



# Appeal Decision

Site visit made on 18 July 2023

**by K Allen MEng (Hons) MArch PGCert ARB**

an Inspector appointed by the Secretary of State

**Decision date: 8 September 2023**

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**Appeal Ref: APP/J1915/W/22/3309807**

**Land to the Front of Kemps Close, B1368 from its Junction with Hare Street Road to start of Dassels Hill, Hare Street SG9 0DZ**

- 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 Mulberry Tree Developments Ltd against East Hertfordshire District Council.
  - The application Ref 3/21/0701/FUL, is dated 26 March 2021.
  - The development proposed is the erection of 5 no. new dwellings (5 no. 3-bed terraced dwellings) with access, parking, and pedestrian pathway and associated works.
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## Decision

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

## Applications for costs

2. An application for costs was made by Mulberry Tree Developments Ltd against East Hertfordshire District Council. This application is the subject of a separate Decision.

## Procedural Matter and Main Issues

3. This appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission had it been able to do so. Although the Council have provided two suggested reasons for refusal, they encompass four areas of concern which are reflected in the following main issues:
  - the effect of the proposal on the character and appearance of the area, having particular regard to whether it would preserve the setting of the adjacent grade II listed buildings, Thatch Cottage and Kemps Cottage and the milestone opposite the post office;
  - the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook;
  - whether the proposal would provide satisfactory living conditions for its future occupants, with particular regard to outlook; and
  - the effect of the proposal on biodiversity and protected species.

## Reasons

### *Character and appearance*

4. Hare Street is a rural linear settlement, comprising road fronting properties, typically set in deep east to west plots. The surrounding dwellings are varied, with a mix of architectural styles, materials, and distances from the highway. Typically, properties either directly face the highway or are set back significantly within large verdant plots. Whilst it is common for vehicular access to be provided to the rear, each dwelling has an active frontage with front door.
5. The appeal site comprises a large area of open land with various trees and hedges next to open fields to the west and neighbouring properties in the north and south. A vacant bungalow at the rear of the site is accessed via a shared drive and a footpath which dissects the mature hedge adjacent to the highway.
6. The appeal site forms part of the setting of the adjacent grade II listed buildings Kemps Cottage and Thatched Cottage as well as the Milestone opposite the post office. Insofar as is relevant to this appeal, all three derive significance from their connection to the historical growth and development of the village, with the cottages deriving further significance from their architectural character.
7. The proposal would retain the majority of the mature hedge which fronts the appeal site. Whilst the proposed terrace would be visible within the street scene it would be set back from the existing building line. The proposal would be a compatible height within the surrounding context and would utilise local materials. Consequently, the proposal would preserve the setting and significance of the adjacent listed cottages and milestone.
8. The proposal would continue the linear pattern of development seen along the B1368. However, the proposed properties would not have front doors and would turn their back on the highway. Whilst the entrance and access to the dwellings from the rear has several benefits, including the provision of step-free access, the lack of functional relationship with the highway would appear incongruous within the street scene.
9. I note that the overall number of dwellings proposed has been reduced from the previous application<sup>1</sup>, however the number of dwellings on the east of the site has been increased. Whilst the proposed style of property would be in keeping with other terraces in the area, the appeal site would be more densely spaced with a large area of hardstanding, dominated by cars. In other words, the proposal would have a tighter grain than its surroundings and consequently, would appear cramped when viewed in relation to the adjacent low-density properties.
10. Although the proposal would preserve the setting and significance of the adjacent grade II listed buildings and milestone, I conclude that the proposal would harm the character and appearance of the area. The proposal would therefore conflict with Policies GBR2, VILL2 and DES4 of the East Herts District Plan (October 2018) (EHDP). Amongst other things these policies require that development is well-designed and appropriate to the character, appearance and setting of an area, whilst considering layout, siting, and density.

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<sup>1</sup> Application Reference 3/20/0663/FUL

*Living conditions – neighbouring occupiers*

11. I acknowledge that the existing bungalow to the rear of the site is in a state of disrepair and has not been occupied for a long period of time. Nonetheless, the proposal would retain the bungalow for residential occupation. The bungalow currently benefits from an open, verdant outlook in all directions over areas of tall grass.
12. The proposed access and parking areas would extend fully along the east and south elevations of the existing bungalow with minimal separation distance. Consequently, the outlook from the property would be harmfully reduced and dominated by large areas of hardstanding and cars, the majority of which would not be associated with the property in question.
13. Therefore, I conclude that the proposal would harm the living conditions of neighbouring occupiers, with particular regard to outlook, in conflict with Policies VILL2 and DES4 of the EHDP. Where collectively they require development to avoid detrimental impacts on the amenity of occupiers of neighbouring properties

*Living conditions – future occupiers*

14. The proposed dwellings would provide sufficient internal and external space, in line with national space standards. However, the terrace would be positioned extremely close to the existing/proposed hedge. Although the hedge would ensure privacy for the future occupiers and provide a green view. Due to the hedge's proximity and scale, the east facing rooms would have a limited, obscured outlook.
15. Overall, I conclude that the proposal would not provide satisfactory living conditions for its future occupants, with particular regard to outlook. The proposal would conflict with Policies VILL2 and DES4 of the EHDP where they seek to ensure development is well designed and considers amenity.

*Biodiversity and protected species*

16. The appeal site comprises an open area of rough grass land with several trees and hedges, adjacent to open fields. Further, several piles of rubble and garden waste are present on site.
17. The appellant asserts that ecological assessments were submitted with the application to the local planning authority and that the proposed site layout diminishes the need for ecological surveys. I acknowledge that the appeal site has reduced in size compared to the previous scheme and no longer includes works to the existing bungalow<sup>2</sup>. However, I have not been provided with any ecological surveys in relation to the proposal before me and having visited site, in the absence of substantive evidence to the contrary, I am satisfied that it could be of ecological value and capable of supporting protected species locally.
18. Consequently, due to lack of information I am unable to determine the effect of the proposal on biodiversity or protected species. As such, I must take a precautionary approach and find the proposal would conflict with Policy NE3 of the EHDP which requires development to demonstrate how biodiversity value will be improved and species of principle importance protected.

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<sup>2</sup> Application Reference 3/20/0663/FUL

## **Other Matters**

19. My attention has been drawn to other recent applications within Hare Street. However, there are fundamental differences to the appeal proposal, including the proposed layouts, access arrangements and site density, as such they are not comparable. I also acknowledge the comment with regard to the Council's handling of the proposals. However, I confirm I have determined the appeal on its planning merits.

## **Planning Balance**

20. The parties agree that the Council cannot demonstrate a five-year housing land supply as set out in the Framework. I have not been provided with any information as to the scale of the shortfall. Regardless, Framework paragraph 11d is engaged.
21. The Framework requires that developments add to the overall quality of the area, and are sympathetic to local character, whilst maintaining a strong sense of place. I have concluded that the proposal would appear cramped and incongruous within the street scene, harming the character and appearance of the area.
22. Further, the proposal would harm the living conditions of the occupiers of the existing bungalow and would not provide satisfactory living conditions for its future occupants with regard to outlook. This would conflict with the Framework where it requires development to create places with a high standard of amenity for existing and future users.
23. Insufficient information has been provided to determine the effect of the proposal on biodiversity or protected species. Consequently, the proposal would be in conflict with the Framework where it requires that development protects and enhances biodiversity and protects and recovers priority species. Therefore, the conflict between the proposal and Policies GBR2, VILL2, DES4 and NE3 of the EHDP should be given significant weight.
24. Nevertheless, the Framework seeks to boost the housing supply, whilst supporting development which makes efficient use of land. The proposal would make an efficient use of previously developed land, providing five additional dwellings within an accessible site and contribute towards the boroughs housing supply. However, five additional dwellings, would make little difference to the overall supply of housing, even if any shortfall in supply were significant. These benefits would be of moderate weight.
25. Short term employment would be provided during the construction and in the long term the future occupiers would benefit the local economy and community by helping to sustain the vitality and viability of the existing settlement. Residents would be encouraged to engage in outdoor activities creating healthy communities. However, the social and economic benefits of five additional dwellings would be modest and would attract limited weight.
26. The proposal would utilise energy efficient design and technologies and reduce water consumption. Whilst this is commendable and would accord with the Framework where it supports the reduction of greenhouse gas emissions and water consumption, details have not been provided of the proposed design strategies or technologies which would be used. Therefore, these benefits attract limited weight.

27. Consequently, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Therefore, the presumption in favour of sustainable development does not apply.

**Conclusion**

28. Overall, for the reasons given above, I conclude on balance that the proposal would conflict with the development plan as a whole, and there are no material considerations, including the provisions in the Framework and the benefits of the proposal, which indicate that the development should be determined other than in accordance with it. Therefore, the appeal is dismissed and planning permission is refused.

*K Allen*

INSPECTOR



## Costs Decision

Site visit made on 18 July 2023

**by K Allen MEng (Hons) MArch PGCert ARB**

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

**Decision date: 8 September 2023**

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### **Costs application in relation to Appeal Ref: APP/J1915/W/22/3309807 Land to the Front of Kemps Close, B1368 from its Junction with Hare Street Road to start of Dassels Hill, Hare Street SG9 0DZ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mulberry Tree Developments Ltd for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of 5 no. new dwellings (5 no. 3-bed terraced dwellings) with access, parking, and pedestrian pathway and associated works.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
3. The appeal against which the costs claim has been made involved the failure of the Council to give notice within the prescribed period of a decision on the application for planning permission. The claim is made on procedural grounds.
4. The applicant's cost claim states that the Council acted unreasonably in the way that it determined the application, and that the Council did not work positively and proactively with the applicant to determine the application in a timely manner.
5. While I understand the applicant's frustrations that the application was not determined within the statutory period and that the communication during the applications process was poor. The applicant indicates that they were made aware of staffing issues during the determination period and sought to progress the application via the Council's complaints process.
6. The PPG makes it clear that costs cannot be claimed for the period of time during the determination of the planning application. After the appeal was lodged the council provided grounds on which they would have refused the proposal had they determined it. Further, the Council provided an analysis of the proposal including clear reasoning and highlighting the relevant

development plan policies. There is no evidence within the claim of unreasonable behaviour by the Council at the appeal stage.

7. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

*K Allen*

INSPECTOR



## Appeal Decision

Site visit made on 10 October 2023

**by B Plenty BSc (Hons) DipTP MRTPI**

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

**Decision date: 25<sup>th</sup> October 2023**

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**Appeal Ref: APP/J1915/W/22/3309640**

**Bishops Stortford Community Sports Club, Cricketfield Lane, Bishops Stortford, Herts CM23 2TD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Bishops Stortford Community Sports Club against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/2523/FUL, dated 30 September 2021, was refused by notice dated 18 July 2022.
  - The development proposed is Extensions, Refurbishment and Part Change of Use (F2(b)/Sui Generis to C3-Groundsman's Flat) to Charles Edwards Community Pavilion, Extension to Carpark and Extension to Cricketers Changing Pavilion (to form Umpire changing facility).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Appellant asserts that the description of development was changed by the Council without the agreement of the Appellant. As the Appellant's description provides a clear and complete description of the proposed development, I have used the original description as found on the application form.
3. The Bishops Stortford Neighbourhood Plan 2014-2033 (NP), for Silverleys and Meads Wards, includes policies that support sports facilities. NP policies SP1 and SP2 supports the expansion of multi-purpose facilities. The NP is being reviewed.
4. Paragraph 48, of the National Planning Policy Framework (the Framework), allows me to assign weight to policies in emerging plans based on the stage of preparation of the plan, the extent of unresolved objections and the degree of consistency with the Framework. The Bishops Stortford Neighbourhood Plan 2021-2033, first revision, (NP2) is at Final Examination Stage. NP2 policy SLCP5 supports the development of sports facilities in the Green Belt, subject to such facilities being harmonious with the surrounding landscape and therefore consistent with the Framework. Due to its stage of development, and based on the evidence submitted, this emerging policy carries moderate weight in the decision-making process.



## **Main Issues**

5. The main issues are:

- whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect on the openness of the Green Belt;
- The effect of the proposal on highway safety; and
- if the proposal would be inappropriate development, whether any harm is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

## **Reasons**

### *Inappropriate development*

6. The appeal site is within the Green Belt. Policy GBR1, of the East Herts District Plan [2018] (DP), states that planning applications for development within the Green Belt will be considered in line with national policy. Paragraph 149, of the Framework, establishes that buildings in the Green Belt would be inappropriate unless they would meet a listed exception. Paragraph 149(b) explains that the provision of appropriate facilities for outdoor sport and recreation would not be inappropriate provided it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
7. The proposal includes an extension to the Charles Edwards Community Pavilion (CECP) and a small addition to the Cricketers' Changing Pavilion. The CECP consists of a series of two-storey and single storey flat roofed buildings that have been adapted, expanded, and connected over time creating a floorspace of around 500sqm. The proposed extension would consist of ground floor and first floor additions and add further floorspace of about 1,209sqm. The addition would represent a sizeable floorspace increase to the building.
8. The Council has found that the members' area, internal re-organisation of the kitchen, bar and bar store, expansion of changing areas, function room and refuse area and lobby, covering all works at ground floor would be a suitable expansion to a sports facility. Furthermore, the reconfiguring of the viewing area, male and female WC, office, committee room and roof terrace would also be suitable development as these would support the existing cricket activity. Moreover, the Cricketers' Pavilion would be increased by around 11sqm, representing a small and proportionate addition to this building. Therefore, most of the proposed facilities would be in support of outdoor sport and recreation, and I see no reason within the evidence to disagree with the Council's conclusions on these matters. Accordingly, these elements, being associated with outdoor sport, would not be inappropriate development by paragraph 149(b) of the Framework.
9. However, the proposed extension to the CECP would include a two-bedroom Groundsman's flat. This would not be directly related to the provision of

outdoor sport and recreation and therefore cannot be an element that complies with the exclusions of paragraph 149(b) of the Framework, rendering the proposal as a whole as being inappropriate development.

10. Paragraph 149(c), of the Framework, explains that the extension or alteration of a building would not be inappropriate provided that it would not result in a disproportionate addition over and above the size of the original building. The glossary defines the original building as the building as it existed on 1 July 1948 or if constructed after 1 July 1948 as it was built originally. It appears that the squash courts were added to the pavilion following their approval in 1977. As such, the original building (prior to the addition of the squash courts) would have been substantially smaller than is seen today.
11. The Framework does not define 'disproportionate'. As such, consideration of proportionality is a matter of planning judgement taking into account a range of factors including a proposal's height, floorspace, volume, design and the configuration of the plot. The size of the proposed extension to the CECP would be substantial. As such, whilst largely located to the side of the existing building, the proposal would be of a significant scale in width, depth and overall size in consideration of the size of the original building. Therefore, the proposal in combination with the previous addition of the squash courts, would amount to a disproportionate addition to the size of the original building in conflict with paragraph 149(c).
12. As it has not been demonstrated that the proposal, in its entirety, would be any of the exceptions listed in Paragraph 149 of the Framework, it would amount to inappropriate development in the Green Belt.

#### *Effect on openness*

13. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and its essential characteristics are therefore its permanence and openness. Considerations of openness have both visual and spatial aspects. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. The appeal site is adjacent to the settlement boundary and is relatively well enclosed by mature tree and hedge boundary screening. Also, the site slopes from east down towards the west of the site, with the existing building nestled within a substantial slope. As a result, the site is relatively well enclosed taking the site context into account.
14. The additions to the CECP would be substantial. However, most of the two-storey section would be to the side of the CECP, within a gap between it and the Cricket Pavilion. Also, the existing building is relatively bulky and as such within this context the proposed additions would not be especially obtrusive. Further, the proposed extensions would be partially screened by the existing building from highway views, limiting its overall visual effect. Consequently, the proposal would have a limited visual effect on the openness of the Green Belt.
15. Nonetheless, whilst I have taken into account the limited views of the main mass of the proposal, the scheme would in spatial terms, result in a substantial additional mass to the CECP resulting in modest harm to the openness of the Green Belt. As a result, it would encroach further into the Green Belt in conflict with a key purpose of the Green Belt.

### *Highway safety*

16. Cricketfield Lane is a relatively wide highway, serving local traffic needs. The highway is subject to some parking restrictions with double yellow restrictions. Nonetheless, parking bays and some unrestricted parking is also evident around the site's entrance that could accommodate overspill parking. Also, most local housing includes on plot parking, reducing on-street parking demand. During my visit, in the daytime, I observed that unrestricted on street parking was locally available. Whilst demand would be greater at weekends, and in the evenings, I anticipate that spaces would remain available and I have seen no evidence to dissuade me of this view.
17. The proposal includes the reconfiguring of the car park to accommodate 32 vehicles, an increase of 6 spaces, which would be a relatively modest increase. However, the Council has not demonstrated that the facility currently creates on street parking problems. It has not identified where any on street pressure points have, or would lead to, highway safety concerns. Furthermore, the on-street parking restrictions would prevent a concentration of parking around the sites entrance which might otherwise cause congestion.
18. Accordingly, based on the submitted evidence, it has not been demonstrated that the level of proposed parking would result in an adverse effect on the free flow and safe operation of the adjacent highway. As such, the proposal would comply with DP policy TRA3, which *inter alia* seeks development to provide integrated parking in a safe and secure environment.

### *Housing land supply position*

19. The Council has stated it does not have a 5-year Housing land Supply, with a provision of around 4.41 years. As such, paragraph 11(d) of the Framework is engaged. Paragraph 11(d) states that where policies which are most relevant in the determination of out of date (including when dealing with applications involving the provision of housing) permission should be granted. This is unless, the application of policies in the Framework, that protect areas or assets of particular importance provides a clear reason for refusing development proposed. At footnote 7 this identifies protected areas as including development within the Green Belt.

### *Other Considerations*

20. Most of the proposed works would directly improve the existing sports facility and I note that Sport England support the scheme. Furthermore, DP policy CFLR1 supports the retention, enhancement of existing sport and recreation facilities. Also, DP policy CFLR7 supports the expansion of community facilities subject to it being in a sustainable location and of an appropriate scale to meet the needs of users and be of flexible design to enable multiple uses throughout the day. Further support is conveyed by NP policies SP1 and SP2 and NP2 policy SLCP2. The benefits of the enhanced facility weigh strongly in favour of the proposal and where the Framework recognises that sport and physical activity is important for the health and well-being of communities.
21. The Appellant states that the Community Sports Club provides a facility for the cricket club, tennis club and squash club, which are all long established on site, with a combined membership of around 1200 adult and junior members.

Accordingly, the facility is popular, and improvements would benefit a wide section of the local community.

