevelopment of land at Brandsmead, 1 Whempstead Road, Hebing End, Benington, Herts, SG2 7BX which includes the demolition and removal of the existing exotic bird aviary, and its replacement with a single modern carbon neutral 4no bedroom dwelling house together with the conversion of an existing garage block to the rear to become an incidental outbuilding used in connection with the new dwelling house including car parking spaces, air source heat pump, a home office, refuse and recycling bins storage facilities and with a new green sedum roof and vertical timber cladding, as well as the provision of secure cycle storage facilities, the provision of a rear garden, and with the continued use of the existing vehicular access off Whempstead Road.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. This decision relates to a single appeal which was dealt with at a joint Hearing involving a total of five appeals. The remaining four appeals (Refs: APP/J1915/W/22/3303408, APP/J1915/W/22/3303413, APP/J1915/W/21/3288702, and APP/J1915/W/21/3288595) occupy adjacent lying sites and are dealt with in separate decisions.
3. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council's statement of case includes the reasons why the planning application would have been refused had it been empowered to do so.
4. Prior to the Hearing a Statement of Common Ground (SoCG) was submitted setting out the areas of agreement and disagreement in relation to this appeal. I have taken this into account along with the evidence before me in order to determine the main issues in this appeal.

Main Issues

5. As a result of the above, the main issues in this case are:
 - Whether or not the proposal would be in an appropriate location for housing, having particular regard to the character and appearance of the area, and the accessibility of services and facilities.

Reasons

6. According to the East Herts District Plan 2018 (DP) the appeal site is located within the Rural Area Beyond the Green Belt. Policy GBR2 of the DP lists the types of development that will normally be permitted in these areas. Criterion (e) of this policy permits limited infilling or the redevelopment of previously developed sites in sustainable locations, where appropriate to the character, appearance and setting of the area.
7. There is no definition of 'limited infilling' in the DP. However, the word 'limited' preceding the word 'infilling' indicates to me that only a restricted form of infilling would be acceptable. In the absence of strict criteria, I have not only considered the quantum of development, but also the characteristics of the proposal in relation to its surroundings.
8. The appeal site is occupied by an aviary which is set behind a brick wall, along with a large garage, which all form part of the residential use associated with No 1 Whempstead Road, the host dwelling lying on the opposite side of the access to the south. Whilst the aviary has a substantial footprint and sits in line with the host dwelling, it is a slender, single-storey, timber framed structure with wire mesh panels. It does not exhibit the same degree of permanence as the dwelling proposed in its place. Therefore, the proposal would not constitute a replacement building under criterion (d) of Policy GBR2.
9. Moreover, the host dwelling bookends a ribbon of housing which is set back from Whempstead Road. As a result, and despite there being a property on the opposite side of Whempstead Road, there is a distinct lack of housing or other buildings immediately to the north of the appeal site. Whilst the existing garage lies to the rear of the aviary, to my mind this is an incidental building in connection with the existing residential use. It does not establish the appeal site as an infill plot. Therefore, the dwelling proposed in this location would not infill a gap in between housing, rather, it would extend housing further away from the settlement of Benington. As a result, I do not consider that this proposal would be a form of infill development.
10. There is no dispute between the main parties that the appeal site constitutes previously developed land. However, Policy GBR2(e) also requires that such sites are in sustainable locations. In this regard, Benington is identified as a *Group 2 village* in the DP¹, indicative of a smaller village with access to some services and facilities. Policy VILL2 of the DP relates to proposals within group 2 village boundaries, but whilst the appeal site lies close to Benington, it lies outside of it. Nevertheless, I accept that locations outside settlement boundaries may not necessarily be unsustainable, depending on the accessibility of services and facilities.
11. The southern area of Benington is the closest part of the settlement to the appeal site, lying within suitable walking distance. However, the range of

¹ Benington comprises two separate boundaries as depicted by document HD4 (annexe A of this decision)

facilities in this part of Benington is limited, and includes an agricultural business with an associated retail area, and a public house. The northern part of Benington lies further away and although still within theoretical walking distance², it offers limited provisions, including a primary school, churches and a village hall. The appellant also refers to a branch doctors' surgery within Benington, although no details concerning the extent of health services available have been provided. In any event, these facilities together would not be sufficient to meet the day to day needs of future occupiers of the proposals.

12. As a result, residents of the new build would have to travel further afield to food stores, shops, larger places of employment, and secondary or higher educational establishments, all of which are located outside Benington and out of range so that walking or cycling would not be a practical or realistic option. I appreciate that bus stops are located along Whempstead Road within comfortable walking distance of the proposals³, but the bus services are limited in frequency⁴.
13. Given the location of the proposal away from services and facilities required to meet day-to-day needs, and the fundamental lack of daily bus services, it is likely that future occupiers traveling to access shops, facilities and places of employment would do so by private car, which is the least sustainable travel option.
14. The proposed dwelling would have a contemporary style, and I note that the Council raises no objection to its design. Moreover, given the previously developed nature of the site and the characteristics of it, I am satisfied that the proposal would not be harmful to the character and appearance of the area, in accordance with Policies HOU2, DES3 and DES4 of the DP.

Conclusion on main issue

15. The proposal would not be in an appropriate location for housing, having particular regard to local and national policies and the accessibility of services and facilities. It would conflict with Policy GBR2, which requires, amongst other matters, that proposals in rural areas beyond the Green Belt are permitted provided they comprise limited infilling, or the partial redevelopment of previously developed sites in sustainable locations. The proposal would also conflict with Policies DPS2 and TRA1 of the DP which require, in summary, that development is located in places which enable sustainable journeys to be made to key services and facilities, and that sustainable brownfield sites are prioritised.
16. The Framework⁵ recognises that proposals that enhance or maintain the vitality of rural communities, including supporting services in villages nearby, may be acceptable even in locations that are not well served by public transport. I acknowledge that one additional dwelling would generate a relatively limited number of additional car journeys. However, the proposal would lie outside a settlement boundary and would not be a type of development supported by Policy GBR2 of the DP. Therefore, it would undermine the DP's objectives of focusing growth within settlement boundaries and other suitable rural

² Approximately 1.6km away from the appeal site

³ Circa 200m according to SoCG

⁴ See paragraph 2.6.1 of appellants appeal statement

⁵ Paragraphs 79, 85 and 105 of the Framework

locations. As a result, these Framework considerations carry limited weight in this case.

Other Matters

17. As referred to in 'preliminary matters', appeals have been determined on adjacent lying sites. One of these appeals relates to the host dwelling at No 1, and has been allowed. However, the circumstances of that case are materially different to the appeal before me. In that case it was concluded that the scheme was a replacement building in accordance with Policy GBR2 of the DP, unlike this proposal which would be a different type of development in conflict with Policy GBR2, for the reasons set out. Therefore, this proposal would not be an appropriate form of development in this rural area.
18. The appellant refers to the *Gosmore Paddock* appeal in their evidence⁶. However, the case was also different to this appeal for several reasons, not least because the DP had not been adopted at the time of that decision, thus the planning policy context was different. Therefore, the conclusions drawn in that case are not sufficiently similar to this appeal to warrant me departing from the decision I have taken in this case.
19. Other appeals have also been referred to by the appellant⁷. However, the policy context in both appeals was different given the sites lie within a different local authority area. Moreover, one of the schemes was found to be reasonably well situated in respect of services and facilities, unlike the proposal before me. The other proposal was considered to be sufficiently enclosed by adjoining developments. Again, that is not the case here. Therefore, the conclusions drawn in these cases are not sufficiently similar to the appeals before me, so I am not bound to reach the same overall conclusions.

Planning Balance

20. For the reasons set out in appeal decisions on adjacent sites, the Council are unable to demonstrate a 5-year supply of deliverable housing sites⁸. In such circumstances, paragraph 11d)(ii) of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. There would be conflict with relevant DP policies which seek to focus growth within defined settlements, or in appropriate sustainable locations in the countryside. The conflict between the proposal and Policies GBR2, DPS2 and TRA1 of the DP should therefore be given significant weight in this appeal.
22. Set against the harm identified there would be limited social and economic benefits associated with the proposal. The development would provide a single additional house which would generate employment opportunities during construction, and through direct and indirect spending on local services and facilities. However, an additional house would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be limited.

