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# Appeal Decision

Site visit made on 6 February 2023

**by Andrew Smith BA (Hons) MA MRTPI**

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

**Decision date: 24<sup>th</sup> February 2023**

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**Appeal Ref: APP/J1915/W/22/3305648**

**Land to the East of The Barracks, Silver Leys, Bishop's Stortford CM23 2QE**

- 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 Sam Gardiner against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/0525/FUL, dated 8 March 2021, was refused by notice dated 22 February 2022.
  - The development proposed is creation of 2 new dwellings.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon protected trees.

## Reasons

### *Background and the proposal*

3. A Tree Preservation Order<sup>1</sup> applies to a defined area, of which the site forms part, and relates to several trees of whatever species that stood in the area when the Order was made. The site takes the appearance of an unmanaged woodland, with numerous established trees of varying species and sizes in place upon it. Owing to its generous ground coverage, the maturity of many of its trees, and its visibility from publicly accessible vantage points, the site has considerable amenity value and makes an important contribution to the often-verdant local landscape and to the character and appearance of the area.
4. The proposal involves the introduction of two large dwellings to the site as well as additional areas of hardstanding for the purpose of providing internal access, parking and turning. The intended positions of the dwellings on the site have, in broad terms, been guided by the locations of existing trees in the interests of seeking to limit conflict between new development and existing tree cover. Even so, submitted Tree Protection Plans indicate the removal of several trees, including a large oak tree<sup>2</sup> (the large oak), and development close to various other trees intended to be retained.

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<sup>1</sup> The East Hertfordshire District Council (Silver Leys, Bishop's Stortford) Tree Preservation Order (No. 11) 1980

<sup>2</sup> T22, as surveyed and reported via the Arboricultural Impact Assessment (August 2020) (the AIA)

### *Tree removals*

5. The intended removal of the large oak, which is located approximately centrally within the site, raises concern. Despite visible fungal brackets to its main stem and some minor defects to its crown, the large oak's main elements appeared structurally sound upon inspection and nothing has been submitted to clearly demonstrate otherwise. Moreover, it is a very prominent and visible specimen that has developed a natural and attractive shape and form. It has been graded, through the AIA, as being moderate quality with a remaining minimum lifespan of 20 years whilst, through a separately produced Tree Survey (December 2018), it is identified as being of fair condition with an estimated life expectancy of more than 40 years. I have no reason to doubt that the tree, without intervention, could survive upon the site for many years.
6. Whilst the AIA recommends more detailed investigations to ascertain the extent of any decay to the large oak, I am unaware of any additional investigations carried out. As such, whilst the intended felling of the large oak is analogous with the appellant's plans for developing the site, no detailed or convincing justification has been provided for its removal, which would result in a marked reduction in the visual amenity offered by the site's tree cover.
7. This identified adverse effect would be exacerbated, to at least some degree, by the further removals that are intended adjacent to the southern edge of the site. Indeed, whilst clearly smaller than the large oak and potentially of self-seeded origin, the cluster of trees earmarked for removal makes a valid contribution to the amenity of the local area. Consistent with the tree report contained within the AIA, this contribution could be reasonably anticipated to endure for at least another 20 years.
8. Thus, the proposed tree removals, especially when considered in combination, would cause considerable harm to the character and appearance of the area. I also note that any possible scheme of replacement planting would take time to establish, and that any newly planted specimen would take many years to reach a comparable stature to any established/mature tree that would be lost.

### *Retained trees*

9. The numerous large-sized trees that are intended to be retained in proximity to the new dwellings include mature oaks, which are identified at Appendix B of the Tree Survey (2018) as the most significant trees of the highest amenity value within the woodland. I concur with this assessment.
10. One such mature oak<sup>3</sup> is particularly prominent and categorised as being of high quality. The built footprint of proposed House B is intended to protrude beneath a part of its canopy and the principal south-facing elevation of House A would have a direct and close relationship with this tree. A further established tall oak<sup>4</sup> would, I note, exist very near to House B. There would inevitably be some anticipated effects experienced by future occupiers of the development due to the potential threat of damage to property and loss of light/shading. Furthermore, given the continuity of tree cover that exists across the northern side of the site, it is realistic to speculate that future desires to remove or heavily prune trees of value could avail in the interests of improving the

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<sup>3</sup> T5, as surveyed and reported via the AIA

<sup>4</sup> T4, as surveyed and reported via the AIA

useability of private garden spaces. Such a prospect would be most likely to apply at the plot to contain House B.

11. The existence of the TPO is a relevant factor when gauging the level of future risk that retained trees would be subjected to. Indeed, separate future applications would need to be made and approved by the Council before works to protected trees could lawfully be carried out. It is also anticipated that future house owners/occupiers would be fully aware of the presence of protected trees and the scheme's design approach before taking occupation. Even so, I do not consider that these factors would fully account for the anticipated future pressures that would be placed upon retained trees. This is not least due to the considerable scale and coverage of the tree canopies envisaged to be retained and their associated potential to influence day-to-day living arrangements at the site.
12. I also note that there would be limitations in terms of how far any possible management/maintenance regime could realistically go in terms of protecting the long-term future of trees. This is particularly so given the intended private garden area locations of many of the trees.
13. As such, even without factoring in any possible implications of new hardstanding at the site upon root systems, the proposal would be likely to have a negative long-term effect upon the integrity of protected trees intended to be retained. This would lead to a further erosion of the site's verdant character, which would exacerbate the considerable harm I have already identified would be caused by the proposed tree removals.

#### *Conclusion on the main issue*

14. For the above reasons, having particular regard to the effect upon protected trees, the proposal would cause significant harm to the character and appearance of the area. The scheme conflicts with Policies DES3 and DES4 of the East Herts District Plan (October 2018) (the EHDP) in so far as these policies set out that development proposals must demonstrate how they will retain, protect and enhance landscape features which are of amenity and/or biodiversity value, in order to ensure that there is no net loss of such features, and require that proposals respect or improve upon the character of the site and the surrounding area.

#### **Other Matters**

15. I have noted objections/concerns raised by interested parties with respect to matters including the location of the proposed access route through the site, the proximity of a listed brickwork wall, the potential for noise and disturbance to occur, and site arrangements during the construction phase. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
16. The proposed dwellings are of high-quality modern design and would incorporate specialist and sustainable construction techniques (including the creation of voids to clear root systems). Moreover, two well-designed family-sized residential units are proposed in a central location and the National Planning Policy Framework (July 2021) reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. Nevertheless, two additional units would not make a clear or noticeable

difference to the District-wide housing supply situation. I thus attach relatively limited weight to the delivery of new housing as a scheme benefit.

17. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. However, these benefits attract limited weight due to the somewhat modest scale of development under consideration. Any possible biodiversity enhancements to be achieved would be minor (especially in the context of the tree removals that are planned) and attractive of limited weight in the planning balance.
18. The scheme's benefits, considered cumulatively, would not outweigh the significant harm and associated policy conflicts that I have identified. Whilst I accept that the proposal complies with various policy provisions that are contained within the EHDP and the Neighbourhood Plan<sup>5</sup>, including with specific respect to both innovative design and future on-site living conditions, there is conflict with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

### **Conclusion**

19. For the above reasons, the appeal is dismissed.

*Andrew Smith*

INSPECTOR

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<sup>5</sup> Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards 2021-2033



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# Appeal Decision

Site visit made on 29 June 2022

by **S D Castle BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

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**Appeal Ref: APP/J1915/W/21/3279812**

**Land West of The Grove, Bury Green, Little Hadham SG11 2EZ**

- 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 outline planning permission.
  - The appeal is made by Hastingwood Estates Limited against East Hertfordshire District Council.
  - The application Ref 3/21/1092/OUT, is dated 23 April 2021.
  - The development proposed is erection of 4 no self-build dwellinghouses.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. Whilst the submitted proposed block plan shows how the site might be developed, I have treated details other than access as indicative and not as formally part of the scheme.
3. This appeal is against the failure of the Council to make a decision within the prescribed period. Following the lodging of the appeal, the Council has indicated that, had it been in a position to do so, it would have refused the application for the following three reasons:
  - i. The proposed development would not accord with the development strategy for the district. The scheme would not represent an acceptable form of development in the Rural Area Beyond the Green Belt. The site is situated in an unsustainable location for residential development, and the future occupiers of the dwellings would be reliant on the use of the private vehicle to access basic amenities, services and facilities. Therefore, the proposal would not facilitate sustainable journeys. The proposed scheme would be contrary to Policies DPS2, GBR2, VILL3 and TRA1 of the East Herts District Plan (2018).*
  - ii. Insufficient information has been provided to demonstrate that a net gain in biodiversity would be achieved at the site. As such, the proposal fails to comply with Policy NE3 of the East Herts District Plan (2018).*
  - iii. The submitted unilateral undertaking would fail to suitably secure the site for self-build and custom-build housing. Therefore, the proposed development would be contrary to Policy HOU8 and Policy DEL2 of the East Herts District Plan (2018), and Section 5 of the National Planning Policy Framework (2021).*

## **Main Issues**

4. The main issues are whether or not the site is a suitable location for housing having regard to the development plan; whether or not sufficient information has been provided to demonstrate that a net gain in biodiversity would be achieved at the site; and whether or not, in the overall planning balance, there are material considerations that would justify the granting of outline planning permission.

## **Reasons**

### *Location*

5. The Council's development strategy, as set out within Policy DPS2 of the East Herts District Plan (EHDP), sets out a hierarchy of locations where new development will be focussed, including limited development in the villages of the district. The proposed dwellings would be sited within an existing paddock located at the north-eastern edge of Bury Green, a Group 3 Village as defined by EHDP Policy VILL3. Within Group 3 Villages, Policy VILL3 provides for only limited infill development identified in an adopted Neighbourhood Plan. The site is not identified for development within an adopted Neighbourhood Plan and the proposal is not, therefore, supported by Policy VILL3.
6. The dwellings would be situated within the 'Rural Area Beyond the Green Belt' (RABGB) as defined by the EHDP Policies Map. In order to maintain the RABGB as a valued countryside resource, EHDP Policy GBR2 permits a limited range of development types, including limited infilling in sustainable locations, where appropriate to the character, appearance and setting of the site and/or the surrounding area. As the site is bounded by open countryside to the north and east, it does not constitute an infill site. Consequently, the proposed development is contrary to EHDP Policy GBR2.
7. EHDP Policy TRA1 relates to sustainable transport and requires that development proposals should be primarily located in places which enable sustainable journeys to be made to key services and facilities by a range of sustainable transport options. As a Group 3 Village, Bury Green would not provide the facilities and services necessary to meet the daily needs of future residents. The appellant has identified various travel distances to the nearest settlements providing key services, including 2.25km to Little Hadham and 4.5km to the centre of Bishops Stortford. Little Hadham is identified by the EHDP as a Group 2 Village and the appellant advises that it provides a primary school and village hall. Bishop's Stortford is the largest town in the district and, accordingly, provides a wide range of services and facilities, including a large supermarket on its outskirts which the appellant advises is 2.25km from the site.
8. Access to the above noted larger settlements on foot and cycle would require travel along narrow and unlit roads, often without segregated footways. Such conditions would make journeys uncomfortable for pedestrians and cyclists. Furthermore, it is unclear as to the extent to which the proposed development would be served by buses in terms of the location of the nearest stop and the frequency of service. These factors, combined with the length of the required journeys, would act as a deterrent for future occupiers to walk and cycle to the nearest key facilities and services. It is therefore likely that prospective residents would be heavily reliant on private motorised transport for trips to

serve their everyday needs and employment. The development would not, therefore, enable sustainable journeys to be made to key services and, in this regard, is contrary to EHDP Policy TRA1.

9. Accordingly, on this first main issue, it is concluded that the proposed development would not accord with EHDP Policies DPS2, GBR2, TRA1 and VILL3, which taken together, require, amongst other things, development to be sustainably located within the district in accordance with the development strategy.

### *Biodiversity*

10. EHDP Policy NE3 requires that development should not only seek to enhance biodiversity, but must also demonstrate how the development improves the biodiversity value of the site and surrounding environment. Paragraph 174 of the National Planning Policy Framework (the Framework) requires that planning policies and decisions should contribute to and enhance the local environment in a number of ways, including the provision of net gain for biodiversity. The Government's Planning Practice Guidance (PPG) defines biodiversity net gain as works which deliver 'measurable improvements for biodiversity by creating or enhancing habitats in association with development.'<sup>1</sup>
11. The appellant's submitted Preliminary Ecological Assessment (PEA) includes a range of recommendations aimed at ensuring both that protected species are protected and that the site is enhanced for the benefit of biodiversity. Whilst there is no one approach that is mandatory for use in calculating if biodiversity net gains would be achieved, the PEA lacks detail regarding the existing and proposed biodiversity values of the site. As such, there is insufficient evidence to demonstrate whether the development offers overall net gains in biodiversity.
12. I acknowledge that, given the outline stage of the proposal, many of the details that may affect the final biodiversity value of the site would be confirmed at the later reserved matters stage. I also note that the PPG advises planning conditions can, in appropriate circumstances, be used to require that a development provides for works that will measurably increase biodiversity<sup>2</sup>. However, given the lack of detail regarding the existing and potential biodiversity values of the site, I cannot be certain that a condition would be appropriate in this case.
13. Consequently, insufficient information has been provided to demonstrate that the proposed development would result in a net gain in biodiversity of the site and surrounding environment. The proposed development, therefore, fails to comply with EHDP Policy NE3 and Framework paragraph 174.