22. The Appellant identifies that the building is outdated and has not been materially improved in over 40 years. This results in a roof that leaks requiring frequent maintenance and the building having poor thermal insulation. Also, it is stated that the bar and venue is too small and cannot cope in the summer when demand is high, there are too few toilets, and the décor is outdated. Most of these issues are a matter of general maintenance and can be addressed without needing to extend. However, I am sympathetic to existing capacity difficulties which weigh in favour of the proposal.
23. Two appeals<sup>1</sup> were allowed for two padel courts and one for courts and a canopy in a site just to the west of the clubhouse last year. The Inspector found that whilst the proposal caused some harm to the openness of the Green Belt, the health-related benefits of the scheme would clearly outweigh the harm. Although each case must be considered on its own merits, these decisions are for a different range of facilities that prevents any commonality being found between them and the proposal.
24. The Appellant's evidence also refers to two planning approvals for groundskeeper's dwellings within the Green Belt and an appeal decision in 2011 for a manager's dwelling in the Green Belt. The appeal decision recognised that the security benefits of the proposal outweighed any harm. However, whilst I recognise that security issues can be of substantial weight in favour of a proposal each case must be considered on its own merits.
25. The Appellant explains that the Groundsman's flat is an integral part of the proposal. It is needed to attract a suitable caretaker and an on-site presence is required to provide on-site security. The Appellant identifies the dwelling as a small flat to fulfil as specific functional requirement of the facility. The club consider that the site is relatively exposed, and has been subject to break-ins, theft, and arson over the years. Whilst measures to improve security would comply with DP policy DES5, insufficient evidence has been provided to substantiate that either crime and anti-social behaviour is a frequent issue on site or evidence that a 24/7 presence would materially reduce such activity.
26. It has not been demonstrated why an on-site residential presence is essential for the proposal or the club. The Appellant has not explained why accommodation within the adjacent town would not address this requirement. Furthermore, a condition limiting the dwelling to only be used by an employee and his/her family would not resolve the policy objection to the scheme. This is because the dwelling would achieve the sought security presence irrespective of whether they act as caretaker or not and this would not resolve the policy objection.
27. The Appellant indicates that the proposal would include improved insulation, compared to the existing structure, and a ground source heat pump, solar/voltaic panels and a green roof. These improvements are welcomed but only convey limited weight in favour of the proposal.
28. The clubhouse was subject to planning approval for an extension in 2003. This appears to be, in part, similar to the current proposed extension to the CECP in

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<sup>1</sup> Planning Appeal References: APP/J1915/W/21/3272506 and APP/J1915/W/21/3275195

that it included additional toilets, changing rooms and function room. However, this did not include a dwelling and, in any event, has lapsed unimplemented. Therefore, it is of very limited weight in my consideration of the merits of the current proposal.

*Whether there would be Very Special Circumstances*

29. Paragraphs 147 and 148 of the 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 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 that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in modest harm to the openness of the Green Belt and would result in encroachment. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
31. On the other hand, it has been demonstrated that most of the proposed additions would support outdoor sport and would not be inappropriate development. Furthermore, the proposed dwelling may improve on site security and the overall scheme would significantly improve a dated but popular sports facility with energy benefits. However, these matters are of limited to moderate weight in favour of the proposal. Accordingly, in these specific circumstances, I consider that the harm to the Green Belt provides a clear reason to refuse the proposal which is not clearly outweighed by other considerations and therefore the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to DP policy GBR1 and NP2 policy SLCP5, and the national Green Belt policies I have already outlined.

**Conclusion**

32. The proposed development would not accord with the development plan or national policy and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*B Plenty BSc (Hons) DipTP MRTPI*

INSPECTOR



## Appeal Decision

Site visit made on 22 August 2023

**by R Bartlett PGDip URP MRTPI**

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

**Decision date: 12<sup>th</sup> October 2023**

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### **Appeal Ref: APP/J1915/W/23/3316579**

#### **Land north of St James Way and west of Thorley Street, Bishops Stortford**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of reserved matters consent subject to conditions.
- The appeal is made by Wrenbridge (FEOF V Bishops Stortford) LLP against the decision of East Hertfordshire District Council.
- The application Ref 3/22/0510/REM, dated 2 March 2022, was approved on 25 August 2022 and reserved matters consent was granted subject to conditions.
- The development permitted is approval of reserved matters for layout, scale, appearance and landscaping of 3/21/1749/VAR (approved under outline planning 3/18/2253/OUT) for E(g)(ii), E(g)(iii), B2 and B8 uses including servicing, landscaping, means of enclosure and associated works and infrastructure.
- The condition in dispute is No.4, which states that: Prior to occupation of the first unit hereby approved, a Servicing and Delivery Plan shall be submitted to the Local Planning Authority for approval in writing in consultation with the Highway Authority. The Servicing and Delivery Plan shall contain details of:
  - the delivery and servicing arrangements (including refuse storage and collection) for the proposed units,
  - areas within the development site that will be used for loading and manoeuvring of delivery and servicing vehicles,
  - access to / from the site for delivery and servicing vehicles,
  - the HGV plan and routing register to be kept by all occupiers to evidence that HGVs visiting the site have travelled via the A120, Bishops Park Way and St James Way when travelling to and from the M11 and A10 (unless otherwise making a delivery to the town itself),
  - how the landowner will communicate the provisions and responsibilities of the Servicing and Delivery Plan to future occupiers to ensure they are complied with in perpetuity.

The development shall be implemented in accordance with the details approved.

- The reason given for the condition is: In the interests of maintaining highway efficiency and safety; in accordance with Policies 5 and 16 of Hertfordshire's Local Transport Plan (adopted 2018).
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### **Decision**

1. The appeal is allowed and the reserved matters consent Ref 3/22/0510/REM for approval of reserved matters for layout, scale, appearance and landscaping of 3/21/1749/VAR (approved under outline planning 3/18/2253/OUT) for E(g)(ii), E(g)(iii), B2 and B8 uses including servicing, landscaping, means of enclosure and associated works and infrastructure, at Land north of St James Way and west of Thorley Street, Bishops Stortford, granted on 25 August 2022, by East Hertfordshire District Council, is varied by deleting condition 4.

## Background and Main Issues

2. The appeal site is allocated under Policy BISH5 of the East Herts District Plan (adopted October 2018) as forming part of a major mixed use urban extension, comprising, amongst other things, 4-5 hectares of new employment land. The site also has outline planning permission, including permission for means of access, for up to 4 hectares of employment land, comprising a mixture of B1, B2 and B8 uses and a car showroom.
3. The appellant is seeking a variation of the disputed condition that reflects the wording that was agreed with Officers and was set out in the Officer report and recommendations, before the Planning Committee resolved to impose an amended condition, which the appellant had no opportunity to make representations upon.
4. In reaching my decision I must have regard to the relevant legislation and guidance regarding planning conditions. The reserved matters being considered in this case are layout, scale, appearance and landscaping. The Planning Practice Guidance (PPG) relating to the use of planning conditions, states at Paragraph:025 Reference ID: 21a-025-2014036 that: "*The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters. Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted.*" The views of the two main parties have been sought on the relevance of this guidance to the appeal and I have taken these comments into account in reaching my decision.
5. The main issues are therefore whether the condition is reasonable and necessary having regard to the scope of the reserved matters approval, and if so, the effect of varying or deleting the condition on highway efficiency and safety.

## Reasons

### *Whether the condition falls within the scope of the reserved matters*

6. The condition in dispute requires a servicing and delivery plan to be submitted to and approved in writing by the local planning authority prior to the occupation of the first unit on the site. The condition includes a list of the details that should be included within this plan.
7. Details identifying how and where refuse will be stored and collected, and identifying areas within the site to be used for the loading and manoeuvring of delivery and servicing vehicles, are relevant in terms of considering the layout and appearance of the site. However, I note that the submitted plans identify space for the storage of waste and recycling bins within the curtilage of each unit. The submitted plans also show that there would be space to the front of each unit to enable the loading and unloading of servicing and delivery vehicles, including associated manoeuvring space, without obstructing the highway. As such, having regard to paragraph 56 of the National Planning Policy Framework (the Framework), which makes clear that planning conditions should be kept to a minimum, and only used where they meet the relevant tests, I consider it unnecessary to condition the submission of further details in relation to these matters.

8. The condition also seeks details of access to and from the site for delivery and servicing vehicles. The evidence before me confirms that means of access to the site was approved alongside the outline planning permission and is not a reserved matter. The plans submitted with the reserved matters application clearly identify satisfactory means of vehicular access to and from each individual unit within the site. The submitted plans show a single means of access to and from the site, via a new roundabout on the A1184 St James Way. The roundabout and initial site access were already in place at the time of my site visit. Given the nature of this previously approved new access road, which is designed to cater for this type and scale of development, I consider it unnecessary to condition the submission of further details regarding access to and from the site for delivery and servicing vehicles.
9. The condition also seeks to secure a HGV plan and routing register, together with details of how the land owner would communicate the provisions of this to future occupiers of the development, to ensure it is complied with in perpetuity. The condition states that the plan should ensure that HGVs travelling to and from the appeal site to and from the M11 and A10, do so via the A120, Bishops Park Way and St James Way (unless otherwise making a delivery to the town itself), in the interests of highway efficiency and safety.
10. The principle of a major employment development in this location, and its associated traffic implications, will already have been extensively considered and accepted, prior to allocating the site for this form of development and again prior to granting outline planning permission, including means of access. The routing of HGV traffic outside of the appeal site, apart from being incredibly difficult to enforce, would not in my view fall within the scope of the matters reserved for consideration under this application or appeal.
11. I therefore conclude that the condition in dispute is not directly relevant to the reserved matters and consequently, my deletion of the condition would not conflict with Policies 5 and 16 of the Hertfordshire Local Transport Plan (2018), which seek amongst other things to limit the impacts of development on the transport network and to encourage HGVs to use the primary route network.
12. As I have found that the condition in dispute falls outside of the scope of the reserved matters, it is not necessary for me to consider the Council's reasoning behind it further. Whilst I have considered the variation of the wording of the condition as suggested by the appellant and previously recommended by Officers, this would also fall outside of the scope of the reserved matters and would fail the relevant tests for conditions.