⁶ Appeal ref: APP/J1915/W/17/3184877 – up to 13 dwellings

⁷ Appeal refs: APP/L3245/W/20/3260022 and APP/B1930/W/20/3249093

⁸ Appeal refs: APP/J1915/W/22/3303408, APP/J1915/W/22/3303413, APP/J1915/W/21/3288702

23. It is proposed that the dwelling would be carbon neutral. However, environmental benefits due to sustainable construction techniques, measures to reduce energy demands for future occupiers such as electric car charging points and on-site biodiversity mitigation and enhancements should also be given limited weight given the small scale of the development proposed.
24. Consequently, I find that the harm would be overriding, and would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not constitute sustainable development having regard to paragraph 11 d ii) of the Framework. As a result, the presumption in favour of sustainable development does not apply.
25. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

M Woodward

INSPECTOR

Annexe A:

Hearing Documents

HD1 – Appellant document ‘East Herts Five Year Land Supply notes’

HD2 – Appeal decision ref: APP/J1915/W/22/3301655

HD3 – Delegated Officer Report for Application Number: 3/19/1569/ARPN (East Herts)

HD4 – East Herts District Plan 2018 extract showing settlement boundaries of Benington

HD5 – Council and appellant agreed list of ‘approved plans’

HD6 – Council recommended conditions ‘self-build’

Annexe B: APPEARANCES

FOR THE APPELLANT:

| | |
|---------------|------------------------|
| David Lane | DLA Town Planning Ltd. |
| Simon Andrews | DLA Town Planning Ltd. |
| Chris Watts | Agent |
| Mr Newman | Appellant |
| Ms Pepperell | Appellant |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-----------------------------------|---|
| David Lamb BA (Hons) Dip TP MRTPI | Principal Planning Officer (Development Management) |
| George Pavey Bsc (Hons) Msc | Principal Planning Officer (Planning Policy) |
| Ellen Neumann | Assistant Planning Officer (Development Management) |



Appeal Decision

Site visit made on 13 December 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Appeal Ref: APP/J1915/W/21/3288808

49 The Stewarts, Bishop's Stortford CM23 2NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Hughes against East Hertfordshire District Council.
 - The application Ref 3/21/2189/HH, is dated 17 August 2021.
 - The development proposed is part single, part two storey rear extension. Conversion of garage to habitable room and external render of property.
-

Decision

1. The appeal is allowed and planning permission is granted for part single, part two storey rear extension. Conversion of garage to habitable room and external render of property at 49 The Stewarts, Bishop's Stortford CM23 2NU in accordance with the terms of the application, Ref 3/21/2189/HH, dated 17 August 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no longer than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan – ADS036/PL/101

Proposed Floor Plans – ADS036/PL/201

Proposed Elevations – ADS036/PL/202
 - 3) The development hereby approved shall only be carried out in accordance with the materials specified within Part 5 of the planning application form dated 17 August 2021.
 - 4) The extension hereby permitted shall not be occupied until the windows at first floor level in the side elevation have been fitted with obscure glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscure glazing shall be retained thereafter.

Preliminary Matters

2. In validating the application, the Council amended the description of the proposed development. This change in description was agreed by the appellants,

who also used it on the appeal form. As this amended description more accurately describes the proposed development, I have used it in my decision.

3. The Council failed to give notice within the prescribed period, however it has provided evidence which sets out that planning permission would have been granted for the proposed development, and that as a result, the appeal is not contested. However, representations were made by third parties with regards to the proposed development, and accordingly, the issues raised within these representations have framed my main issues.
4. The provided plans indicate that the property previously hosted single storey rear and side extensions, however as building work had already commenced at the site at the time of my visit, these were no longer evident in their original form. However, I am uncertain regarding the planning status of the works that were being carried out. Therefore, I have determined the appeal with reference to the submitted plans.

Main Issues

5. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area, and;
 - The effect of the proposed development upon the living conditions of occupiers of existing neighbouring properties with specific regard to light, outlook or privacy.

Reasons

Character and Appearance

6. The appeal site relates to a semi-detached dwelling situated at the end of cul-de-sac, within an existing residential area. As the property is located at the outside of a turning area, the appeal site is a wedge-shaped plot, which widens towards the rear.
7. The proposed development would comprise a single-storey extension across the rear of the property, with a two-storey element located in a broadly central position within the revised rear elevation. The provided plans indicate the single-storey elements would incorporate flat roofs, with the two-storey element featuring a pitched roof following the fall of the existing hipped main roof. It would also include the application of render to the host property.
8. The proposed extension would be situated at the rear of the property, the rear garden of which is surrounded by the rear gardens of other residential properties. Accordingly, this element of the development would not be widely visible within wider area.
9. Furthermore, the proposed development would be of a scale appropriate to the host property, the plot within which it sits and would not, therefore, comprise overdevelopment. It would respect the existing design features of the host dwelling where single storey flat roof projections are an established form of design and are only discouraged by Policy HOU11 of the East Herts District Plan 2018 (EHDP) where they do not relate to single storey development.

10. The proposed use of light-coloured render would differ from the original brick construction of the property, however it would not appear incongruous within the area, where there are other examples of the use of this material.
11. Accordingly, I consider that the proposed development would not lead to harm to the character and appearance of the area. It would therefore be in accordance with EHDP Policies DES4 and HOU11, and Bishop's Stortford Neighbourhood Plan (BSNP) Policies HDP1 and HDP2 which together, and amongst other criteria require extensions and alterations to dwellings to be of a size, scale, mass, form, siting, design and materials that are appropriate to the character, appearance and setting of the existing dwelling and surrounding area.

Living Conditions

12. The proposed development would result in single storey development close to the shared boundary with the neighbouring property, 47 The Stewarts (No 47). However, I was able to see that No 47 currently hosts a garage structure adjacent to this boundary, which would provide a degree of screening. The main dwelling at No 47 would be separated, to an extent, from the shared boundary, and the proposed two storey rear extension at the appeal site would be located away from the shared boundary, minimising any impacts. Accordingly, the proposed development, would not result in harm to the living conditions of occupiers of No 47 in terms of outlook or light.
13. Two windows are indicated on the provided plans as being located within the side elevation on the boundary with No 47. However, these windows are indicated on the plans as being obscured glazed and would serve bathrooms. Therefore, they would not result in harm to the living conditions of the occupiers of No 47 with regard to loss of privacy, and the retention of these windows as being obscure glazed and non-opening can be secured by means of a planning condition.
14. Although the proposed render finish to the elevation facing towards No 47 may appear bright in appearance, particularly when first completed, this will, over time soften through weathering, and I have been presented with no substantive evidence to suggest that at any time would this commonly used material be excessively reflective. Accordingly, the proposed render would not result in harm to the living conditions of the occupiers of this property.
15. With regard to the effect of the proposed development upon the living conditions of occupiers of 51 The Stewarts (No 51), the two-storey rear extension would be set away from this shared boundary, however the single storey element would sit closer to the shared boundary but would be of similar scale to an existing single storey projection on No 51. Whilst it is likely that the proposed development would have some effect on the level of light and outlook available to occupiers of No 51, it would not appear as overbearing, and I consider that the size of the garden, the scale of the proposed development, and the situation of the proposed two-storey element away from the shared boundary means that any effect would be minor, and would not amount to an unacceptable level of harm.
16. It is possible that any maintenance carried out on structures erected close a shared boundary would have the potential to lead to a loss privacy for occupiers of neighbouring properties as works are carried out. However, such

works are likely to be infrequent and short-term in nature. Consequently, the effect upon the living conditions of the occupiers of these properties would not be significantly harmed.