### **Other Matters**

#### *Self-build and Custom Housebuilding*

14. The proposal is for open market, self-build/custom-build dwellings. The PPG states<sup>3</sup> that, in relation to self-build and custom housebuilding (SBCH), relevant authorities should consider how local planning policies may address identified

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<sup>1</sup> Paragraph 022, Reference ID: 8-022-20190721

<sup>2</sup> Paragraph: 023, Reference ID: 8-023-20190721

<sup>3</sup> Paragraph: 025 Reference ID: 57-025-20210508

requirements for SBCH to ensure enough serviced plots with suitable permission come forward. Support for SBCH is also set out at paragraph 62 of the Framework, where it states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, amongst others, people wishing to commission or build their own homes). Accordingly, EHDP Policy HOU8 expects a proportion of serviced dwelling plots on sites of more than 200 dwellings to be for sale to self-builders, and that locally proposed self-build projects identified within a Neighbourhood Plan will be supported. Given the small scale of the proposed development and the lack of an adopted neighbourhood plan, neither of these provisions of Policy HOU8 explicitly support the development.

15. Footnote 28 to Framework paragraph 62 reminds that under section 1 of the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (the Act), local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own SBCH building. Footnote 28 also notes that local authorities are subject to duties under sections 2 and 2A of the Act to have regard to the SBCH Register and to give enough suitable development permissions to meet the identified demand. The appellant's evidence regarding the Council's SBCH Register indicates that there is significant and ongoing registered demand for SBCH plots within the district, including in rural areas. The Council does not dispute that the evidence provided by the appellant indicates insufficient permissions have been granted to meet the demand for SBCH plots demonstrated within the Register.
16. As such, I find that the Council has not satisfactorily demonstrated that it has met its duty under Section 2A of the Act. Where insufficient SBCH permissions have been granted to meet demand in accordance with the statutory duty, then this will be a material consideration in favour of granting permission and I return to this matter later.

### *Heritage*

17. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA) requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. S72(1) of the LBA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The appellant's heritage statement identifies that the proposed dwellings would be located to the east of the Grade II listed Holly Tree Cottage and to the east of the Bury Green Conservation Area boundary. Subject to the final details of the reserved matters, the significance of these heritage assets would be preserved by virtue of the proposed development representing an extension of the existing intervening modern development on The Grove.

### **Planning Balance**

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. I have identified that the proposed development does not accord with EHDP policies that require development to be sustainably located within the district in accordance with the development strategy. Furthermore,



the proposal is contrary to EHDP Policy NE3 by virtue of failing to demonstrate a net gain in biodiversity would be achieved. The proposed development is not, therefore, in accordance with the development plan when taken as a whole and the identified development plan conflict is afforded considerable weight.

19. I have considered the appeals referred to me by the main parties, including those at Droitwich Spa<sup>4</sup>, Aston End<sup>5</sup>, Chilton<sup>6</sup>, Steventon<sup>7</sup>, Lower Bodham<sup>8</sup> and Sandway<sup>9</sup>. In the majority of the referred appeals, substantial weight is given to the delivery of SBCH plots where Councils have not met their duty under Section 2A of the Act. In the final planning balance of these appeals, however, the substantial weight given to the delivery of SBCH plots does not always outweigh other considerations. Indeed, in the dismissed appeals at Sandway and Chilton, conflict with development plan policies steering development to sustainable locations was found to outweigh the benefits of delivering SBCH plots.
20. The allowed appeal at Steventon differs from the current proposal in so far as the Inspector found the development to be in line with the development plan's strategy for housing delivery. The circumstances of the allowed appeal at Droitwich also differ from those of the current proposal due to the Inspector finding the tilted balance to be triggered by virtue of the development plan being silent on the provision of SBCH. The EHDP, in contrast, includes a specific policy relating to SBCH and the most important policies for determining this appeal are not out of date. The policies referred to in the Council's putative refusal reasons are broadly in line with the aims of the Framework, in so far as they seek to focus development in the most sustainable and accessible parts of the district, and to provide net gains for biodiversity. The different circumstances of these allowed appeals in contrast to the current appeal limits their direct comparability and, consequently, the weight afforded to them. I have, in any case, reached my own conclusions on the proposed development based on the evidence before me.
21. I find the development would, given the limited number of dwellings proposed, make only a limited contribution to the Government's overall objective of significantly boosting the supply of homes. The proposed development is, however, also supported by the Framework requirement for the needs of groups with specific housing requirements to be addressed.<sup>10</sup> As such, given the Council's shortfall in granting SBCH permissions, I give substantial weight to the delivery of 4 SBCH plots and their contribution to meeting the Council's duty under Section 2A of the Act.
22. I have had regard to the concerns of interested parties including in relation to character and appearance, drainage, living conditions and highways impact. The Council did not conclude that these concerns would amount to reasons to justify withholding planning permission. I have been provided with no substantive evidence which would prompt me to disagree with the Council. I am, therefore, satisfied that these matters could be appropriately controlled through the imposition of planning conditions.

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<sup>4</sup> Appeal Ref: APP/H1840/W/19/3241879, Wychavon District Council

<sup>5</sup> Appeal Ref: APP/11915/W/20/3261881, East Hertfordshire District Council

<sup>6</sup> Appeal Ref: APP/V3120/W/20/3261691, Vale of White Horse District Council

<sup>7</sup> Appeal Ref: APP/V3120/W/20/3265465, Vale of White Horse District Council

<sup>8</sup> Appeal Ref: APP/Y2620/W/21/3270961, North Norfolk District Council

<sup>9</sup> Appeal Ref: APP/U2235/W/20/3254230, Maidstone Borough Council

<sup>10</sup> Framework paragraphs 60 & 62

23. Whilst the Act, in combination with national and local policies, seek to support the delivery of SBCH, they do not represent a carte blanche for housing development where other policy conflicts exist. Indeed, there is no compelling evidence before me to demonstrate that the proposed SBCH dwellings need to be located where they would conflict with the Council's development strategy. Overall, I find that the substantial weight given to the delivery of the proposed SBCH dwellings does not outweigh the considerable weight given to the above identified policy conflicts with the EHDP.
24. In light of this overall finding, for the purposes of making my decision, there is no need to examine the dispute between the main parties regarding the appropriate legal mechanism to ensure that the SBCH development is constructed in that manner. The proposed development would conflict with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict.

**Conclusion**

25. For the reasons given above, the appeal is dismissed.

*S D Castle*

INSPECTOR



## Appeal Decision

Site visit made on 21 December 2022

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

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**Appeal Ref: APP/J1915/W/22/3295071**

**Jesmond Cottage, 2 Cross Road, Epping Green SG13 8NG**

- 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 F Banner against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/2441/HH, dated 21 September 2021, was refused by notice dated 17 November 2021.
  - The development proposed is conversion of the existing stable building into a one bedroom detached annexe.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant provided an equestrian needs assessment with the appeal. As a consequence, the Council confirm that the first reason for refusal, which relates to the impact of the loss of equestrian facilities, has been overcome. I have therefore considered the appeal on that basis.
3. The appeal lies within the metropolitan Green Belt. The appellant and the Council agree that the extensions and alterations of the building within its existing roof structure would not result in disproportionate additions over and above the size of the original building. I have no reason to disagree. The development is therefore not inappropriate development in the Green Belt and accords with EHDP Policy GBR1.