### **Other Matters**

13. A large number of objections have been received in relation to the variation or deletion of the condition in dispute. These relate primarily to concerns regarding highway safety (including the safety of pedestrians and cyclists), air quality concerns, noise, vibration and damage to local buildings and infrastructure, due to increased HGVs travelling along the A1184 (to the south of the appeal site) through Sawbridgeworth and Spellbrook. Despite being a classified A road, I am advised that this route passes schools and residential areas and is already heavily congested, has poor air quality, and that the road and footpaths are narrow in parts.



14. Whilst I acknowledge and have had regard to all of the concerns raised, and fully understand the reasoning behind them, the condition in dispute was imposed purely on highway safety and efficiency grounds and falls clearly outside of the scope of the reserved matters that are up for consideration as part of this stage of the proposal.
15. There is also no evidence before me to suggest that the reserved matters proposal falls outside the parameters agreed by the outline planning permission.

**Conclusion**

16. For the reasons given above, I conclude that the appeal should succeed. I will vary the reserved matters consent by deleting the disputed condition.

*R Bartlett*

INSPECTOR



## Appeal Decision

Site visit made on 29 August 2023

**by R Hitchcock BSc(Hons) DipCD MRTPI**

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

**Decision date: 07 September 2023**

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### **Appeal Ref: APP/J1915/X/22/3301570**

### **42 Bell Lane, Widford, WARE, SG12 8SH**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Dean Butti against the decision of East Hertfordshire District Council.
  - The application ref 3/22/0543/CLPO, dated 14 March 2022, was refused by notice dated 1 June 2022.
  - The application was made under section 192 of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is the erection of solar panels.
- 

### **Decision**

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing the proposed operation which is found to be lawful.

### **Preliminary and Procedural Matters**

2. The description of development appearing in the banner heading above is taken from the Council's Decision Notice. This is because although the application referenced the 'installation of PV cell array 12 panel over existing roof', section 8 of the application form was incomplete.
3. The Council's Decision Notice refers to conflicts with limitation A.1.(c) and Conditions A.2.(a) and (b) of Class A of Part 14 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO). However, subsequent to a shift in the Council's understanding of limitation A.1.(c) and an associated interpretation of Condition A.2.(a), the Council have confirmed in writing that they do not wish to contest the appeal.
4. The reference to Condition A.2.(b) in the Decision Notice is not, however, addressed in the Council's submission. I return to this matter below.
5. The Council confirm that they have since approved a second application for the development of the installation of '12 PV cells to shallow pitched concrete tiled roof' (application ref. 3/22/1417/CLPO refers); nevertheless, I shall proceed to consider the LDC as applied for.
6. At my site visit I saw that some solar panels had been installed on the building. It is unclear as to when this took place. For the avoidance of doubt, my assessment is based on the information provided to the Council and whether or not the proposed development would have been lawful or not at the date of the application.

## **Main Issue**

7. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. That turns on whether the proposed development would constitute permitted development by virtue of the provisions of Article 3(1) and Class A of Part 14 of Schedule 2 of the GPDO.

## **Reasons**

8. The appeal site consists of an extended detached bungalow bordered by gardens. The principal elevation of the building faces on to Bell Lane; Ware Road lies to the rear. The site lies within a Conservation Area.
9. The development shown on the submitted plans consists of an array of 12 connecting solar panels set in 2 rows to the western side of the front roof slope of the bungalow.
10. Class A of Part 14 of the GPDO allows for the 'installation or alteration etc of solar equipment on domestic premises'. This is subject to certain specified restrictions and conditions. There is no evidence before me to suggest that the dwelling in question does not benefit from the provisions of the GPDO.
11. There is now no dispute between the main parties that the proposed installation would meet the specified restrictions in paragraph A.1 of Class A, including limitation A.1.(c). This concerns wall-mounted equipment and applies to sites within a Conservation Area. However, as the proposal is for roof-mounted equipment, in agreement with the Council's revised position, I am satisfied that the proposal is not caught by the A.1.(c) limitation.
12. Condition A.2.(a) requires that the equipment is, so far as practicable, sited to minimise its effect on the external appearance of the building. The GPDO does not provide a definition for the term 'so far as practicable'. Ordinary definitions of the term 'practicable' include 'able to be done or put into practice successfully' and 'able to be used; useful'. Additionally, ordinary definitions of 'minimise' include 'reduce something to the smallest possible amount or degree'.
13. The front roof slope is roughly south-facing. To facilitate successful use of the solar panels their siting would be best placed on this roof slope where their orientation and inclination would maximise solar input. Although this forms part of the building's frontage, the panels are shown clustered to the western side of the roof. Here they would benefit from the highest degree of the site's enclosure by a tall evergreen boundary hedge to the Bell Lane frontage and vegetation along the site's western boundary.
14. Fronting on to the more minor of the flanking roads, only limited glimpses of the panels would be visible from the open driveway entrance and across the more-sparsely vegetated eastern boundary. Accordingly, I find the panels would be positioned to minimise the effect on the external appearance of the building.
15. For those reasons, and that the proposed position closer to the centre of the site would maximise the distance from nearby houses on the northern side of Bell Lane and offset the panels from the principal views and outlook from the nearest property on the opposite side of the road, I find that, so far as

practicable, the equipment would be sited so as to minimise its effect on the amenity of the area. This would meet the requirement of Condition A.2(b).

16. For completeness, Condition A.2(c) requires that the equipment is removed as soon as reasonably practicable when no longer needed. The application form confirms that the proposed operation of the panels would be temporary. Their removal when no longer required was subsequently confirmed by the appellant in correspondence with the Council on 5 June 2022. Accordingly, I find there would be no reason to anticipate conflict with that condition of the Class A provisions.

### **Other Matters**

17. I note the frustrations expressed by the appellant in relation to the level of engagement by the Council prior to determination of the application. However, this is not a matter for my considerations as part of an appeal under section 195 of the 1990 Act as amended.

### **Conclusion**

18. For the reasons given above I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful development was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*R Hitchcock*

INSPECTOR

# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 14 March 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed operations would constitute permitted development within the terms of Schedule 2, Part 14, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Signed

*R Hitchcock*

Inspector

Date: 07 September 2023

Reference: APP/J1915/X/22/3301570

## ***First Schedule***

The erection of solar panels.

## ***Second Schedule***

Land at 42 Bell Lane, Widford, WARE, SG12 8SH

IMPORTANT NOTES – SEE OVER

## NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



## Plan

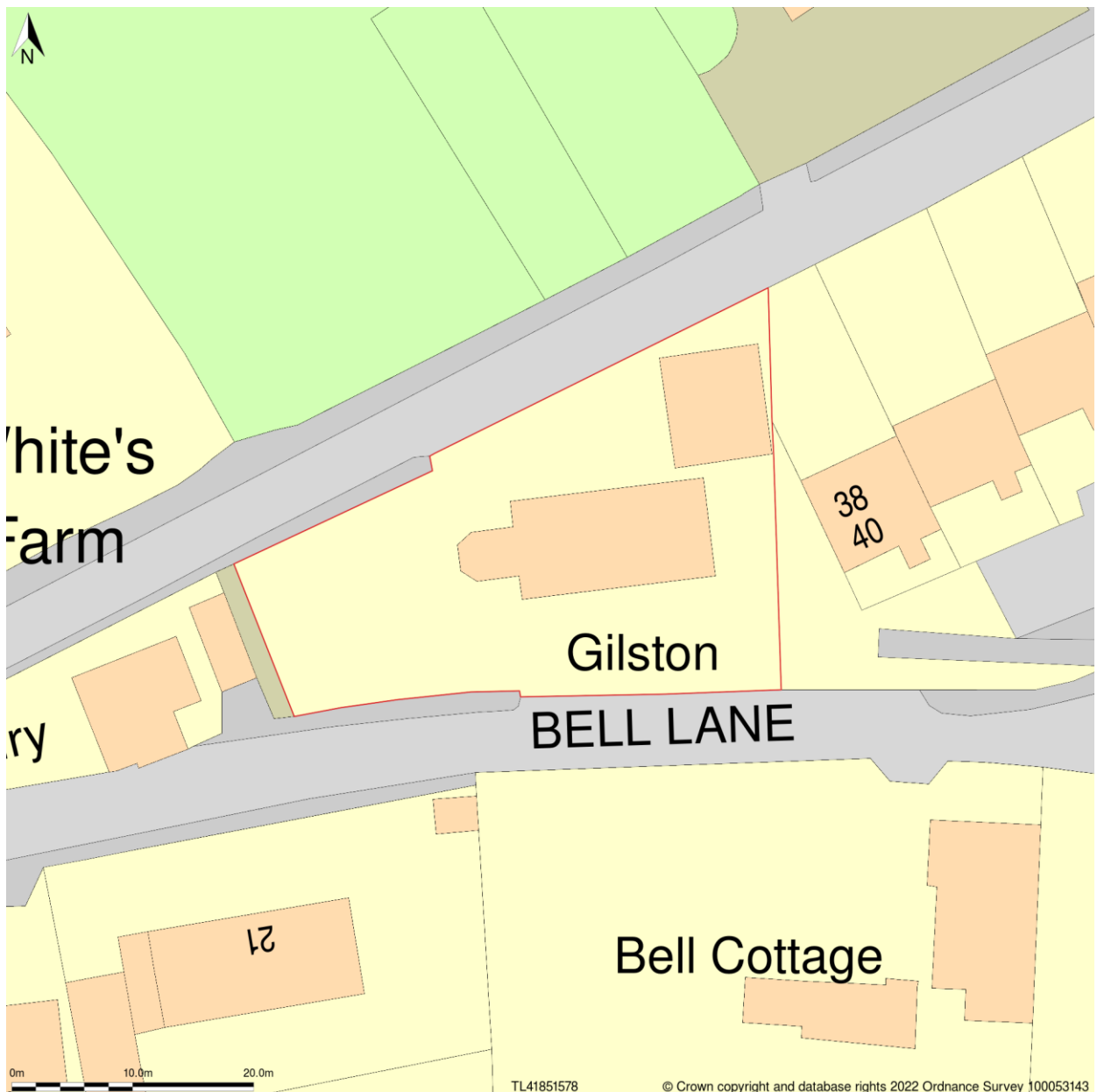
This is the plan referred to in my decision dated: 07 September 2023

by **R Hitchcock BSc(Hons) DipCD MRTPI**

**Land at: 42 Bell Lane, Widford, WARE, SG12 8SH**

**Reference: APP/J1915/X/22/3301570**

Scale: not to scale





# Appeal Decision

Site visit made on 12 September 2023

**by Nick Bowden BA(Hons) Dip TP MRTPI**

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

**Decision date: 25 September 2023**

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**Appeal Ref: APP/J1915/Z/23/3319994**