17. Both the appellant and representations make reference to a '45-degree test' in relation to the relationship of the proposed development with an existing window a No 51. However, I have not been directed to any specific policy requirement relating to the carrying out of such a test, and I was able to adequately consider the potential relationship of the proposed development with No 51 at my site visit. Similarly, although representations make reference to a policy of restricting rear extensions to a maximum of 3 meters of projection, I have not been directed to any specific policy requirement in relation to this. Consequently, I have assessed the effect of the proposed development on its merits, having regard to its context and relationship to neighbouring properties.
18. Concern has also been raised that no Right-to-Light survey has been provided, however this relates to a separate legal framework which sits outside of planning legislation. Nevertheless, as set out above, I have considered the issue of loss of light as a result of the proposed development insofar as it relates to the living conditions of the occupiers of neighbouring properties, and in the context of the requirements of policies within the EHDP and BSNP in reaching my decision.
19. I have found that the proposed development would not lead to unacceptable harm to the living condition of occupiers of neighbouring properties with specific regard to light, outlook or privacy. Accordingly, it would be in accordance with EHDP Policy DES4 and BSNP Policy HDP1 which together, and amongst other criteria, require new development to avoid significant detrimental impacts to the living conditions of occupiers of neighbouring properties

Other Matters

20. I acknowledge concerns relating to the use of a flat-roof design to the single-storey element of the proposed development and the potential implications that this would have in relation to drainage, including the existing downpipe arrangement. The management of rainwater drainage from the roofs of buildings is a requirement of the Building Regulations, and therefore covered by separate legislation. Furthermore, I have not been provided with any substantive evidence that it would not be feasible to adequately drain the proposed development. Accordingly, I have not afforded this concern significant weight in my consideration.

Conditions

21. The Council has provided a list of conditions. Where necessary, I have made minor amendments in the interests of clarity and the meeting the policy tests set out in the National Planning Policy Framework ('the Framework') and Planning Practice Guidance ('PPG').
22. In addition to a condition relating to the standard time limit for commencing development, I have attached conditions specifying the approved plans and proposed materials in order to ensure that the development does not harm the character and appearance of the surrounding area.

23. I have also attached a condition ensuring that the proposed first-floor bathroom windows are installed with obscure glazing and a non-opening below a height of 1.7m and are retained as such thereafter. This condition is required in order to preserve the living conditions of occupiers of No 47 with regard to privacy.

Conclusion

24. The proposed development would accord with the development plan as a whole, and there are no material considerations, including the Framework, that would lead me to conclude that a decision should be made other than in accordance with the development plan.

25. For the above reasons, I conclude that the appeal should be allowed, and planning permission granted.

C Harding

INSPECTOR



Appeal Decision

Site visit made on 13 December 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/J1915/D/22/3292308

Margray, London Road, Spellbrook CM23 4BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Gemma Lonsdale against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2382/HH, dated 13 September 2021, was refused by notice dated 28 November 2021.
 - The development proposed is Demolition of existing extensions and erection of a two-storey side extension, single-storey front extension, single storey rear extension, and roof extension including rear facing dormer window.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The site visit was originally intended to be an 'access required' visit. However, I was unable to gain access to the site. Notwithstanding this, I was able to view the relevant matters without accessing the site and have therefore proceeded on this basis.

Main Issues

3. The main issues relevant to this appeal are:
 - whether the proposed development would be inappropriate in the Green Belt;
 - the effect of the development upon the openness of the Green Belt;
 - the effect of the development upon the character and appearance of the surrounding area; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

4. The appeal site is located in the Green Belt. In considering this appeal, I have been directed towards Policy GBR1 of the East Hertfordshire District Plan

(2019) (the District Plan). Amongst other matters, this requires that planning proposals be considered in line with the provisions of the National Planning Policy Framework (the Framework).

5. The Framework regards the erection of new buildings in the Green Belt as generally being inappropriate. There are some exceptions to this which are listed in Paragraph 149 of the Framework. Amongst other matters, this suggests that an extension may not be inappropriate providing it is not a disproportionate addition to the original building.
6. The appellant's dwelling consists of a semi-detached house, with a projection to the site. It is proposed that this be replaced by the proposed side extension, which would also include a front projecting element. In result, the proposed development would create an elongated dwelling, with a significantly greater footprint and mass than what is currently the case.
7. In reaching this view, I have also noted that the proposed extension would have a significant height. Given the similarities between the extension and the original dwelling, the proposed extension would appear a disproportionate addition to the dwelling.
8. I therefore conclude that the proposed development would represent a disproportionate addition to the original dwelling. It therefore represents an inappropriate development in the Green Belt. The development, in this regard, conflicts with District Plan Policy GBR1 and the Framework.

Effect on openness

9. The appeal site consists of a semi-detached dwelling located in a predominantly residential area. The dwelling is surrounded by garden areas. A notable feature of the appeal site and the surrounding area is the presence of less developed spaces around dwellings. This creates a more open character.
10. Although the appeal site contains an existing projecting element to the side of the property, the proposed development would result in a significantly larger dwelling owing to the height and width of the proposal. Therefore, the proposed extension would result in a diminished amount of space to the side of the dwelling.
11. In result, the proposed development would create a more urbanised character owing to there being less open space surrounding the dwelling. By reason of these factors, the proposed development, and resultant loss of open space, would be visible from several different vantage points in the surrounding area.
12. These points include the road to the front of the appeal site, the access road that runs to the side of the appeal site and some of the neighbouring dwellings. In consequence, the effects of the proposed development would be particularly apparent from the wider surrounding area. This means that the proposed development would result in an erosion of the physical sense of openness in the Green Belt.
13. In addition, the proposed development would result in a much larger dwelling than is currently the case. This means that the amount of space around the dwelling would be reduced. Therefore, the proposal would result in an erosion of the spatial sense of openness that is a feature of the Green Belt. This would occur even though the surrounding area includes other open areas.

14. The purposes of including land in the Green Belt are summarised in Paragraph 138 of the Framework. Owing to the scale of the proposed development, and the resultant erosion of the Green Belt's physical and spatial sense of openness, the proposed development would create a more urbanised form of development. This therefore results in encroachment into the countryside.
15. I therefore conclude that the proposed development would have an adverse effect upon the openness of the Green Belt. The development, in this regard, would conflict with the requirements of District Plan Policy GBR1 and the Framework. Amongst other matters, these seek to ensure that developments are assessed in line with the Framework; and maintain the Green Belt's sense of openness.

Character and appearance

16. The appellant's dwelling is a semi-detached house located in a predominantly residential area. A notable feature of the appeal site and other properties in the surrounding area is the presence of open areas near to dwellings. This creates a more open character.
17. In addition, as a semi-detached building, the appellant's dwelling features a significant degree of symmetry between it and the adjoining house. This occurs even though the two houses are constructed from different coloured materials.
18. The proposed development would feature a large two-storey side extension. This would have a height comparable to the original dwelling. Whilst the front elevation of the extension would be set back from the front elevation of the main dwelling, the degree of difference would be relatively small. This means that the proposed extension cannot be considered to be a subordinate addition to the main dwelling.
19. In result, the proposed extension would create an elongated dwelling that would conflict with the sense of symmetry between the appeal site and the adjoining dwelling. In addition, the proposed development would conflict with the character of open space that is a feature of the appeal site and the neighbouring dwelling. Therefore, the proposed development would be detrimental to the character of the surrounding area.
20. Furthermore, the proposed extension would feature a projecting element on the front elevation. This would therefore disrupt the linear form of development that is a feature of the appeal site and the neighbouring dwelling. Therefore, the proposed development would be an incongruous addition to the vicinity.
21. These matters are of concern due to the general prominence of the appeal site. In addition to views from neighbouring properties the proposal is also visible from several different vantage points in the surrounding area. This would render the proposed development a strident and incongruous addition to the locality.
22. My attention has been drawn to developments elsewhere. I do not have the full information regarding the planning circumstances of this before me, which means that I can only give them a limited amount of weight.
23. Nonetheless I note that each of them has a differing design and therefore the effects on the character and appearance of the surrounding area naturally differ. In particular, the neighbouring dwellings have designs and forms that

allow for the retention of the area's open character. In result, this means that the presence of developments elsewhere does not allow me to disregard my previous concerns.

24. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with Policies DES4 and HOU11 of the District Plan. Amongst other matters, these seek to ensure that developments must be of a high standard of design; and appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area.

Other considerations

25. The proposed development would result in improved living conditions for the appellants and their family. Although this is a matter of note, it has not been demonstrated that the appeal scheme is the only way in which this might be achieved. In result this can only be attributed to a limited amount of weight.
26. The development process is likely to generate some economic benefits. However, such benefits are likely to be small scale, time limited in impacts and also of a local nature. Therefore, they are unlikely to be particularly large and in consequence can only be attributed a small amount of weight.

Other Matters

27. The proposed development is unlikely to have an adverse effect upon the highway system and that a suitable sized garden is available for the occupiers of the dwelling. Whilst these are matters of note, they are only some of the matters that must be considered and therefore do not outweigh my findings in respect of the main issues.