### Main Issue

4. The main issue is therefore whether the proposed annexe would be close and well-related to the dwelling, would have a clear functional link to it, and would constitute the minimum level of accommodation required.

### Reasons

5. Jesmond Cottage is a dwelling in spacious grounds in the rural village of Epping Green. The appeal site comprises a dwelling and its garden, accessed from Cross Road, together with an equestrian menage and stable building which is no longer used for horses. Behind the stables is a concrete yard and vehicular access onto White Stubbs Lane, which serves the stables and rear garden as well as fields to the north and east rented by the appellant.
6. East Herts District Plan 2018 ("EHDP") Policy HOU13 permits residential annexes where the accommodation forms a separate outbuilding which is close and well related to and has a clear functional link to the main dwelling, where

- the scale of the annexe does not dominate the existing dwelling and where it is the minimum level of accommodation required to support the needs of the occupant.
7. Although the design of the scheme incorporates windows that would face the existing dwelling, the drawings show that the entrance doors would be located on its far side. In that location adjacent to the rear access onto White Stubbs Lane, the location of the entrance would facilitate additional or independent access, parking and turning from White Stubbs Lane. Internally, the accommodation would also incorporate all the facilities required for independent living, plus a utility room and a visitor ensuite, and would be a significant size.
  8. Even if family meals were taken in the main dwelling, as the appellant suggests they could be, and the future occupier(s) of the annexe had access to the garden and cars could be parked at the front of the main dwelling, the accommodation would appear to be designed and capable of being used independently, and would have all the facilities for independent use. Given the arrangement of the accommodation and the layout of the external space I am not convinced that a clear functional link would be established between the annex and the host dwelling.
  9. In this respect I note the appellant acknowledges the accommodation could be converted into a dwelling in its own right, but advises that is not his intention. He considers a planning condition could establish and secure the accommodation as an annexe to the main dwelling. However, for the reasons I have set out, there is very little to distinguish the proposed accommodation from an independent dwelling.
  10. In addition, boundary treatments between the dwelling and the stables could normally be erected without planning permission, as could separate utility connections. In this respect, the site plan indicates a solid line between the proposed annexe and the main dwelling, and although the appellant's statement advises there would be no separation between them, the line illustrates how separate spaces could be achieved. Further, external surface changes within the curtilage of the dwelling, to provide a separate garden area and improve the surfacing of the access and parking area, may be permitted development.
  11. Overall, the nature of the proposal is so similar to that of an independent dwelling that I can see no tangible way the Council could establish and demonstrate whether the use had become an independent dwelling. Therefore, a condition restricting occupancy of the annexe would not be enforceable and would not meet the tests for conditions set out in paragraph 56 of the National Planning Policy Framework ("the Framework").
  12. In terms of the size of the accommodation proposed, the Council refer to the Technical Housing Standards 2015<sup>1</sup>. But EHDC Policy HOU13 is concerned with the minimum level of accommodation required to support the needs of occupants, and the text supporting the policy explains that applicants should justify the level of accommodation proposed.

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<sup>1</sup> Department for Levelling Up, Housing & Communities and Ministry of Housing, Communities & Local Government: Technical housing standards – nationally described space standard.

13. The existing stables is a relatively large structure with four loose boxes, tack and feed stores, an open central area and an overhanging roof. The development would enclose the central and overhanging areas, enlarging the internal space of the building. The annexe would be generously sized and would contain facilities not normally found in an annexe, such as a utility room and visitor en-suite.
14. The appellant advises that the accommodation is the minimum required for his daughter's needs. However, there is little evidence before me of these needs. Therefore, given the size and nature of the proposed accommodation and the limited evidence of need, I cannot be satisfied that the proposal would be the minimum level of accommodation required to support the needs of the occupant.
15. The generous size of the plot puts an element of distance between the main dwelling and the stables. At the time of my visit there was no fencing between the dwelling and the stables, and the lawn and a path continued up as far as the concrete apron in front of the stables. At ground and first floors, large glazed areas of the dwelling, and a balcony, directly face the stables and are visible from them. In the context of this particular site, the annexe would therefore be relatively close to the main dwelling, and reasonably related to it.
16. Overall, the proposed annexe would therefore be close and well-related to the dwelling, but would not have a clear functional link to it, and would not constitute the minimum level of accommodation required to support the needs of an individual living in an annexe. Consequently, it would conflict with EHDP Policy HOU13, which is described above.

### **Other Matters**

17. While the appellant suggests that the re-use of the stables would prevent the building from falling into disrepair, there is little to indicate that the building would not be maintained. This matter carries very limited weight.
18. The use of the stables as an annexe may reduce the need for independent accommodation elsewhere. This very limited contribution to the housing land supply attracts little weight in favour of the proposed development.

### **Conclusion**

19. For the reasons above, the limited benefits of the development would not outweigh the harm I identify in relation to the main issue, and the corresponding conflict with the development plan, to which I attribute significant weight.
20. I conclude the development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that suggest a decision should be made other than in accordance with the development plan. The appeal should therefore be dismissed.

*Peter White*

INSPECTOR



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# Appeal Decision

Site visit made on 6 February 2023

by **Michael Boniface MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> February 2023

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**Appeal Ref: APP/J1915/D/22/3306358**

**Dene Orchard, 5 Little Berkhamsted Lane, Little Berkhamsted, Hertfordshire, SG13 8LU**

- 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 Laurie Merry against the decision of East Hertfordshire District Council.
  - The application Ref. 3/22/0867/HH, dated 22 April 2022, was refused by notice dated 30 June 2022.
  - The development is a first-floor rear extension.
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## Decision

1. The appeal is allowed and planning permission is granted for a first-floor rear extension at Dene Orchard, 5 Little Berkhamsted Lane, Little Berkhamsted, Hertfordshire, SG13 8LU in accordance with the terms of the application, Ref. 3/22/0867/HH, dated 22 April 2022.

## Preliminary Matter

2. The first-floor extension the subject of this appeal had already been completed by the time of my site visit and retrospective planning permission is being sought. I have considered the appeal on this basis.

## Main Issue

3. The main issues are:
  - (a) whether the extension is inappropriate development in the Green Belt and the effect on openness;
  - (b) whether the extension would preserve or enhance the character or appearance of the Little Berkhamsted Conservation Area;
  - (c) If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Whether inappropriate*

4. The appeal site falls within the Hertfordshire Green Belt, where Policy GBR1 of the East Herts District Plan (2018) advises that planning applications will be

considered in line with the provisions of the National Planning Policy Framework (the Framework).