**34 Amwell End, Ware, Hertfordshire SG12 9HW**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Betting Shop Operations Limited against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1842/ADV, dated 30 August 2022, was refused by notice dated 14 February 2023.
  - The advertisement is 2 internally illuminated fascia signs.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the signs on the amenity of the area including the Ware Conservation Area (CA).

## Procedural Matters

3. The parties have drawn my attention to the policies considered to be relevant to this appeal and I have taken them into account. However, powers under the Control of Advertisements Regulations may only be exercised in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
4. The Council does not raise any objections to the signage on public safety grounds and I see no reason to disagree.

## Reasons

5. The site forms a mid-twentieth century extension to a parade of shops addressing the corner of Amwell End and is within the Ware CA.
6. The position of the site within the CA means that S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies. Therefore special attention should be paid to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA is the concentration of historic buildings at the core of Ware. This part of the CA does contain a number of historic buildings where are of relatively modest scaled two and three storey buildings under tiled roofs. There is however evidence of more modern infill development including a larger redevelopment to the north. Many of the retail units to older buildings feature traditional style shop frontages with stall risers and panelled glazing. Advertising signage to shops remains relatively low key



- within the area, is sometimes in a traditional handwritten lettering, and almost universally non-illuminated or externally illuminated.
7. The fascia signs are black and green and internally illuminated. The internal illumination of the signs at the appeal site are quite jarring by comparison to other adverts nearby. The proposal would be harmful to the amenity of the area by reason of the size of the signage, manner of internal illumination and position on prominent corner. They cause harm, albeit less than substantial harm and fail to preserve or enhance the character or appearance of the CA.
  8. I have had regard to previous decisions referenced by the appellant. I note that these were considered under a differing policy framework and the signage was externally illuminated and is therefore materially different.
  9. I have further noted other signage along Amwell End referred to in the appellant's evidence. From my site visit, these all appear to be non-illuminated or externally illuminated. The adverts at 'Fuoco's' and 'The Lighthouse' appear to be externally backlit individual letters and non-illuminated respectively. They are therefore not directly comparable. In any case, they are both set within the profile of the new building to the north of the site and seen in a different context.
  10. A lack of street lighting on this corner has been nominated as a public benefit, however this could be more practicably resolved through adding additional lighting columns or improving and existing street lighting. No evidence has been provided to me that would suggest additional lighting would enhance public safety, nor that this is a concern in any case.
  11. In conclusion, the fascia signs are detrimental to the amenity of the area and fail to preserve or enhance the character or appearance of the Ware CA. The signs do not accord with policies HA1, HA4 and HA6 of the East Herts District Local Plan 2018 of which Policy HA6(b) specifically notes that internally illuminated signs within the CA will not be permitted.

### **Conclusion**

12. For the reasons given above the appeal is dismissed.

*Nick Bowden*

INSPECTOR



## Appeal Decision

Site visit made on 21 August 2023

**by R Bartlett PGDip URP MRTPI**

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

**Decision date: 21<sup>st</sup> September 2023**

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### **Appeal Ref: APP/J1915/W/22/3313455**

#### **4 Rushleigh Green, Bishop's Stortford, CM23 4JH**

- 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 James Groom against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1899/FUL, dated 8 September 2022, was refused by notice dated 23 November 2022.
  - The development proposed is change of use of amenity land to residential garden. Demolition of porch, erection of two storey side extension and porch to front.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for change of use of amenity land to residential garden. Demolition of porch, erection of two storey side extension and porch to front, at 4 Rushleigh Green, Bishop's Stortford, CM23 4JH, in accordance with the terms of the application, Ref 3/22/1899/FUL, dated 8 September 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: AZ/RG4/PL/001, AZ/RG4/PL/005, AZ/RG4/PL/006 and AZ/RG4/PL/007.
  - 3) The external surfaces of the extensions hereby permitted shall be constructed in materials that match those of the existing dwelling.
  - 4) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall: i) identify the existing landscaping to be retained and set out measures for its protection throughout the course of development; and ii) include planting plans and a schedule of planting, noting species, planting sizes and proposed numbers/densities. The new landscaping works shall be carried out in accordance with the approved details within the first available planting season following the change of use and enclosure of the garden extension.
  - 5) Any trees or plants forming part of the approved soft landscaping works, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

## **Preliminary Matters**

2. The description of development on the application form states: "*change of use of amenity land to residential curtilage*". As curtilage is not a use of land, I have amended this part of the description to: "*change of use of amenity land to residential garden*".
3. The Council does not object to the design or scale of the proposed two-storey side extension or to the replacement porch, which I note would both be located within the existing curtilage of the dwelling. As such I have not considered these matters further.

## **Main Issues**

4. The main issues are the effect of the development on i) the character and appearance of the area and ii) trees that are protected by a Tree Preservation order (TPO).

## **Reasons**

### *Character and appearance*

5. The appeal site comprises a two-storey end of terrace dwelling, with a detached garage to the front, and private garden space to the front, side and rear. The side and rear garden areas are bound by a brick wall. Beyond the wall there is a small area of soft landscaping, which forms a buffer between the existing garden boundary, the adjacent shared parking court and the public footpath to the rear of the site.
6. It is proposed to extend the existing garden into the adjacent area of land to the side, which is owned by the appellant. I am advised that this area is shown as a landscaped area on the original planning permission for the housing estate, and that a condition exists to protect this. I have not been provided with a copy of the original planning permission, any plans identifying landscape areas, the full conditions or the reasons for them. I have also not been made aware of any conditions relating to landscape maintenance or management.
7. From the evidence before me, the landscaped area is not being managed or maintained in the public interest. Given its size, and its private ownership, the current use of the land is of very limited public benefit. Although the existing greenery creates a break between buildings and softens the appearance of the adjacent boundary wall and car parking area, the use of the land as garden, with some retained and some additional new landscaping, would achieve the same.
8. It is proposed to enclose the extended garden area with 1.8-metre-high close boarded fencing. The fencing would be inset from its two boundaries adjacent to the car parking area, enabling the retention of some of the existing vegetation, which would soften its appearance. A new area of planting is also proposed to the front of the side extension, which would replace the gravel area to the front of the existing boundary wall. Landscaping details can be agreed and secured by appropriate planning conditions.
9. I saw many fences similar to that proposed in visually prominent locations in the immediate surrounding area. There are other fences hard up to the edge of public footways adjacent to the gardens of 5 and 11 Rushleigh Green and to

the rear of 12-19 Rushleigh Green. Fences along the rear gardens of other houses on Rushleigh Green, which back onto Friedberg Avenue are set back from the road and have soft landscaping adjacent to them.

10. I note that the supporting text to local plan policy NE4 states that gardens also contribute to urban green infrastructure. Consequently, the change of use of this small privately owned amenity space to private garden, which would continue to contribute to the landscape and biodiversity value of the area, would have a negligible effect on the wider green infrastructure network.
11. I therefore conclude that the proposal would not be harmful to the character and appearance of the area. It would therefore accord with Policies HOU12, NE4, DES4 and DES3 of the East Herts District Plan (October 2018), which seek amongst other things to ensure the enclosure of amenity land and changes of use to residential garden, would not have an adverse effect on the surrounding area and landscape, and would include appropriate landscaping and boundary treatment.

#### *Protected trees*

12. The nearest protected trees are a Beach Tree (T33), which is to the front of 11 Rushleigh Green, a Lime Tree (T34), which is located behind the garage in front of 4 Rushleigh Green, and the group of trees (G16), which are located along the opposite side of the public footpath that runs behind the appeal property.
13. The front porch extension would replace an existing porch of similar size and in the same position. It would be no closer to any protected trees. The two-storey side extension would be set back from the front elevation of the existing dwelling and would be in line with the existing rear elevation. Due to the orientation of the building, the footway and the landscape belt running alongside it, the rear corner of the extension would be slightly closer to the group of protected trees than the existing dwelling. I note that adjacent Nos. 5 and 6 Rushleigh Green are located much closer to the trees, as are various brick outbuildings.
14. The trees located on the opposite side of the footway to the site are relatively small. The canopy of one of the larger hedgerow trees, which is leaning towards the site, is just above the site boundary. The proposed extension would be set in some distance from this boundary.
15. Given the size and nature of these trees, their distance from the proposed extension and the intervening areas of hardstanding, the proposal would be unlikely to have any adverse impact upon them.
16. The proposal would therefore accord with Policy DES3 of the East Herts District Plan, which requires the retention and protection of existing landscape features of amenity and biodiversity value.