Planning Balance and Conclusion

28. The development plan and Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
29. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
30. The other considerations I have identified individually and collectively carry a limited amount of weight in favour of the proposal. As such the harm to the Green Belt is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.
31. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the

development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR



Appeal Decisions

Site visit made on 5 January 2023

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal A Ref: APP/J1915/W/22/3299098

228 Hertingfordbury Road, Hertford SG14 2LB

- 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 Natalie Buckingham against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2558/HH, dated 6 October 2021, was refused by notice dated 23 February 2022.
 - The development proposed is the removal of an existing glazed/brickwork corridor to be replaced by an extension.
-

Appeal B Ref: APP/J1915/Y/22/3299097

228 Hertingfordbury Road, Hertford SG14 2LB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs Natalie Buckingham against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2559/LBC, dated 6 October 2021, was refused by notice dated 23 February 2022.
 - The works proposed are the removal of an existing glazed/brickwork corridor to be replaced by an extension.
-

Decision

1. The appeals are dismissed.

Preliminary Matter

2. As the proposal is in a conservation area and relates to a listed building I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue

3. The main issue for both appeals is whether the proposal would preserve a Grade II listed building, The Moat House (ref: 1268885), and any of the features of special architectural or historic interest that it possesses.

Reasons

4. The Moat House is sited in the settlement of Hertingfordbury and was listed in 1996. The list description dates it to the early 19th century with 20th century additions. The list description also states that the house was built as the Miller's House to Hertingfordbury Corn Mill. The River Mimram, which runs beside The

Moat House, is a primary topographic feature in the local landscape. The crossing point is marked by the Corn Mill which lies opposite the site.

5. As such, The Moat House is of considerable historic importance in its connection with the Corn Mill and its contribution to the rise of a settlement based on the development of milling activity by the River Mimram.
6. The building has had significant alterations in the 20th century, including a single storey side extension and two-storey rear extension, which attest to the attractiveness of the building as a dwelling and its retained prominence in the local area over a number of years.
7. The rear elevation of the original late-Georgian dwelling has been significantly altered by the later additions. However, since the two-storey rear extension is of a relatively modest width, and the lean-to extension is limited in depth, the form and composition of the rear elevation of the original building is still apparent. This provides a positive contribution to the special interest of the listed building.
8. Given the above I find the special interest of The Moat House, insofar as it relates to these appeals, to be the legibility and fabric of its late Georgian origins.
9. The proposal would consist of the demolition of the existing lean-to rear extension and the erection of a new rear extension. The lean-to extension appears to date from the 20th century although which part of the century is unclear. Although the extension is of similar materials as the main house, it has little relationship in terms of form, scale and fenestration to the original building and therefore provides a neutral contribution to its special interest. Its removal would therefore not harm or benefit the special interest of the listed building.
10. The rear extension would be single storey with a flat roof and would extend a similar distance to the rear as a single storey extension to the two-storey projection. In addition, canopy elements would project further than the rear extent of the existing building and increase the visual appearance of the extension.
11. Although the extension would not be as wide as the existing building, it would obscure a large part of the ground floor of the rear elevation and the depth of the proposal including the canopy elements would restrict the appreciation of the original dwelling when viewed from ground level.
12. The proposal would include a glazed gap between the existing building and the extension, and the glazed walls would allow a degree of visibility to the interior. However, there would nonetheless be some reflections on the glazing and the green roof would have a substantial thickness that would result in the appearance of significant massing that would visually compete with the existing building. Furthermore, the green roof would appear stridently incongruous against the traditional materials of the existing building.
13. In addition, the extension would be slightly higher than the eaves of the single storey rear element which, together with the juxtaposition of the canopy, would appear awkward and lacking in harmony with the existing building. Accordingly, the scale and form of the proposal would significantly detract from the legibility and materials of the historic core of the building thus failing to preserve the special interest of the listed building.

14. The proposed use of materials such as timber and glazing and modern appearance of the proposal would not in themselves result in harm to the special interest of the listed building. However, for the reasons given above, whilst the proposed extension would be single storey, its scale and form would appear discordant and out of proportion when viewed against the building as a whole, thereby eroding the character and appearance of the existing building.
15. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given the limited scale of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
16. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The appellant is of the opinion that the proposal would make a positive contribution to sustainable communities, as it would enable the creation of a carbon free development and would increase the biodiversity of the site due to the proposed green roof. However, given the limited scale of the proposal, these very limited public benefits would not be sufficient to outweigh the harm that I have identified. In any event, the continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence.
17. Given the above, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building, thus failing to satisfy the requirements of the Act, paragraph 199 of the Framework and development plan policies. In particular, the proposal would conflict with Policies HA1 and HA7 of the East Herts District Plan October 2018 (DP) which aim to conserve heritage assets in a manner appropriate to their special interest and significance and seek proposals that would not have any adverse effect on the architectural and historic character or appearance of the exterior of the listed building. It would also conflict with DP Policies HOU11 and DES4 which seek extensions to dwellings that are of a size, scale, form and design that are appropriate to the character of the existing dwelling and a high standard of design.

Other Matters

18. I note the comments of the Inspectors for the appeals at Brendon Farm and Bridgemans. The proposals at these sites had a clear separation from the existing building and modest link element whereas the proposal before me is connected to the existing building to a far greater degree. As such, those cases are not directly comparable to this case and have not altered my overall decision.
19. Given the scale and siting of the proposal I agree with the Council that the proposal would not be inappropriate development in the Green Belt as it would not result in disproportionate additions over and above the size of the original building.

20. Having had regard to Section 72 of the Act, the proposal would not adversely affect the significance of Hertingfordbury Conservation Area as it would not be readily visible from the street or surrounding buildings.

Conclusion

21. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

R Sabu

INSPECTOR



Appeal Decision

Site visit made on 17 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/J1915/D/22/3294733

St. Josephs Villa, St. Marys Lane, Hertingfordbury SG14 2LX

- 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 Caroline Birchinall against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2733/HH, dated 27 October 2021, was refused by notice dated 10 January 2022.
 - The development proposed is construction of single storey side extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The evidence before me indicates that Hertingfordbury Park House is a grade II listed building. The appeal site is within close proximity to this building. Indeed, it shares the private access road. The Council did not refuse the planning application on the basis of the effect of the development on the significance of this building. Nonetheless, under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving the listed building, its setting and any features of special architectural or historic interest. As such, I have dealt with this matter as a main issue.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area including the effect of the proposed development on the nearby listed building.
 - If the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. District Plan¹ Policy GBR1 states that planning applications in the Green Belt will be considered in accordance with the provisions of the National Planning Policy Framework (the Framework).
5. Framework Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, except in certain circumstances. One such exception is set out under Framework Paragraph 149C, which relates to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. The Framework does not include guidance on what is considered to be 'disproportionate'. Whether or not extensions and alterations are disproportionate is a matter of planning judgement, having regard to the particulars of a proposed development and the relevant site-specific circumstances.
7. The Framework glossary defines an 'original building' as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally'.
8. On the basis of the evidence before me and my observations during the site visit, the building has been extended relatively significantly since the 1980's with various planning permissions granted for extensions and a garage.
9. The Council asserts that, when taking into account the proposed development combined with previous extensions, there would be a 233% increase in floorspace over the original floorspace of the dwelling. It is not possible to accurately determine the veracity of the figure provided by the Council in this regard. In any case, a consideration of 'size' goes well beyond a comparison of floorspace.
10. Even taking a conservative approach, assuming that minimal or no extensions to the original dwelling have been erected, the proposed side extension is so large, in terms of its width, mass and footprint, that it would significantly increase the size of the existing dwelling. The effect of this in terms of proportionality is compounded by the extensive coverage of the proposal, which would partially wrap around the building and boundary of the appeal site.
11. For these reasons, despite the fact that it would be single storey, the proposed development would result in disproportionate additions over and above the size of the original building. It would not therefore fulfil the exception at Framework Paragraph 149C and it would be inappropriate development.

Openness

12. Framework Paragraph 137 states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness involves a consideration of both spatial and visual aspects.