5. The Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open. The Framework advises that new buildings in the Green Belt should be regarded as inappropriate development, subject to a number of express exceptions. Inappropriate development is, by definition, harmful to the Green Belt.
6. Provision is made, amongst the listed exceptions to inappropriate development, for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. The dwelling on the appeal site has been altered and extended a number of times and is no doubt somewhat larger than the original. However, there is disagreement between the parties as to the extent of the additions.
8. The Council suggests an 82% increase in footprint but does not explain how this figure has been reached. Nor is footprint alone a particularly useful measure in understanding any increase in mass to the building or its effect on openness. The appellant suggests a lower figure, having regard to plans of the building, and so there is uncertainty about the extent of previous extensions, though there is no doubt that sizeable additions have been made.
9. Whether an extension to the original building is disproportionate, along with previous extensions and alterations, is ultimately a matter of planning judgement. The Council does not refer to any adopted local policies or guidance that indicate what scale of addition is generally considered suitable in East Hertfordshire.
10. I note that large extensions have been added in the past and that there are a number of garden buildings and structures. However, the dwelling occupies a very large and well-landscaped garden. It stands in a settlement that is characterised by large dwellings, within a defined 'built up area'.
11. There is little information before me about the design and form of the original building, but even having regard to previous extensions and alterations, the proposed extension at less than 10sqm does not 'tip the scales' or result in the additions being disproportionate in their context. It is a first-floor addition over an existing flat roofed extension, such that it has little visual impact or mass. It is very well related to the existing built form on site and so its effect on openness is negligible.
12. Ultimately, having found that the extension would not be disproportionate, it is manifestly suitable in the Green Belt, given that it falls within the Framework's exceptions to inappropriate development. Consequently, I find no conflict with Policy GBR1 of the East Herts District Plan.

#### *Conservation area*

13. The appeal site falls within the Little Berkhamsted Conservation Area and so I have had special regard to section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The first-floor rear extension is a modest addition to the property that appears subordinate and utilises matching

materials. The Council considers that the character and appearance of the conservation area has been preserved and I am inclined to agree.

**Conditions**

14. I note the Council's suggested conditions to stipulate the time period for commencement of development, identifying the approved plans and requiring the use of matching materials. However, as I have set out, the development has already been undertaken in accordance with the plans submitted and is acceptable in its completed form. As such, there is no requirement for any conditions.

**Conclusion**

15. The development is not inappropriate and would not harm the Green Belt. As such, I find no conflict with the Framework or the development plan.

16. In light of the above, the appeal is allowed.

*Michael Boniface*

INSPECTOR





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# 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: 2<sup>nd</sup> February 2023**

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**Appeal Ref: APP/J1915/D/22/3306172**

**Ladygrove, Stanstead Road, Hunsdon, Hertfordshire SG12 8PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Stephen Burton against the decision of East Herts District Council.
  - The application Ref: 3/22/0967/FUL, dated 7 May 2022, was refused by notice dated 25 August 2022.
  - The development proposed is the erection of ground mounted solar array on the site of part of the applicants garden consisting of 72 panels in 2 rows, each row 18 panels long by 2 panels high.
- 

## Decision

1. The appeal is allowed, and planning permission is granted for the erection of a ground mounted solar array on the site of part of the applicant's garden consisting of 72 panels in 2 rows, each row 18 panels long by 2 panels high at Ladygrove, Stanstead Road, Hunsdon, Hertfordshire SG12 8PZ in accordance with the terms of the application ref:3/22/0967/FUL, dated 7 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. No development shall commence until there has been submitted to, and approved in writing by the local planning authority, a scheme of landscaping. The scheme shall comprise the planting of a new hedge on the land to ensure that the approved development is screened from all views from Stanstead Road. The planting of the hedge, in accordance with the approved scheme, shall be carried out in the first planting season following the first use or completion of the development, whichever is the sooner. If the hedge or any component part is removed, is seriously damaged or diseased within 10 years, it shall be replaced in the next planting season with another hedge or component part of similar size and species.

## **Main Issue**

2. The main issue is the effect of the proposal upon existing trees and the landscape character of the area.

## **Reasons**

3. The appeal property is a large, detached dwelling located within a defined '*Rural Area Beyond the Green Belt*'. The appeal site is to some extent self-contained given boundary landscaping and entrance gates/walls. Nevertheless, parts of the mainly open and green landscaped grounds can be seen from the main road particularly in the autumn/winter months when trees are without leaf. The surrounding area is mainly open and rural in character and there is overall an absence of built/engineered development. This adds positively and distinctively to the landscape character of the area.
4. The solar arrays would be positioned close to the northern boundary of the site which is undeveloped. The array structure would be 2.5 metres at its highest point. The applicant has commented that non-protected silver birch and pear trees would be removed to enable suitable sunlight to the solar arrays and to '*screen the array from people arriving at the house, we will plant a laurel hedge along the eastern edge, from the northern boundary of the property directly south and then turning east to box in the corner of the array area*'.
5. There is no objection in land-use principle to the formation of solar arrays within the grounds of Ladygrove. Indeed, policy GBR2 (e) of the East Hertfordshire District Plan 2018 (DP) permits limited infilling or the partial or complete redevelopment of previously developed sites. However, the policy requires such development to be '*appropriate to the character, appearance and setting of the site and/or surrounding area*'.
6. In this case, the appellant has not provided detailed plans/information relating to the proposed hedge. There is an aerial image showing in a white line the approximate location of a proposed hedge, but this does not provide the level of detail needed to reach a fully informed view about the proposal in terms of its impact upon the landscape character of the area. However, I consider that such landscaping detail can be determined by way of a condition and that on this basis the development would be suitably screened from the main road.
7. On my site visit, I was able to see that the proposed development would not be located close to existing boundary trees. Despite the views expressed by the LPA, I find that, owing to the separation distance of the proposed solar arrays from existing boundary landscaping, the development would not cause harm to or infringe any root protection areas.
8. I conclude that the proposal would not cause harm to existing trees/vegetation on the site, and that the imposition of a condition relating to the proposed hedge would be sufficient to protect the landscape character of the area. In this regard, the development would accord with the landscape character and design requirements of policies GRB2, CC3, DES2, DES3 and DES4 of the DP.

## **Conditions**

9. I have imposed the standard time condition as well as a condition relating to the approved plans for certainty. In the interests of the landscape character of

the area, I have imposed a landscaping condition requiring the approval of precise details of a hedge on the site. In this case, there is clear justification for this condition to be pre-commencement as it is important that there is certainty that, in terms of the position, height and type of hedge, it would suitably screen the development, and that it is then implemented at an early stage. The appellant has expressly agreed to the imposition of this pre-commencement condition.

**Conclusion**

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

*S. Hartley*

INSPECTOR



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## Appeal Decision

Site visit made on 14 February 2023

**by John Felgate BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities**

**Decision date: 27<sup>th</sup> February 2023**

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**Appeal Ref: APP/J1915/D/22/3308007**

**82 Cappell Lane, Stanstead Abbots, Hertfordshire SG12 8BY**

- 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 Veronica Brayshaw against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1012/HH, dated 13 May 2022, was refused by notice dated 12 July 2022.
  - The development proposed is "*removal of single storey side extension, new double storey side extension, and change to fenestration at rear*".
- 

### Decision

1. The appeal is dismissed.

### Main issues

2. The main issues in the appeal are:
  - whether the proposed extension and alterations would amount to 'inappropriate development' in terms of Green Belt policy;
  - if so, the development's effect on the Green Belt's openness;
  - whether any harm to the Green Belt 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 such development in the Green Belt.