#### **Conditions**

17. In addition to the standard time limit, I have imposed a condition listing the approved drawing numbers for the avoidance of doubt. A condition to ensure the external materials of the extensions would match those used in the existing dwelling, is necessary to ensure a satisfactory end appearance. Landscaping conditions are necessary to ensure the character and appearance of the area is preserved.

**Conclusion**

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

*R Bartlett*

INSPECTOR



## Appeal Decision

Site visit made on 25 July 2023 by Darren Ellis MPlan MRTPI

**Decision by John Morrison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 September 2023**

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**Appeal Ref: APP/J1915/D/23/3318075**

**Lane Croft, Perrywood Lane, Watton At Stone, Hertfordshire SG14 3RB**

- 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 T. Walton against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/2224/HH, dated 20 October 2022, was refused by notice dated 16 December 2022.
  - The development proposed is a single storey rear extension to existing dwelling incorporating a partial basement area.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matter

3. The Watton at Stone Neighbourhood Plan (NP) has been through examination and a referendum is scheduled for 12 October 2023. However, neither main party has provided the details of any relevant policies in their submissions. I have therefore assessed the scheme against the East Herts District Plan 2018 (DP) which is the adopted development plan at the time.

### Main Issues

4. The main issues are a) whether the proposal is inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt; and c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

### Reasons for the Recommendation

#### *Inappropriate Development*

5. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building. This is provided that the extension does not result in a disproportionate addition over and above the size of the original
-

- building. The Framework defines 'original building' as 'a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.'
6. DP Policy GBR1 seeks to protect the Green Belt and requires development proposals therein to be considered in line with the provisions of the National Planning Policy Framework (the Framework). Neither the DP nor the Framework define disproportionate for their purposes. The officer report states that, as a general rule, the Council would consider any additions over 50% of the floorspace of the original building as such, but this figure is not mentioned in GBR1.
  7. The appeal property is a large, detached dwelling set in a substantial plot. Owing to the slope of the land, the property is split-level with the main dwellinghouse being single-storey and a garage at a lower-ground level. The property has been previously extended with front, side and rear extensions. Planning permission also exists for an 8m single-storey rear extension<sup>1</sup> and an additional storey<sup>2</sup>, although these have yet to be constructed.
  8. There is disagreement between the parties regarding the increase in floorspace of the original building. Nevertheless, the appellant accepts that the proposed extension together with the extensions which have already been built would constitute a disproportionate addition.
  9. Size can be more than a function of footprint and can include bulk, mass, and height. Based on the evidence before me and given the increase in size of the building from the existing, approved and proposed extensions, I have no reason to disagree. Consequently, the proposed rear extension together with the previous extensions would cumulatively amount to a disproportionate addition over and above the size of the original building. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

### *Openness*

10. Openness is an essential characteristic of the Green Belt. Planning Practice Guidance states that openness is capable of having both spatial and visible aspects, so that both the visual impact of the proposal and its volume may be relevant.<sup>3</sup>
11. The proposed rear extension would increase the visual and spatial bulk and massing of the dwelling and would therefore result in an unavoidable reduction in the openness of the Green Belt. Given the, in context, modest size of the extension and the residential nature of the surrounding area, that harm would be limited. Nonetheless, one of the fundamental aims of Green Belt policy is to keep land permanently open and any harm to the Green Belt attracts substantial weight. This would be in addition to the inappropriateness of the scheme.

### *Other Considerations*

12. The appellant contends that the previously approved 8m single-storey rear extension represents a fall-back option. However, the proposed rear extension

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<sup>1</sup> Planning application ref. 3/16/1768/PNHH

<sup>2</sup> Planning application ref. 3/22/0973/ASDPN

<sup>3</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

would include a basement level, making it materially different to the approved extension. Furthermore, while the proposed extension may not have a greater visual effect on the openness of the Green Belt, given the addition of the basement it would have a greater spatial impact. As such the previously approved extension would be less harmful to the openness of the Green Belt and consequently would not justify the proposed extension in this case.

13. A small part of the site, namely the access and northern edge of the front garden, are within the Watton At Stone Conservation Area (CA), although the majority of the site, including the house and the proposed extension, lie outside. Given the position of the extension at the rear of the property, it would not have any adverse effect on the CA or its setting. The proposal would also not detract from the character of the existing house and surrounding area, and it would not cause any harm to the living conditions of occupiers of neighbouring properties. These matters all carry neutral weight as absences of harm in each case.

### **Conclusion and Recommendation**

14. The proposed rear extension would cause harm to the Green Belt by way of inappropriateness and through reducing openness, to which substantial weight should be afforded. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified above do not clearly outweigh the totality of the harm. Consequently, the very special circumstances necessary to justify the rear extension do not exist.
15. Accordingly, the proposed rear extension would conflict with DP Policy GBR1 and with the Framework, the aims of which are set out above. There are no material considerations, including the approach of the Framework, which indicate that a decision should be made other than in accordance with the development plan. I therefore recommend the appeal be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

16. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

*John Morrison*

INSPECTOR





## Appeal Decision

Site visit made on 19 October 2023

**by Chris Couper BA (Hons) Dip TP MRTPI**

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

**Decision date: 30<sup>th</sup> October 2023**

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**Appeal Ref: APP/J1915/D/23/3327453**

**13 Ploughmans Close, Bishops Stortford, Hertfordshire CM23 4FS**

- 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 Philip Ellis against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/0115/HH, dated 22 January 2023, was refused by notice dated 2 June 2023.
  - The development proposed is a first floor rear extension to the detached house to create a new bathroom and a new shower room over the existing living room and the existing kitchen.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on:
  - The character and appearance of the host property; and
  - The living conditions of adjacent occupiers.

### Reasons

#### *Character and appearance*

3. The host is a detached property, which sits amongst dwellings in a variety of styles on this cul-de-sac. It has a fairly simple gabled form, with an evenly pitched main roof, but with a single storey extension with a cat-slide roof across the whole of its rear face. In common with most nearby properties, it has a short back garden.
4. The proposal would sit above the existing ground floor extension, and its shallow pitched roof would meet the host's ridgeline. Given its height, depth and width, although it would not increase the footprint of the building, it would significantly increase its scale and mass. For these reasons, it would appear out of proportion to the host, and the resultant dwelling would have a rather awkward, unevenly pitched and bulky form.
5. Additionally, given the limited plot size, and that the extension would project significantly further to the rear at first floor level compared to its neighbours at 12 Ploughmans Close ('No 12') and at 14 Ploughmans Close ('no 14'), the resultant dwelling would appear rather incongruous and domineering.

6. Amongst other things, Policy HOU11 of the East Herts District Plan 2018 ('EHDP') sets out that house extensions should be of a size, scale, mass and form appropriate to the character and appearance of the existing dwelling, and should generally appear subservient. Having regard to cumulative impacts, this scheme would conflict with that approach; and with the requirement for a high standard of design in EHDP Policy DES4 and in the National Planning Policy Framework. However, as the scheme would be faced in matching materials, and would be to the rear, where it would be visible from nearby properties but not in the streetscene, I attach moderate weight to the harm that I have found.

*Living conditions*

7. The conservatory at No 14 is set just in from the side boundary. It has a brick side wall, but a glazed roof. I have limited evidence to assess the impact of the scheme on the availability of natural light at No 14, and both proposed first floor side windows facing it would be obscurely glazed to avoid any significant loss of privacy. However, whilst the principal outlook from No 14, including its conservatory, is down that property's garden, given the height of the proposal's side wall, its rearward projection, and its proximity to the common boundary, it would have a rather overbearing impact on those occupiers.
8. A degree of overlooking is commonplace in residential areas, and the host already has first floor windows with a rear outlook. However, the two proposed first floor rear-facing bedroom windows would be at least 3.1 metres closer to the rear boundary than the existing windows. The Council calculates that this would bring them to within 15 metres of the rear face of 7 Wainwright Street ('No 7'). Intervening vegetation is limited, and this would therefore result in significant actual and perceived overlooking of No 7, including its garden.
9. The scheme would include a first floor side-facing bedroom window. However, the outlook from there would be principally towards No 12's flank wall, and it would not therefore cause those occupiers a harmful loss of privacy. Given the siting and orientation of 9 Wainwright Street relative to this site, I am satisfied that the scheme would not result in harmful overlooking of that property.
10. Nevertheless, for the above reasons, the scheme would harmfully impact the living conditions at No 14 and at No 7. Thus, it would conflict with those parts of EHDP Policy DES4 which require proposals to avoid significant detrimental impacts on neighbouring occupiers' amenities.

**Planning Balance and Conclusions**

11. I have found that the scheme would cause significant harm to adjacent occupiers' living conditions, and that it would cause moderate harm to the character and appearance of the host property.
12. I understand that the additional bedroom is needed to accommodate family members. However, that benefit to the current occupiers does not outweigh the lasting harm that the scheme would cause. The scheme would conflict with the development plan and, having regard to all other matters raised, including representations by interested parties, the appeal is therefore dismissed.