¹ East Herts District Plan (October 2018)

13. From a spatial perspective, the area proposed for the siting of the development is currently free from development. The proposal would introduce a large, albeit single storey extension and as a result, there would be a noticeable moderate reduction in the spatial openness of the Green Belt.
14. The site makes a minimal contribution to the openness of the Green Belt from a visual perspective, as a result of the undulating topography of the surrounding landscape and the predominance of mature trees in the surrounding area. Nonetheless, there are some very limited views over the site (from the frontage) towards more open surroundings and there would be a minimal reduction in visual openness in this regard.
15. The fact that the visual and spatial harm would only be appreciable from private areas does not reduce its impact to a significant degree. This is because the private drive is shared by a fairly significant number of neighbouring properties.
16. In summary, there would be a moderate spatial reduction and a minimal visual reduction in the openness of the Green Belt. It would therefore fail to preserve its openness.

Character and appearance

17. The surrounding area is characterised by a mixture of development, including large residential properties. Neighbouring buildings vary in size, orientation and appearance. However, they are predominantly set within spacious plots. Where properties have been extended, these extensions are typically subservient and not prominent when viewed from the shared private drive.
18. The proposed extension would extend a significant distance along the side boundary of the host property. Whilst single storey, the roof pitch would be a dominant height. These factors, combined with the prominent position of the extension (visible to the front and side of the property), would result in a development which would not respect the scale of the host property and would not reflect the more spacious character of surrounding development. This harm would be apparent regardless of whether the proposed materials were altered.
19. For these reasons, the proposed development would have a harmful visual impact upon the character and appearance of the area. It would therefore conflict with District Plan Policies DES4 and HOU11, which collectively require that development promotes local distinctiveness and is in keeping with local character. The appellant also cites District Plan Policy HOU13 which relates to residential annexes. The proposal would also conflict with criterion (b) of this policy, which requires that such development does not dominate the existing dwelling. The appellant cites 'Policy ENV5' but I have not been provided with a copy of this policy.
20. The proposed development is also in close proximity to Hertingfordbury Park House which the appellant's evidence indicates is a grade II listed building. Whilst I note that the Council has concluded that there would not be any harm to heritage assets, it is by no means clear whether it considered the effect of the proposal on the setting of this nearby listed building.
21. Framework Paragraph 194 requires applicants to describe the significance of any heritage assets that may be affected by a proposal including any contribution made by their setting. It goes on to advise that this should be

proportionate to the assets importance and sufficient to understand the potential impact of a proposal on its significance when assessed using appropriate expertise.

22. In this particular instance there is no substantive evidence to indicate that the appellant undertook such an assessment, with only limited details provided to indicate that there is a nearby listed building. Given that I have identified harm which would arise in respect of character and appearance, insufficient information has been provided to establish or rule out any harm to the significance of the heritage asset. The proposal is therefore contrary to Framework Paragraph 194.

Other Considerations

Personal circumstances

23. The appellant states that the extension is intended to provide accommodation for an elderly and disabled family member. Indeed, the plans show that the extension would be accessible to wheelchair users. I accept that the extension is of a size which is commensurate with meeting these requirements. There is also general support for specialist housing under District Plan Policy HOU6 and an emphasis in the District Plan text on providing housing for older and vulnerable people. The appellant also cites policy HOU7, but this relates to accessibility requirements for 'new homes' as opposed to extensions to existing homes.
24. On the basis of the evidence before me, the benefit of providing accommodation for a disabled and elderly family member is one which can be attributed significant weight, particularly within the general context of support within the Local Plan.
25. However, the weight to be afforded to this benefit is not as great as it might have been had the appellant provided further evidence to establish whether alternatives had been considered. For example, the prospect of providing accommodation within the existing dwelling, within part of the dwelling combined with a smaller (less prominent) extension or within alternative specialist local accommodation. Furthermore, very little substantive evidence has been provided to explain the specific needs of the family member or to demonstrate that 24/7 care at the host property is required.

Other planning permissions

26. The appellant has referred to other planning permissions granted for development nearby². However, the case specific details of each of these decisions are not before me. However, in both cases the decisions were made in a materially different local and national planning policy context. With this in mind, these neighbouring permissions do not provide any justification for the proposed development.

Conclusion

27. The scheme would be inappropriate development, which by definition, would be harmful to the Green Belt. There would also be a small spatial and visual reduction in the openness of the Green Belt as a result of the proposed

² LPA refs: 3/03/1837/FP and 3/05/1484/FP

- development. Framework Paragraph 148 states that any harm to the Green Belt should be attributed substantial weight.
28. Framework Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that 'very special circumstances' will not exist unless the potential harm to the Green Belt and any other harm, is clearly outweighed by other considerations.
29. I attribute significant weight to the personal circumstances highlighted by the appellant. However, insufficient substantive information has been provided to demonstrate that those circumstances clearly outweigh the harm to the Green Belt and the other moderate harm to the character and appearance of the area.
30. Indeed, even if I were to seek additional evidence in this regard, given the absence of information pertaining to the nearby heritage asset, it would still not be possible to ascertain whether very special circumstances existed. This is particularly the case given the statutory protection afforded to listed buildings.
31. In conclusion, whilst there are some significant benefits associated with the proposed development, the substantial weight to be given to Green Belt harm and other harm is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist. The proposed development therefore conflicts with District Plan Policy GBR1³, which outlines that applications in the Green Belt should be determined in accordance with the Framework.
32. As such, having regard to the development plan as a whole and all other relevant material considerations, the appeal should be dismissed.

Luke Simpson

INSPECTOR

³ The appellant refers to Policy GBC1 of the East Herts Local Plan Second Review 2007 but no copy was provided.



Appeal Decision

Site visit made on 13 December 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/J1915/W/22/3302171

Mountfitchet, High Wych Road, High Wych CM21 0HX

- 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 Ryan against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/3035/FUL, dated 6 December 2021, was refused by notice dated 4 May 2022.
 - The development proposed is demolition of dwelling and erection of detached replacement dwelling with detached garden annexe.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area, and;
 - 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.

Background Information

3. Having regard to Paragraph 149 of the National Planning Policy Framework ('the Framework'), both parties agree that the proposed development would amount to inappropriate development in the Green Belt. Based upon the evidence before me, I have no reason to reach a different conclusion.
4. I have therefore considered this appeal in the context of Paragraphs 147 and 148 of the Framework which state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Reasons

Openness

5. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The existing dwelling situated on the appeal site is a modest bungalow, with hipped roof and a single storey rear extension. The proposed replacement dwelling would be two storeys in height and be of significantly greater mass and volume.
6. Despite the presence of existing trees and vegetation, the introduction of a two-storey dwelling of the scale of the proposed development into this space would result in a significantly harmful loss of openness, both spatially and visually. This would lead to conflict with Policy GBR1 of the East Herts Local Plan (LP) which states that planning applications in the Green Belt will be considered in line with the provisions of the Framework, and Paragraph 137 of the Framework, which states that the fundamental aim of the Green Belt is to keep land permanently open.

Character and Appearance

7. The proposed development would be of a modern design, with an angular form to both layout and roofscape. It would be set within a relatively narrow plot in a mid-street location between existing buildings. Other dwellings in the street are predominantly either modest bungalows or larger two storey properties. Although there is some variation, generally they are of traditional design, materials and proportions, even where more modern development exists.
8. The introduction of the proposed development onto the appeal site, where it would sit between, and in close proximity to existing buildings of a markedly more traditional design and form, would fail to reflect the context within which it would sit, or the distinctiveness of the local area. Consequently, although screened to some extent by vegetation, and set back from the road to a degree, it would comprise a jarring visual feature within the street.
9. I therefore conclude that the proposed development would harm the character and appearance of the area. Consequently, it would be contrary to LP Policies DES4 and VILL2, which together, and amongst other criteria, require new development to be well-designed, be in keeping with character of the settlement and reflect local distinctiveness. The Council has also referred to conflict with LP Policy HOU11, however, this policy relates to extensions to existing dwellings and buildings, and not new dwellings as is proposed here. I therefore consider this policy to be of little relevance to this appeal.

Other considerations

10. My attention is drawn to two potential fallback positions. The first¹ comprises a scheme amounting to a single storey rear extension, for which the Council determined that prior approval was not required. The other² relates to a side extension, porch, outbuilding and roof alterations which the Council determined would comprise lawful development. There is no dispute between the parties that both fallback positions could be implemented together, and that there is a

¹ 3/21/1113/PNHH

² 3/21/0337/CLPO

greater than theoretical prospect that the fallback positions would be implemented. I have therefore considered this issue on this basis.