### Reasons for decision

#### *'Inappropriateness'*

3. The appeal property is a semi-detached house, set within a cluster of houses along Cappell Lane, just outside the main village of Stanstead Abbots. The area is within an area of Green Belt (the GB), as defined on the East Hertfordshire District Policies Map. In the East Herts Local Plan (the EHLP), adopted in October 2018, Policy GBR1 requires that proposals for development in the GB are determined in accordance with the relevant policies of the National Planning Policy Framework (the NPPF).
4. NPPF paragraph 147 states that development which is 'inappropriate', in GB policy terms, is harmful to the GB by definition, and should not be approved except in very special circumstances. Paragraph 148 requires that any harm to the GB is given substantial weight. The same paragraph defines 'very special circumstances' as existing only where the harm, including harm to the GB by reason of inappropriateness, is clearly outweighed by other considerations. Paragraph 149 makes clear that the construction of new buildings in the GB is

to be regarded as inappropriate, unless the development falls within one of various specified exceptions. Of these, the most relevant to the present appeal is (c), which relates to the extension or alteration of an existing building; however, this is subject to the proviso that the development does not result in disproportionate additions, over and above the size of the original building.

5. In the present case, it is agreed between the appellant and the Council that the relevant floorspace figure for the original building on the site, as at the relevant date in 1948, was 106.5 sq m. This total was made up of 46.4 sqm on the ground floor, 37.1 sq m at first floor level, and 23 sq m in the attic. Subsequent extensions and alterations have added around a further 21.5 sq m, but these would be largely replaced by the development now proposed, and thus do not significantly affect the calculation.
6. The proposal would add a new kitchen/family room and utility room at ground floor level, with a new master bedroom and ensuite bathroom above. These would effectively form a new 2-storey wing, with its own separate pitched roof, connected to the existing house by a one-and-a-half storey link. Compared to the position in 1948, this would almost double the ground floor accommodation to 92 sq m, and would increase the first floor by just over 80%, to 67 sq m. Only the attic floor would be unchanged. Overall, the new total floorspace of 184 sq m would represent about a 73% net increase over the original building. Again these figures are not in dispute. Volume-based figures are not before me, but it seems likely that the percentage increase would be broadly similar to the floorspace-based calculation. To my mind, an increase on this scale would be clearly disproportionate.
7. Planning policy does not define the meaning of 'disproportionate', and does not limit that question simply to a matter of mathematics. However, it would be illogical in my view to disregard the obvious, quantitative dimension of the before-and-after comparison which is required. I note the contents of the Guildford appeal decision<sup>1</sup>, in which an increase of 72% was found not to be disproportionate. But in that decision it is clear that the inspector took account of the percentage increase, even though she found this not to be decisive, due to other, site-specific factors. In particular, that development was to be sited between two existing rear projections, with no extension of the built form beyond the existing built envelope. The present appeal proposal clearly differs in this regard. Based on the evidence before me, including my observations on site, I am satisfied that in this case a floorspace comparison with the original dwelling is the most appropriate basis on which to make my assessment.
8. The appeal property has a large garden, and I agree that, even with the new extension now proposed, the size of the dwelling would still take up only a minor proportion of its plot. But the exception in NPPF paragraph 149(c) requires proportionality to be judged in relation to the building, not the site.
9. A number of other properties in Cappell Lane have carried out substantial side extensions, and I was able to view these on my visit. However, there is no indication as to whether any of these were considered not to be inappropriate development in GB terms. In coming to my conclusions, I have taken account of the development plan and national policy as they stand now, together with the evidence submitted.

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<sup>1</sup> APP/Y3615/W/18/3202309

10. I conclude that the development now proposed would be disproportionate to the original building on the site, and thus would not fall within any of the relevant exceptions in NPPF paragraph 149. As such, the proposal would constitute inappropriate development in terms of GB policy.

#### *Openness*

11. NPPF paragraph 137 states that openness is one of the essential characteristics of GBs, and that keeping land permanently open is a fundamental aim of GB policy.
12. The existing kitchen extension, which is to be demolished and replaced, is a diminutive, single-storey side addition, with a lean-to roof. Visually, this existing structure is inconspicuous, due to its small size, its lack of height, and its recessive, unassuming design. As a result, its effect on the openness of the GB is negligible. In the appeal proposal, the new extension which would replace this would have a footprint covering about three times as large an area, with two storeys throughout, a dual-pitched roof, and gables to both the front and rear. In all these respects, the proposed scheme would give rise to a substantial net addition to the amount of built development on the site, and would also give the property a noticeably more assertive and dominant appearance than it has now. The overall effect would be to significantly reduce the openness of this part of the GB, both spatially and visually.
13. The development would be positioned between the house and the existing detached garage/car port. But the latter is single-storey and is set back further into the site. The garage would therefore have little effect in terms of reducing the visual impact of the 2-storey extension that is now proposed. I also saw on my visit that views across the site from Cappell Lane are largely unobstructed by any of the existing trees. In any event, my assessment takes account of both the visual and the spatial aspects of openness, and for the reasons set out above, I consider that in this case the loss of openness would involve both of these aspects.
14. The new extension would be set down slightly, below the level of the main dwelling, and I agree that this would reduce its impact to a minor degree. But the existing kitchen extension is also set at that same lower level. The comparison that I have made above, between the existing and proposed extensions, in terms of their respective effects on openness, takes the ground levels into account.
15. I have taken account of the *Lea Valley* judgement<sup>2</sup>, but that case related to development which was found not to be inappropriate.
16. I conclude that the proposed development would result in significant harm to the GB's openness, contrary to the aims of national policy. The harm resulting from the loss of openness adds to the harm to the GB due to inappropriateness.

#### *Other matters*

17. The proposed scheme has been designed to match the size and style of the extensions carried out to the attached property, No 84, thus restoring a degree of symmetry and balance to the semi-detached pair. But nevertheless, the

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<sup>2</sup> *Lea Valley Regional Park Authority v Epping Forest DC and anor* [2016] EWCA Civ 404

appeal property in its existing form is a distinctive and characterful building, which contributes positively to its surroundings. The lack of symmetry does not seem to me to detract noticeably from this. Likewise, the existing lean-to extension, which is proposed to be removed, is in my view nothing more than a modest and subservient feature, which currently causes no significant harm. Indeed, the building's only discordant feature of any note is in my view the existing, over-large side dormer; but this would remain in place, and would continue to be visible. Overall, whilst I agree that the design of the proposed scheme would not be unacceptable, neither do I consider that it would represent an improvement over the existing situation.