*Chris Couper*

INSPECTOR



## Appeal Decision

Site visit made on 1 August 2023

by **P B Jarvis BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

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

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**Appeal Ref: APP/J1915/D/23/3324238**

**Camps Hill Bungalow, North Road, Hertford SG14 1NE**

- 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 Georgina McGrath against the decision of East Herts District Council.
  - The application Ref 3/23/0146/HH, dated 26 January 2023, was refused by notice dated 31 March 2023.
  - The proposed development is single storey rear extension, front extension; increase in roof height to accommodate loft conversion incorporating 5 dormer windows and two skylight windows; alterations to front and side fenestration.
- 

### Procedural Matter

1. The Appellant has provided the 'missing' side elevation as referred to by the Council. A number of other documents were also provided, including the Design and Access Statement and Appellant's response to neighbour concerns which were omitted as part of the documents supporting the originally submitted scheme. All these have been taken into account in this appeal decision.

### Decision

2. The appeal is dismissed.

### Main Issues

3. The main issues are the impact on (a) the character and appearance of the host dwelling and wider area and (b) the living conditions of the occupiers of the adjoining properties, in respect of light and privacy.

### Reasons

4. The appeal site comprises a single storey detached dwelling set in a rectangular shaped plot. A similar single storey dwelling, Hillside, lies to the west. The flank elevation of the dwelling on the appeal site lies on the common boundary between the two properties. The dwellings are set back a similar distance from the site frontage behind gravelled drives with the front and rear elevations roughly in line with each other, though Hillside has been extended to the front by a large single storey addition. There is a small rear extension to the appeal dwelling which is also located on the common boundary.
5. The site address is given as North Road, but I note that the narrow lane to the front of the appeal site appeared to be known as Camps Hill and is also a public footpath. Vehicular access to the site was gained from Sele Road to the south.

*Character and appearance*

6. The proposed extensions would be significant in size extending around 5 metres in depth to the rear across the whole width of the existing bungalow incorporating a new roof over the extended dwelling. The resulting extended roofspace would enable the provision of first floor accommodation and would involve the formation of a central flat 'crown' roof.
7. It would seem that this roof form has been incorporated to seek to minimise the increase in height of the roof and as there would be no change to the eaves height, it could be described as a chalet bungalow. Nevertheless, it would introduce a bulky roof of an uncharacteristic design, which, when viewed in the street scene and along the public footpath of Camps Hill, would appear as an incongruous addition. Whilst viewing the property 'face on' the increase in roof height and crown roof shape would not be particularly noticeable, the proposed large front gable extension, which would add considerable bulk forward of the front elevation of the existing dwelling, would be an unduly prominent and detracting feature.
8. I saw on my site visit that the property to the east is of greater scale than the existing modest bungalow on the appeal site and its neighbour, Hillside, to the west. However, that property sits on lower ground with the nearest element being a single storey garage. It is also of a different design with pitched roofs. I also saw that there is a large extension to the rear of Hillside which, whilst noting that it is not readily viewed in the 'face on' street scene, is visible within the wider area and in particular from the edge of the bridge over the railway to the west of the site. However, it is also designed with a pitched roof, albeit of a ridge height higher than its host dwelling. It seems to me that it is likely that the proposed crown roof of the appeal scheme would be visible in this view and would appear at odds with this overall character of predominantly pitched roofs.
9. The Appellant has referred to a number of other sites within Hertford where crown roofs have been introduced. However, whilst these may have been found to be acceptable in the context of those individual sites, there appeared to be no such roof forms within the immediate context of the appeal site. In any event, I have judged its impact having regard to the particular site characteristics.
10. I therefore find that the proposal would be harmful to the character and appearance of the host dwelling and wider area. It would thereby conflict with Policies HOU11 and DES4 of the East Herts District Plan (2018) which seek to ensure that development is of a high standard of design to reflect and promote local distinctiveness, that respects or improves upon the character of a site and that extensions to dwellings that, in addition to being of a size, scale, mass, form, siting, design and materials appropriate to the character, appearance and setting of the existing dwelling and surrounding area, should also generally appear as a subservient addition to the dwelling.
11. In respect of the latter factor, it seems to me that in schemes such as that proposed, whereby the whole dwelling is effectively being remodelled, the issue of 'subserviency' has little general relevance. Notwithstanding that, there remain conflicts with the other elements of the relevant policies.

*Living conditions*

12. As indicated above, the proposal would result in an additional depth and height of building abutting the common boundary with Hillside. That property is located close to the boundary with rear facing windows and patio area immediately to the rear, the nearest part of which is covered with a pergola.
13. The proposal would result in the flank elevation of the dwelling on the appeal site being increased in depth by around 4 metres and a much larger flank gable wall introduced on the boundary. Whilst Hillside is set a short distance from the common boundary the proposed flank wall would nevertheless introduce a dominating feature very close to rear facing windows and the patio area. The pergola would have the effect of somewhat reducing the light received to the window it adjoins, but it appeared to have a translucent roof to minimise these impacts. Due to its position, height and solid nature the flank wall would be likely to have a much greater overbearing impact and reduce the amount of light received.
14. In terms of any possible 'tunnelling' effect I consider that this would be limited given the separation distance of the proposed extension from the existing rear extension to Hillside. In terms of any potential loss of privacy, whilst the proposal would result in new first floor windows, this would not introduce a significantly greater level of overlooking than currently exists.
15. I note the concerns of the other adjoining neighbour at Arrowhead. In terms of any overlooking from the proposed flank windows, this could be addressed via condition to secure non-opening lower sections and use of obscure glazing. With regard to the potential overbearing and overshadowing impact, I consider that the separation distance would be sufficient to mitigate any such impact, notwithstanding the difference in levels.
16. Overall, I find that the proposal would have a harmful effect on the living conditions of the occupiers of Hillside in terms of overshadowing and overbearing impact. The proposal would thus conflict with EHDP Policies HOU11 and DES4 which seek to ensure that detrimental impacts on the amenity of neighbouring properties are avoided.

**Other Matters**

17. The Appellant has referred to a recent permission for a lawful development certificate relating to a rear extension, side/rear extension, front porch and rear detached outbuilding.<sup>1</sup> The related approved plans have not been provided but I note that the Appellant acknowledges that the scheme is not directly comparable in terms of height and scale, albeit adds more footprint. In particular, it would not appear to include a raised roof and / or crown roof design, therefore it seems to me that it is not directly comparable to the scheme before me.
18. The Appellant has also suggested that other designs for a chalet bungalow have been considered but not progressed for various reasons. Whilst I do not consider that the introduction of accommodation at first floor level to create a chalet bungalow would necessarily be unacceptable, I do find for the reasons set out above, that the appeal scheme before me would have harmful impacts and thereby not accord with the policies of the development plan.

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<sup>1</sup> Council ref: 3/23/1223/CLPO

19. I also acknowledge that the appeal scheme would result in the upgrading of the existing property and provide enhanced living accommodation for the Appellant's family. However, these benefits are not sufficient to outweigh the harm identified above.
20. I have taken into account the policies of the National Planning Policy Framework (the Framework) but find that the appeal proposal would conflict with its policies in that it would not achieve good design as it would not be visually attractive or sympathetic to local character and the surrounding built environment.

**Conclusions**

21. I therefore conclude that this appeal should be dismissed.

*P B Jarvis*

INSPECTOR



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# Appeal Decision

Site visit made on 1 August 2023

**by P B Jarvis BSc (Hons) DipTP MRTPI**

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

**Decision date: 02 October 2023**

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**Appeal Ref: APP/J1915/D/23/3323078**  
**17 Roseley Cottages, Eastwick, Harlow CM20 2QU**

- 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 George Nainan against the decision of East Herts District Council.
  - The application Ref 3/23/0418/HH, dated 26 February 2023, was refused by notice dated 28 April 2023.
  - The proposed development is additional first floor extension to rear bedroom (original bedroom approved on application 3/22/1661/HH; we are seeking additional approval floor increased size).
- 

## Procedural Matter

1. The Council has described the development as "First floor rear extension, insertion of first floor side window and alterations to first floor rear fenestration". This more accurately describes the whole development.

## Decision

2. The appeal is allowed and planning permission is granted for first floor rear extension, insertion of first floor side window and alterations to first floor rear fenestration at 17 Roseley Cottages, Eastwick, Harlow CM20 2QU under ref: 3/23/0418/HH dated 26 February 2023 and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) This permission shall relate to the following approved plans: 1:1250 (site location plan), 1:500 (block plan) and DB/GN/100/Rev.I (existing and proposed plans).
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing dwelling.
  - 4) The proposed first floor window opening in the side (west) elevation as indicated on drawing ref: DB/GN/100/Rev.I shall be permanently fitted with obscure glazing to a minimum degree of obscurity level 3 and non-opening up to 1.7 metres from the finished floor level of the room it serves.

## Main Issue

3. The main issue is the impact on the character and appearance of the host dwelling and wider area.

## Reasons

4. The appeal site comprises a modern semi-detached property located in a small cul-de-sac of similar properties. It lies on the northern edge of the small village of Eastwick which itself is located in open countryside to the north west of Harlow. There is an existing single storey extension to the rear and side of the dwelling.
5. Permission was granted in October 2022 for a single storey side extension and first floor rear extension incorporating rear Juliet balcony, first floor side window and alterations to existing single storey flat roof at the property.<sup>1</sup> The current appeal scheme is similar to this approved scheme but proposes a larger first floor rear extension.
6. The proposed first floor extension would be above the single storey rear addition and extend across much of the width of the dwelling. It would be about 1 metre wider than the first floor element permitted under the above permission but would have the same depth. Whilst this would result in a larger addition, it would not be readily visible from the street scene or from any public viewpoint within the wider area. The increased size of extension would add more bulk to the dwelling but not to such a significant degree as to be unacceptable. The ridge would not extend above the main ridge height and, overall, I consider that the scale and mass of the proposal would remain appropriate to the host dwelling and be subservient in appearance.
7. The increased size of the first floor extension would bring it closer to the attached neighbouring property but this would not be significantly more harmful when compared to the approved scheme.
8. I therefore find that the proposal would not be harmful to the character and appearance of the host dwelling and wider area. It would thereby accord with Policies HOU11 and DES4 of the East Herts District Plan (2018) which seek to ensure that development is of a high standard of design to reflect and promote local distinctiveness, that respects or improves upon the character of a site and that extensions to dwellings are of a size, scale, mass, form, siting, design and materials appropriate to the character, appearance and setting of the existing dwelling and surrounding area, and should also generally appear as a subservient addition to the dwelling.