11. However, the parties disagree with regards to the effect that these developments would have upon the Green Belt in comparison to the appeal scheme before me. The appeal proposal would represent a reduction in footprint, floorspace, and volume over the fallback position. However, the difference in floorspace and volume, on the basis of the appellant's figures would be very minor at 0.42% and 3.69% respectively. The difference in footprint would be larger but would still amount to only around a 14% reduction. Although in the consideration of effects upon the Green Belt with regard to the spatial aspect of openness, the appeal scheme may appear to be preferable to the fallback position, it would not be significantly so. Furthermore, the visual aspects of openness also require consideration.
12. The appeal proposal would result in a building of greater height than the fallback position, and despite the varied roofline and intervening vegetation, would appear, when viewed from public vantage points as a structure of greater bulk and massing than that which would result from the fallback position. Although the alterations that would be undertaken to the existing dwelling in implementing the fallback position would enlarge the property, the essential basic scale and character when viewed from the street would remain. In these terms, the appeal scheme would not be less harmful than the fallback position.
13. I therefore conclude that the appeal scheme would not be less harmful than the fallback position. I therefore attach only modest weight to the fallback position in my considerations.

Conclusion

14. In summary, the proposal would be inappropriate development in the Green Belt in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. It would also result in harm to the character and appearance of the area.
15. For the reasons set out above, the harm to the Green Belt, along with the harm that I have identified would not be clearly outweighed by the other considerations. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated.
16. The proposed development would be contrary to LP Policies GBR1 DES4 and VILL2, and there are no material considerations that indicate a decision should be taken other than in accordance with the development plan. Consequently, the appeal is dismissed.

C Harding

INSPECTOR



Appeal Decision

Site visit made on 6 January 2023

by S. Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 27 th January 2023

Appeal Ref: APP/J1915/W/22/3300441

105 and 107 Station Road, Puckeridge SG11 1TF

- 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 Yiangou against the decision of East Herts District Council.
 - The application Ref: 3/22/0158/HH, dated 24 January 2022, was refused by notice dated 19 May 2022.
 - The development proposed is the creation of a driveway with dropped kerb and electric charging point to 105 and 107 Station Road, Puckeridge, Ware Hertfordshire, SG11 1TF.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant describes the proposed development as *'between myself and our next door neighbours, we are looking for a joint application to have the kerb dropped, so that we can have a driveway built for both properties. I would like to purchase a small electric car and would require a charging port on my property, but currently with how the setup is along this road, I do not have the guarantee that I am able to get parked outside my house. I believe that if we have the joint application for the dropped kerb, it will give us plenty of room to manoeuvre a car such as VW e-Up. This will also allow me to charge my car, which I am keen to purchase, as I am looking at how I can be more environmentally friendly, as well as my neighbours doing the same. I am hoping East Herts Council will be willing to support this proposal and consider the environmental impact this will have'*.
3. The local planning authority (LPA) describes it as *'the creation of a driveway with dropped kerb and electric charging point to 105 And 107 Station Road Puckeridge, Ware, Hertfordshire, SG11 1TF'*. I have used the latter description in the banner heading as it more concisely describes the proposed development.
4. The application form gives the site address as No 107 Station Road and the location plan produced on 25 January 2022 also shows the red edge around

that property. However, a second location plan, with a production date of 9 March 2022, shows the red edge encompassing both No's 105 and 107 Station Road and the submitted site plans also show an area ostensibly for proposed parking in front of both properties. The LPA's decision notice refers to '*creation of driveway with dropped kerb and electric charging point to 105 and 107 Station Road, Puckeridge, Ware, Hertfordshire, SG11 1TF*'. I have therefore determined the appeal on the basis that the proposed development relates to both No's 105 and 107 Station Road, as is the case in respect of the Council's refusal notice.

Main Issue

5. The main issue is the effect of the proposal upon highway safety.

Reasons

6. No's 105 and 107 Station Road have private amenity spaces abutting the highway. The two properties are separated by a narrow privately owned passageway. The proposed development is for a dropped crossing to give access to the front amenity spaces of the two properties. The appellant states that this would enable him to park a car off the highway and also to include an electric charging point for his vehicle.
7. The appeal site encompasses the amenity spaces of both properties though the appeal proposal only refers to parking for one vehicle. The submitted plans do not show exactly where a vehicle might be parked within the appeal site, though the appellant gives details of the proposed parking space available in front of No 107 Station Road. In his appeal statement, he notes that '*we believe we have a strong case for our appeal and have measured the length of our driveway at 107 Station Road in two different positions, one to the front of our bay window line, and one to the right of our bay window to the boundary line. We have side access to our property which we use and will continue to use should we need to park to the right of the bay and of(sic) the car doesn't allow us to enter the property via the front entrances (which we do not believe will be the case). The measurements are: bay window to boundary line-4.3m. Right of bay window to boundary line - 4.85 m*'.
8. In the light of the above, and in the absence of any evidence to the contrary, I consider that it would be likely that the appellant would park his car in front of his property at No 107 Station Road, at right angles to the highway, rather than elsewhere within the appeal site.
9. The appellant considers it would be possible to park a vehicle to the right of the front bay window. On my site visit, I was able to see that the available width would be extremely limited, and I am not persuaded it would be sufficiently wide to allow parking without using the space in front of the bay window itself, and where the length is about 4.3 metres, according to the appellant.
10. Even if there was sufficient width to the right of the front bay window, a parked car would impede access to the property. Even though there is access via a side entrance, the overall effect would not constitute good planning.

11. The LPA's Parking Standards Document Supplementary Planning Document Annex C (SPD) requires a parking space at 90 degrees to the highway to have minimum dimensions of 4.8 metres by 2.4 metres. In the event that a vehicle would be parked in front of the bay window, a length of 4.8 metres would not be available, according to the appellant's submitted figures.
12. I appreciate that not all cars have a length of 4.8 metres and the appellant has referred to many models which have a lesser length. However, it cannot be guaranteed that future occupiers will always own small cars.
13. On the evidence before me, I find that there would be the likelihood of a parked vehicle overhanging the footpath. Any such overhanging would require pedestrians, including pedestrians with prams or wheelchairs, to leave the pavement into the road, and with the potential for conflict between vehicles and pedestrians. In addition, there would be possible difficulties and accidents for persons who are visually impaired. I give such considerations considerable weight in decision making terms.
14. I therefore conclude that the proposed development would be likely to result in unacceptable harm being caused to highway safety. It would be contrary to policy TRA2 of the East Herts District Plan (2018) and to paragraph 110(b) of chapter 9 of the National Planning Policy Framework (2021), both of which require development to be acceptable in terms of highway safety.

Other Matters

15. The use of the front amenity space for car parking would enable an electric charging point to be used at the property. This would assist with mitigating climate change. However, this matter does not outweigh the harm I have found regarding the main issue.

Conclusion

16. For the reasons outlined above, I conclude that the appeal should be dismissed.

S. Hartley

INSPECTOR



Appeal Decision

Site visit made on 13 December 2022

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/J1915/D/22/3301561

Hill View, London Road, Spellbrook, Hertfordshire CM23 4AU

- 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 Paul Chinnery against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0632/HH, dated 24 March 2022, was refused by notice dated 19 May 2022.
 - The development proposed is a proposed side porch, loft conversion and raising the ridge.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relevant to this appeal are:
 - Whether the development is inappropriate in the Green Belt and the effect on openness;
 - The effect of the development upon the character and appearance of the surrounding area; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development and effect on openness

3. The appeal site is located in the Green Belt. In considering this appeal, I have been directed towards Policy GBR1 of the East Hertfordshire District Plan (2019) (the District Plan). Amongst other matters, this requires that planning proposals be considered in line with the provisions of the National Planning Policy Framework (the Framework).
4. The Framework regards the erection of new buildings in the Green Belt as generally being inappropriate. There are some exceptions to this which are listed in Paragraph 149 of the Framework. Amongst other matters, this suggests that an extension may be not be inappropriate providing it is not a disproportionate addition to the original building.