18. Whilst the site lies within the Stanstead Abbots Conservation Area, the Council is satisfied that the development would preserve the area's character and appearance, and its special architectural and historic interest. In the light of the design considerations discussed above, I agree.
19. The development would improve the appeal property by creating additional space for the occupiers. However, the dwelling in its current form offers two reception rooms, three bedrooms, a kitchen and a bathroom. Whilst this existing accommodation is not large, there is no suggestion that living conditions are unacceptable as it stands. The scheme would also provide a more convenient modern staircase, to avoid reliance on the original steeper and narrower one. But an extension of the size now proposed is not necessary to achieve this. Consequently, the scheme's benefits in these respects carry limited weight.

*'Very special circumstances'*

20. As set out above, harm would be caused to the GB, both by reason of inappropriateness, and through the loss of openness. In accordance with NPPF paragraph 148, this harm to the GB must carry substantial weight.
21. Against this, the improvement to the quality of the accommodation, including the new stair, would be a benefit arising from the scheme. But, in this case, for the reasons already explained, I have found this to carry limited weight. No other benefits have been substantiated. The design considerations, and the lack of harm to the Conservation Area, weigh neither for nor against. All of the remaining matters raised are similarly neutral.
22. Having regard to the relevant NPPF paragraphs, the benefits and other considerations identified do not clearly outweigh the harm. The 'very special circumstances' needed to justify the development have therefore not been demonstrated.

**Conclusion**

23. In the absence of very special circumstances, the proposed development conflicts with the GB policies of the NPPF, and therefore also with EHLP Policy GBR1. The other considerations identified are not of sufficient weight, either individually or collectively, to indicate any decision other than in accordance with the development plan. For these reasons, the appeal fails.

*J Felgate*

INSPECTOR



## Appeal Decision

Site visit made on 8 February 2023

**by Ryan Cowley MPlan (Hons) MRTPI**

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

**Decision date: 23 February 2023**

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**Appeal Ref: APP/J1915/D/22/3303570**

**Chirchfeld, Moor Green Road, Ardeley, Hertfordshire SG2 7AP**

- 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 Mick Dedman against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1039/HH, dated 17 May 2022, was refused by notice dated 12 July 2022.
  - The development proposed is construction of a detached garage.
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### Decision

1. The appeal is allowed and planning permission is granted for construction of a detached garage at Chirchfeld, Moor Green Road, Ardeley, Hertfordshire SG2 7AP in accordance with the terms of the application, Ref 3/22/1039/HH, dated 17 May 2022, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Plan B&W and MD-001-22/A.

### Preliminary Matters

2. The parties have used differing variations for the spelling of the name of the property to which the appeal relates. The appellant has confirmed that the correct spelling is "Chirchfeld". This is the spelling used in the appeal form, the appellant's statement and the plans that are before me. I have therefore used this spelling in the banner heading and formal decision above.

### Main Issue

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

### Reasons

4. The appeal site comprises a detached two storey dwellinghouse and its associated curtilage located on the eastern side of Ardeley. The village is relatively small, however in the vicinity of the appeal site there are a mix of detached and terraced houses of differing sizes and styles.
5. Along with its immediate neighbours, the host dwelling contributes to a consistent building line on the northern side of Moor Green Road. The dwellings here are set back from the highway by relatively open front gardens and the highway verge. The verge varies in width however as the road splays away



from the building line and it is considerably wider to the front of the appeal site. The neighbouring dwelling (Mead Farm) to the east of the appeal site diverges from this layout however, stepping forward of the front elevation of the host dwelling. The boundaries of this neighbouring property are lined with mature vegetation that sits within the backdrop of the appeal site.

6. The proposed double garage would be located to the front of the host dwelling, in the south-east corner of the plot, close to the site boundaries. The Council recognise that the general design, materials and scale of the proposed garage are broadly acceptable, and I agree with this assessment.
7. The proposal would be in a relatively prominent position within the plot and would sit forward of the building line. However, the appeal site sits at the end of this uniform frontage, which is terminated by the substantial vegetation adjacent and the positioning of Mead Farm. The space to the front of the appeal site is greater overall than elsewhere due to the alignment of the highway and the proposal would be viewed within the context of the mature vegetation behind and Mead Farm. This would somewhat limit its presence in views from the west along Moor Green Road.
8. In addition, I saw on my site visit that, even in winter months, the site of the proposed garage is considerably screened by existing mature vegetation along the verge when approaching from the south-east. In immediate views from this direction, it would also be seen with the larger host dwelling in its backdrop.
9. While it is not common for detached garages to be located to the front of dwellings on the north side of the road, there is a detached garage located to the front of a neighbouring dwelling on the south side. While I appreciate this example is better screened than the appeal proposal would be, this form of development is otherwise not an entirely alien feature in the immediate area.
10. I recognise that the proposal would result in the partial loss of the existing boundary hedge along the southern boundary of the site, removing potential screening. The Council considers it unlikely this would be replanted due to the limited space that would remain to the boundary. The appellant indicates it is likely to be re-instated. Even if it were not however, I do not consider this screening to be critical given my findings on the acceptability of the siting and design of the proposal.
11. In view of the above, I consider that the proposal would not harm the character and appearance of the area. It is therefore in accordance with policies DES4 and HOU11 of the District Plan. These policies, amongst other things, seek to ensure all development is of a high standard of design and layout to reflect and promote local distinctiveness, and residential outbuildings are appropriately sited and designed with regard to the character, appearance and setting of the existing dwelling and surrounding area. The proposal also complies with policy VILL3 of the District Plan, which seeks to ensure, amongst other things, that development in such villages relates well to the village in terms of location, layout and connectivity, is of appropriate scale, well designed and in keeping with the character of the village.

### **Conditions**

12. In addition to the standard time limit condition, it is necessary to specify the approved plans as this provides certainty. Finishing materials are articulated on

the plans and indicated to match the main house. These are therefore secured by the approved plans condition.

13. The Council has suggested a condition to ensure the garage is used for ancillary residential purposes in connection with the host dwelling and not for commercial purposes or independent living accommodation. The garage building would be erected within the residential curtilage of Chirchfeld and there is no evidence before me to indicate it would be used as a separate dwelling. Planning permission would be required for any material change of use and so I do not consider this condition to be necessary.

**Conclusion**

14. For the reasons given I conclude that the appeal is allowed.

*Ryan Cowley*

INSPECTOR



## Appeal Decision

Site visit made on 3 February 2023

**by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> February 2023

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### **Appeal Reference: APP/J1915/D/22/3312575**

### **17 Dovedale, Ware SG12 0XL**

- 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 C Green against the decision of East Herts Council.
  - The application (reference 3/22/1368/HH, dated 29 June 2022) was refused by notice dated 30 September 2022.
  - The development proposed is described in the application form as follows: *"Rear double storey extension; first floor extension to be set back from ground floor extension; size of first floor is dictated by relation to neighbouring window with respect for right for light; materials to match"*.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for the "erection of part single and part two-storey rear extensions with additional windows to first floor rear elevation and ground and first floor side elevations", at 17 Dovedale Ware SG12 0XL, in accordance with the terms of the application (reference 3/22/1368/HH, dated 29 June 2022), subject to the conditions set out in the attached Schedule of Conditions.