5. In this case, the original building consists of a bungalow, which encompasses a relatively large section of the site's width. Although the appeal site is of a large size, the dwelling had a narrow depth. This means that the dwelling originally had relatively modest proportions. The dwelling has previously been enlarged through the provision of a single-storey rear extension. This has significantly added to the size of the original dwelling.
6. The proposed development would result in the erection of a side porch. This would be greater in area than the existing porch and would create a dwelling of an increased size. This would be in conjunction with the existing extension to the rear of the building.
7. In addition, the proposed development would result in an increase in the height of the dwelling by reason of the change in the roof shape of the dwelling. In addition, the proposed development would add to the size of the dwelling. These proposed elements, in conjunction with the existing extension, would create a much larger dwelling than is currently the case. Although some of this increase would be in the roof of the dwelling, it would result in a notably larger dwelling.
8. In particular, the proposed development would result, in conjunction with the existing extension, in a dwelling with a footprint much larger than what was originally constructed. In addition, the proposed development would, by reason of the increased height and massing of the roof extensions, result in a dwelling with a significantly larger mass than what was originally constructed.
9. In result, the proposed development would result in the creation of disproportionate additions to the original building given that it would appear to be far larger than the original structure. In consequence, the proposed development would be a disproportionate addition to the dwelling and would be an inappropriate development in the Green Belt. Although the proposed porch may not have a large footprint, it would; in conjunction with other elements; create a disproportionate addition to the original dwelling.
10. By reason of the nature of the proposed development, there would be a noticeable increase in the overall level of built form. This would mean that the spatial sense of openness is an intrinsic feature of the Green Belt would be eroded. This would occur even though the proposed development would be sited in the curtilage of the appellant's dwelling.
11. The appeal site is located in between two larger dwellings. The proposed development, by reason of the increased height of the dwelling and erection of the side porch would result in an enclosing effect between the two existing, neighbouring dwellings. This increase in built form would be readily perceptible from the nearby road, in addition from neighbouring properties.
12. In addition, the proposed development, including the rear dormers would be visible from the rear gardens of the neighbouring properties. These factors, in unison, would mean that the proposed development would result in an erosion of the physical sense of openness in the Green Belt.
13. The purposes of including land in the Green Belt are summarised in Paragraph 138 of the Framework. Owing to the scale of the proposed development, and the resultant erosion of the Green Belt's physical and spatial sense of openness, the proposed development would create a more urbanised form of

- development. This therefore results in encroachment into the countryside. The proposed development therefore conflicts with the Framework in this regard.
14. It has been suggested that the proposal does not result in the creation of a new building. However, the proposal would significantly change the appearance of the dwelling from what was originally constructed. In addition, the proposed development would result in a building with a different style of architecture than which is currently the case. In consequence, I consider that it can accurately be described as a new building. Therefore, for the preceding reasons, the development would be an inappropriate development in the Green Belt.
 15. It has also been suggested that the proposal represents the redevelopment of previously developed land. Even if I were to agree with this approach, the Framework at Paragraph 149(g) is in that any developments that falls within this category should not have a greater effect on openness than what is currently the case.
 16. For the preceding reasons, the proposed development would result in a greater adverse effect upon openness than the original dwelling. Therefore, the proposed development cannot be a not inappropriate development in the Green Belt under the provisions of this section of the Framework.
 17. I therefore conclude that the proposed development would be an inappropriate development in the Green Belt and would erode the Green Belt's sense of openness. The development, in this regard, would conflict with the requirements of District Plan Policies GBR1 and the Framework. Amongst other matters, these seek to ensure that developments are assessed in line with the Framework; that inappropriate developments in the Green Belt are avoided; and those developments maintain the Green Belt's sense of openness.

Character and appearance

18. The appeal side consists of an existing dwelling located in a line of other dwellings. These buildings are generally constructed to varying designs and proportions. The appellant's dwelling occupies most of the width of the appeal site, which means that the rear elevation is not readily visible from public viewpoints. However, the rear elevation is viewable from the gardens of neighbouring properties.
19. The proposed development would include an increase in the height of the dwelling and the installation of a new dormer window on the rear elevation roof slope. Although this dormer window would run for a notable portion of the roof slope, it would be set in from the edges of the roof. Furthermore, the proposed dormer would be lower than the ridge height of the roof slope and set upwards from the eaves.
20. In consequence, the proposed dormer window would be a subordinate addition to the dwelling and would not dominate the roof slope of the dwelling owing to the visibility of sections of roof slope around the dormer window.
21. Although the proposed development would result in an increase in the height of the dwelling, it would be viewed alongside several dwellings of differing designs and proportions. In result, the proposed development would not erode any character of uniformity within the surrounding area.

22. The proposed dormer windows would also be visible from the gardens of the neighbouring properties. However, these dormer windows would be viewable alongside other dwellings that feature dormer windows of differing designs. Therefore, the proposed dwelling would not be unusually incongruous or discordant.
23. In addition, views of the proposed dormer windows would be obscured, in part, by the projecting rear elements of the existing extension. Therefore, the dormer windows would not be prominent in the surrounding area.
24. In addition, had I been minded to allow this appeal, I could have imposed a condition that would have controlled the materials from which the development would be constructed from. This would have provided a further mechanism that could be utilised to ensure that the proposed development would harmonise with the character of the wider area.
25. I therefore conclude that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would comply with Policies DES4 and HOU11 of the District Plan. Amongst other matters, these seek to ensure that developments must be of a high standard of design; and appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area.

Other considerations

26. The proposed development would result in improved living conditions for the appellants and their family. Although this is a matter of note, it has not been demonstrated that the appeal scheme is the only way in which this might be achieved. In result this can only be attributed to a limited amount of weight.
27. The development process is likely to generate some economic benefits. However, such benefits are likely to be small scale, time limited in impacts and also of a local nature. Therefore, they are unlikely to be particularly large and, in consequence, can only be attributed a small amount of weight.
28. My attention has been drawn to previous planning decisions elsewhere. I do not have full information regarding the planning circumstances of these, which means that I can only give them a limited amount of weight. Nonetheless, I note that these are located in different locations to the appeal site. In result, these differences in contexts mean that they are likely to have different effects upon the Green Belt. In result, the presence of developments elsewhere do not enable me to forego my previous conclusions. I therefore give these matters a limited amount of weight.

Planning Balance and Conclusion

29. The development plan and Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
30. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm

to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.

31. The other considerations I have identified individually and collectively carry a limited amount of weight in favour of the proposal. As such the harm to the Green Belt is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.
32. Although I have concluded that the proposed development would not harm the character and appearance of the surrounding area, this is outweighed by the previously identified harm to the openness of the Green Belt. This would arise from its inappropriateness.
33. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR



Appeal Decision

Site visit made on 6 January 2023

by **Steven Hartley BA(Hons) Dist.TP (Manc) DMS, MRTPI, MRICS**

an Inspector appointed by the Secretary of State

Decision date: 25th January 2023

Appeal Ref: APP/J1915/D/22/3308613

6 Presdales Drive, Ware, Hertfordshire SG12 9NS

- 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 Chris Jones against the decision of East Herts Council.
 - The application, Ref 3/22/0979/HH dated 10 May 2022, was refused by notice dated 15 September 2022.
 - The development proposed is for the removal of a conservatory and one chimney, a new two storey rear extension to include a first floor Juliet balcony, and single storey side extension with side facing rooflights, an altered roof to the front porch, and a new rear facing rooflight.
-

Decision

1. The appeal is allowed, and planning permission is granted for the removal of a conservatory and one chimney, a new two storey rear extension to include a first floor Juliet balcony, and a single storey side extension with side facing rooflights, an altered roof to the front porch, and a new rear facing rooflight at 6 Presdales Drive, Ware, Hertfordshire, SG12 9NS in accordance with the terms of the application ref 3/22/0979/HH dated 10 May 2022, subject to the following conditions: -
 - i. The development hereby permitted shall begin no later than three years from the date of this decision.
 - ii. The development hereby permitted shall be carried out in accordance with the following approved plans: location plan(received by the LPA on 10 May 2022);285-05 Rev B; 285-06 Rev B, 285-07 Rev B; 285-08 Rev B and 285-09 Rev B.
 - 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.

Main Issues

2. The main issues are the effect of the proposed development upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of No 4 Presdales Drive by reason of outlook.