### **Preliminary points**

2. Notwithstanding the description of the application that was given in the application form, the nature of the proposal can more clearly be expressed as set out in the Council's decision notice and in the appeal form, as the "erection of part single and part two-storey rear extensions with additional windows to first floor rear elevation and ground and first floor side elevations".

### **Main issue**

3. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the host building and its surroundings.

### **Reasons**

4. Ware is an important town in Hertfordshire with a range of services and facilities and extensive residential areas. The appeal site is located in a residential suburb in the northern part of the town. Dovedale is located in a

relatively dense part of the residential suburb, characterised by houses in short terraces, in residential streets and culs-de-sac, with some designated garage and parking areas.

5. The existing house at 16 Dovedale is located at the end of a short terrace of four two-storey houses, constructed in a conventional style, with small front gardens and longer back gardens. The terrace faces a cul-de-sac that is surrounded by similar properties. There is a small garage courtyard behind numbers 19 to 23 Dovedale but number 17 has a longer garden, although it narrows markedly towards the rear. Number 17, then, has a long side boundary, defined by a close-boarded fence, alongside the highway that gives access to the head of the cul-de-sac.
6. It is now proposed to construct an extension at the rear of the existing house, with a single storey section across the width of the rear elevation, combined with a two-storey section on the corner of the building. In addition, new windows would be created in the side gable elevation of the house, to light the centre of the building.
7. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history, although it is also recognised that appropriate change may include increased densities. The achievement of good design standards includes both protecting existing residential amenities and providing good standards of accommodation in new development.
8. Those basic principles are also established by the Development Plan. In particular, Section 17 of the 'East Herts District Plan' (dated October 2018) is concerned with "Design and Landscape" and it is aimed at respecting or improving upon existing surroundings while making good use of urban land and accommodating changing needs. Policy HOU11 provides more specific criteria in relation to residential extensions and alterations (and the like).
9. In this case, the proposed two-storey part of the extension would increase the length of the flank wall of the existing house. The gable form would be maintained, however, with a subservient rearward extension that would have its eaves facing the boundary. Additional windows in the flank wall, facing the road, would also enliven the elevation and help to make the finished building more harmonious in the streetscene. The proposed two-storey extension would, moreover, project from the main rear elevation of the existing building only by a relatively limited amount, whereas the single-storey part of the extension would project further.
10. In itself, the single-storey part of the extension would have only a very limited impact on its surroundings and it is not objectionable.
11. Nor would the scheme as a whole have an undue impact on the amenities of neighbours, because of the limited height of the proposed single-storey element and the fact that the two-storey section would be set away from the joint boundary with the neighbour, as explained in the submissions.

12. I am convinced that the proposed two-storey extension would not be odd or out of character with either the host building or its surroundings and I accept that the surrounding area can satisfactorily accommodate such a change as that which is now proposed. The appeal scheme would amount to a modest extension to the existing dwelling but it would provide useful additional space and would, thereby, add to the stock of residential accommodation in the locality, albeit in a very limited way.
13. In short, I have concluded that the project would not be in conflict with the national legislation or the Development Plan, in principle, and that it is acceptable in planning terms. I am persuaded that the scheme before me can properly be permitted and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
14. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal). Conditions are necessary, of course, to define the planning permission and to ensure that quality is maintained.

*Roger C. Shrimplin*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
  - drawing number 271 PL001 revision A (Site and Block Plans);
  - drawing number 271 PL100 revision B (Existing Plans);
  - drawing number 271 PL101 revision C (Proposed Plans);
  - drawing number 271 PL200 revision C (Existing Elevations);
  - drawing number 271 PL201 revision C (Proposed Elevations).
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.



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## Appeal Decision

Site visit made on 30 January 2023

**by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI**

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

**Decision date: 16 February 2023**

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**Appeal Ref: APP/J1915/D/22/3312681**

**Beards Oak, Ardeley, Hertfordshire SG2 7AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Hazel Georgiades against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1608/HH dated 27 July 2022, was refused by notice dated 6 October 2022.
  - The development proposed is two storey rear extension incorporating two rooflights, insertion of dormer window, alterations to front porch, creation of car port and alterations to fenestration.
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### Decision

1. The appeal is allowed and planning permission is granted for two storey rear extension incorporating two rooflights, insertion of dormer window, alterations to front porch, creation of car port and alterations to fenestration at Beards Oak, Ardeley, Hertfordshire SG2 7AN in accordance with the terms of the application, 3/22/1608/HH dated 27 July 2022, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, Drawing No's: 001 Rev P01, 002 Rev P01, 050 Rev P01, 100 Rev P01, 110 Rev P01, 120 Rev P01, 200 Rev P01, 210 Rev P01, 220 Rev P01 and 300 Rev P01.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the approved plans, identified in condition 2.

### Procedural Matters

2. The Council changed the description of development from that stated on the application form in the interests of clarity. I consider that the amended description accurately describes the appeal scheme and accordingly I have adopted the amended description in the heading above.

### Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area and the appeal property itself.

## Reasons

4. The site is within a predominantly residential area, in a rural location. Properties in the area vary in terms of form and design. The appeal property is located within a spacious plot, set back from the highway. There is a feeling of openness within the area which adds to the character of the appeal site.
5. The ground floor of the proposed rear extension would form an 'L' shaped addition to the property. Along with the car port a small part of the ground floor extension would have a green roof.
6. The proposed rear dormer addition would be large covering the majority of the rear roof slope adjacent the proposed two storey extension. Both the dormer and the two storey extension are slightly set below the ridge line of the existing property. The two storey extension and dormer would add considerable bulk to the existing property which is modest in scale.
7. The appeal proposal includes roof slates to match the existing property, dark grey metal to match the roof slates, and white lime wash to the existing property in line with the proposed development. The materials used for the development could be secured through the imposition of a planning condition. As a consequence, the property would be read as a whole and not as an extension to the existing property.
8. The proposed extension and additions at the rear of the appeal site would not be obvious in the streetscene, due to the design, materials, siting and screening of the site by a large existing outbuilding within the appeal site and landscaping the works.
9. The Council did not raise concerns with regard to the proposed alterations to fenestration, front porch and creation of a car port, from the information I have before me I do not disagree.
10. I find that the proposed development would not harm the character and appearance of the area nor the appeal property itself.
11. There is no conflict with Policies HOU11, DES4 and GBR2 of the East Herts District Plan (2018) which seek amongst other things to ensure development is of high standard of design appropriate to the character and context of an area.
12. There is no conflict with the National Planning Policy Framework (2021) which seeks amongst other things to ensure developments are of good design appropriate and sympathetic to their surroundings.

## Conclusion and Conditions

13. For the above reasons I conclude that this appeal should be allowed.
14. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.

*C Pipe*

INSPECTOR