Reasons

Character and appearance

3. No 6 Presdales Drive is a detached, two storey dwelling in a residential area. It has detached bungalows to either side and all of which are located upon a sloping site and a bend in the road and with front and rear amenity spaces.
4. The proposed development includes a two storey extension along the full width of the rear elevation, and which joins a single storey, flat roofed side extension to the rear of the existing single storey garage where it is proposed to use the latter for other domestic purposes and to reconfigure it with a mono pitch roof. The proposal also includes a redesigned single storey front porch with a monopitch roof.
5. The proposed two storey rear extension would project from the existing dwelling by some 4.5 metres with a width of approximately 6.0 metres. While it would be a substantial addition to the bulk of the existing property, it would not exceed the ridge of the existing dwelling and its overall scale and mass, taking into account its design and location to the rear of the property, would not appear as a disproportionate addition, contrary to the character and appearance of the area.
6. The reconfigured garage would have a monopitch roof, while to the rear of it would be a single storey flat roofed side extension. The resulting roof forms would be visually complex, but due to their limited widths and their single storey height, they would not create a significant or incongruous appearance when seen from the front or side of the dwelling.
7. The proposed porch would have a monopitch roof stretching to the first floor windowsill above it and with a pitch comparable to that of the main house. By its limited size and proposed pitch, it would be appropriate to the overall character and appearance of the dwelling and the area.
8. For the above reasons, I conclude that the development as a whole would accord with policies DES4 and HOU11 of the East Herts District Plan 2018 (DP) and Chapter 12 of the National Planning Policy Framework 2021 (the Framework) which require a high standard of design and where extensions and alterations to dwellings relate well to their character and appearance and that of the surrounding area.

Outlook

9. No 4 Presdales Drive adjoins the appeal property and is at a lower level. It includes 4 windows to habitable rooms which face the proposed development, though they are sited behind a closely located wooden boundary fence which is as high as the windows.
10. The proposed alterations to the existing garage to the host property would not extend its footprint any closer towards No 4 Presdales Drive. It would result in the replacement of its existing double pitch roof with a cat slide roof which would have a greater maximum height. However, the proposed cat slide roof would have a lower height than the existing roof at the point facing the common boundary, from which it would angle upwards and away from its lowest point and towards the host property. Overall, the difference in term of

outlook for the occupants of No 4 Presdales Drive would not be significantly different.

11. To the rear of the existing garage is a proposed flat roofed extension to the side of the host property. Its siting would be at a point where the site boundary angles away from it. By its limited width, its single storey height and the angling away from No 4 Presdales Drive, it would not have a significantly adverse impact upon the occupiers of No 4 Presdales Drive, whom I note have not objected to the proposed development.
12. In its officer report, the local planning authority considers that the two storey rear extension, because it is angled away from No 4 Presdales Drive, would result in an acceptable impact upon the occupiers of the latter property, while the proposed porch would be sufficiently separated from the adjoining property to have an acceptable impact. I have no reason to disagree.
13. Therefore, I conclude that the proposed development would conform with DP policy DES4 which requires development to avoid significant detrimental impacts upon the amenities of the occupiers of neighbouring properties, and with paragraph 130(f) of chapter 12 of the Framework which promotes a high standard of amenity for existing and future users.

Conditions

14. I have imposed the standard time condition as well as a condition relating to the approved plans for certainty.
15. I have imposed a condition relating to external materials in the interests of good design.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

S. Hartley

INSPECTOR



Appeal Decision

Site visit made on 7 January 2023

by **S. Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS**

an Inspector appointed by the Secretary of State

Decision date: 26th January 2023

Appeal Ref: APP/J1915/D/22/3310105

7 Thornbera Road, Bishops Stortford, Hertfordshire CM23 3NJ

- 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 Imtiaz Samsudin against East Herts District Council.
 - The application Ref 3/22/1413/HH, dated 4 July 2022, was refused by notice dated 26 August 2022.
 - The development proposed is a part single and part two storey side and rear extension with solar panels on the side roof elevation.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The applicant describes the proposed development as *'this application is seeking approval of a single storey rear extension, first floor rear extension and first floor side extension. At the point of submission the pre-application service was not available, therefore we would kindly ask that if any part of this application is likely to be contentious or considered grounds for refusal that the Planning Officer contacts the Agent to negotiate. The applicant has considered impacts on amenity and these are considered to be low when reviewing the sun path/orientation of the site and the adjoining owners. Following 2 previous refusals and the absence of a pre-application service, we have significantly reduced the size of the scheme and omitted the loft element with the view of producing a design that is more acceptable to the local authority. The scheme sees the first floor side extension to be set back to avoid a terracing affect - we note that similar applications have recently been approved with less than the 1m gap suggestion to the boundary as per policy HOU11 in the Local Plan 2019. The first floor extension is to create a 4th bedroom, making the property a suitable size for a growing family, looking to stay within the area and we would welcome any comments during the determination period to understand if this element of the extension is acceptable.*

In addition, please see application below with a reference from the officers report which demonstrates a level of flexibility in the HOU11 policy:

3/22/0014/HH

'The proposed side extension would sit within the footprint of the existing garage to the side, which projects up towards the boundary. HOU11 part (b) typically requires a 1m gap to the boundary on side extensions at a first floor level in order to prevent terracing. That being said, the adjacent neighbour has built a

side extension of a very similar scale and form, meeting the boundary with no step-in. This establishes a precedent for a similar design. The front extension projects only at ground floor level and is again reminiscent of the neighbour's porches on both sides of the site. This front projection breaks up the pattern of development and helps to prevent the visual impact of 'terracing'. Ultimately considering the side and front extensions to be of an acceptable scale, form and design compared to the existing building and surrounding area character'.

3. The local planning authority (LPA) describes it as a '*part single and part two storey side and rear extension with solar panels on the side roof elevation*'. I have used the latter in the banner heading as it concisely describes the proposed development.

The Main Issue

4. The main issue is the effect of the proposed development upon the character and appearance of the host dwelling and area.

Reasons

5. The appeal site lies within a residential area of mainly two-storey houses of various designs but with a generally common building line and where the dwellings have double pitched roofs and front and rear amenity spaces. There are gaps between the properties and even where these are sometimes occupied by single storey garages and structures, they contribute to the spacious quality of the area, providing views of the landscape beyond and of the sky. They add positively to the character and appearance of the area.
6. The appeal property is a detached, two-storey dwelling with a hipped roof, constructed in brick at ground floor level and with render at first floor level. There are gaps to either side of it.
7. The proposed development includes a two-storey and single storey rear extension and a two-storey side extension, the latter of which would face the adjoining property at No 9 Thornbera Road. The proposed two-storey side extension would occupy the side space up to the boundary of the dwelling. Policy HOU11(b) of the East Herts District Plan 2018 (DP) requires a minimum distance for two storey extensions in such circumstances of at least 1 metre in order to avoid a terracing effect. The proposed development does not meet this minimum requirement, but even if it did, it would contribute towards such a terracing effect.
8. The LPA considers that the proposed rear extension would be largely hidden from the public domain and when considered on its own, would not have a significant adverse effect upon the character and appearance of the area. It raises no objections to the proposed solar panels or to the proposed external materials for the extensions and I have no reason to disagree.
9. Several requests for authority to enter the site to assess the impact of the proposed rear extension were sought from the appellant but were not granted, amongst other things, on the basis that '*there is currently some works ongoing in the property boundary and therefore the inspector would only be able to view from the road and not enter the property*'. Therefore, on my site visit, I was unable to assess the impact of the proposed extension in term of its subservience to the host property. However, as I have concluded that the proposed side extension would adversely affect the character and appearance

of the area, it has not been essential for me to assess this impact of the proposed rear extension in determining the appeal.

10. Therefore, I conclude that the proposed development would not accord with DP policy HOU11(b) for the reasons stated above nor with policy HDP1 of the Bishops Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley 2022 which requires good design, nor with paragraph 130 of the National Planning Policy Framework 2021 which requires the same.

Other Matters

11. The appellant has referred to a planning application on a separate site and where development was approved within 1 metre of the properties' common boundary¹. The LPA clarifies that this refers to approved development at No 1 Thornbera Road. However, I have few details relating to that decision and, in any event, I have considered the appeal proposal upon its individual planning merits. This matter does not outweigh my conclusion on the main issue.

Conclusion

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

S. Hartley

INSPECTOR

¹ 3/21/2293/HH