## Conclusions

9. Conditions to ensure that the development accords with the approved plans and that the materials used in the construction of the external faces of the extension match those of the host dwelling are necessary in the interests of proper planning and visual amenity. A condition to ensure that the new first floor side window is obscurely glazed and non-opening is also required to protect the privacy of the occupiers of the adjoining dwelling.
10. I therefore conclude that this appeal should be allowed and planning permission granted.

*P B Jarvis*

INSPECTOR

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<sup>1</sup> Council ref: 3/22/1661/HH





## Appeal Decision

Site visit made on 18 July 2023

**by K Allen MEng (Hons) MArch PGCert ARB**

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

**Decision date: 7<sup>th</sup> September 2023**

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### **Appeal Ref: APP/J1915/W/22/3304709**

### **Fishers Farm, Ermine Street, Colliers End SG11 1ER**

- 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 G Williamson of LW Developments Ltd. against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0563/FUL, dated 11 March 2022, was refused by notice dated 16 May 2022.
  - The development proposed is the conversion of existing barns into 4 residential dwellings with associated parking and landscaping.
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### **Decision**

1. The appeal is allowed, and planning permission is granted for the conversion of existing barns into 4 residential dwellings with associated parking and landscaping at Fishers Farm, Ermine Street, Colliers End SG11 1ER in accordance with the terms of the application, Ref 3/22/0563/FUL, dated 11 March 2022, subject to the conditions set out in the attached schedule.

### **Preliminary Matters**

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Both parties have referred to a previous appeal<sup>1</sup>. Although on the same site, the previous appeal and the appeal currently before me are significantly different. The previous appeal sought to demolish two existing barns on site and make substantial alterations to a listed building, with a total of 8 dwellings created around a new courtyard. The current appeal will maintain the existing structures and access on site and proposes 4 dwellings in total. Whilst I have had regard to the previous appeal decision as a material consideration, I have reached my own conclusions on the proposal based on the evidence before me.

### **Main Issues**

4. The main issues are:
  - the effect of the development on the character and appearance of the area; and
  - whether, having regard to local and national policy, the appeal site is a suitable location for the development.

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<sup>1</sup> Appeal Reference: APP/J1915/W/21/3269273

## Reasons

### *Character and appearance*

5. Colliers End is a rural linear settlement, with most dwellings set close to the highway. Several large agricultural buildings can be glimpsed between dwellings contributing to the rural agricultural character of the village. The appeal site is located on the northern edge of the village, comprising a farmyard which includes a Grade II listed barn and two large modern barns. Access is provided to the barns via a concrete/loose gravel farm track with large areas of grass and scrub to the north and east. An overgrown dry pond and adjacent property physically separate the modern barns from the highway. The appeal site is cluttered with numerous pieces of machinery, vehicles, and sheds in various states of repair and a large pile of rubble. Despite its proximity to the village, and glimpsed views across the pond, the appeal site visually relates to the open countryside and contributes significantly to the open rural character.
6. Although set back from the highway, the proposed dwellings would maintain the existing layout and massing of the site. The proposal would alter the two modern barns to allow for their conversion into dwellings with the addition of doors and windows. However, it would utilise materials typical of agricultural buildings and would largely maintain the agricultural character and appearance of the structures. Further, minimal landscaping interventions would be made across the site to facilitate the conversion. The layout and proposed hard surfacing material would be in keeping with the existing loose gravel tracks and the proposed post and rail fences would be appropriate to the rural character.
7. Activities and movements associated with residential use, such as waste storage and vehicle parking, would be apparent from the highway but would not appear significantly different to the current state of the appeal site and would not harmfully detract from the existing rural character. Further, the proposal would improve the overall appearance of the site, through the introduction of enhanced planting, the reinstatement of the overgrown dry pond and the removal of disused machinery and vehicles from site.
8. Given the above, I conclude that the proposal would not harm the character and appearance of the area. Consequently, the proposal accords with Policies GBR2 and DES4 of the East Herts District Plan (October 2018) (EHDP) and Policy SP1 of the Standon Parish Neighbourhood Development Plan 2017-2033 (September 2019) (SPNP). Collectively these policies seek to ensure development is compatible with the character and appearance of the rural area, considering siting, materials, and landscaping.
9. Similarly, the proposal would accord with the National Planning Policy Framework (the Framework) which requires that development is sympathetic to local character and is visually attractive as a result of good architecture.
10. The Council reference Policies SP7 and SP8 of the SPNP in the reason for refusal. However, these policies relate to the distribution of development and are not relevant to the character and appearance of the area.

### *Location*

11. EHDP Policy DPS2 outlines the strategy for development within the district, primarily focusing development on sustainable brownfield sites and urban areas. SPNP Policy SP7 is consistent with this approach concentrating development within the defined village boundaries of the largest villages within the parish.
12. SPNP Policy SP8 permits development within the defined village boundaries of Colliers End. However, the parties agree that the appeal site is located outside of but immediately abutting the defined village boundary of Colliers End and therefore, lies within the 'Rural Area Beyond the Green Belt'. Further, as the appeal site comprises land that is occupied by agricultural buildings it cannot be considered a brownfield site.
13. Certain types of development within the Rural Area Beyond the Green Belt are supported by EHDP Policy GBR2. Part d of the policy permits for the alteration of buildings where the proposed development is appropriate to the character, appearance and setting of the site and surrounding area. The Council have suggested that the proposal would not accord with Policy GBR2 part d on two grounds.
14. First, that the proposal would conflict with EHDP Policy DES4 which provides design criteria for development and amongst other things, seeks to secure the character and appearance of the area. However, as concluded above, the proposal would be in accordance with Policy DES4 and would be in keeping with the area.
15. Second, that as the proposal would require alterations to be made to the site as well as the existing buildings it would go beyond what the policy allows. This interpretation of the policy is extremely limiting and would not be consistent with the Framework which supports development that would re-use redundant buildings and enhance their immediate setting. As identified above the proposal would improve the appearance of the site. Consequently, the proposal would accord with the aims of EHDP Policy GBR2 part d.
16. EHDP Policy INT1 and SPNP Policy SP1 are consistent with the Framework's presumption in favour of sustainable development. Policy INT1 Part I further seeks to secure development that improves the economic, social, and environmental conditions of an area. Although referenced in the Council's reason for refusal, the parties agree that the proposal would be considered compliant with the sustainability ethos of the policies and that the proposal would be accessible, and I see no reason to disagree.
17. Therefore, having regard to local and national policy, I conclude that the appeal site is a suitable location for the development. It would accord with the aims of Policies DPS2, GBR2, DES4 and INT1 of the EHDP and Policies SP1, SP7 and SP8 of the SPNP which collectively outline the spatial strategy for the area by identifying where growth and development should be focussed whilst seeking to ensure development is compatible with the character and appearance of the rural area and would be appropriate to the setting of the site. The proposal would also accord with the Framework, where it promotes the reuse of redundant or disused buildings and enhance their immediate setting.

## **Other Matters**

18. Additional concerns have been raised by Standon Parish Council. While the parish may prefer the proposal to provide smaller units, the existence of other 4 bedroomed dwellings in the area is not a reason, on its own, to refuse development which accords with the development plan. Although details have not been provided for foul or surface water drainage, I have little substantiated evidence before me to suggest that the proposal would exacerbate any existing capacity issues. Further, I am satisfied that a suitably worded condition would secure adequate surface water drainage systems and their ongoing maintenance. Similarly, further details regarding the assessment of contamination, landscaping provisions, biodiversity net-gain and energy efficiency could be secured via condition.
19. The appeal site forms part of the setting of the adjacent Grade II listed farmhouse and barns as well as the neighbouring property Barnacres. In accordance with the statutory duty imposed by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of the listed buildings in the determination of this appeal. The buildings derive significance from their architectural character and detailing and rural setting. The proposal would maintain the existing massing of structures and subject to suitably worded conditions, would maintain the agricultural character of the appeal site. Consequently, the proposal would not harm the setting of the listed buildings.

## **Conditions**

20. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of effectiveness and precision.
21. Aside from the statutory condition required to set the necessary time limit for development [1], a condition is required to indicate the approved plans to provide certainty [2]. The appellant has provided their written agreement to the pre-commencement conditions, and I am satisfied those conditions need to be such.
22. A construction management plan is necessary to establish safety and environmental procedures for the work phase of the scheme [3]. Due to the agricultural use of the appeal site, a contamination risk assessment is necessary in the interests of the health and safety of the future occupiers and the surrounding environment [4]. These reports are required before the commencement of development so the relevant standards and procedures relating to the construction phase are established and familiarised by site operatives before work begins and any potential contamination hazards are identified.
23. To secure the appearance of the proposal, a condition requiring the submission of external facing material samples is necessary [5]. Although the appellant has provided a sustainable construction, energy and carbon reduction statement, a condition requiring further design details is necessary to secure sufficient climate change adaptations and reduce carbon emissions [6].

24. EHDP Policy WAT5 seeks to ensure that surface water run-off is managed sustainably in accordance with the sustainable drainage system (SUDS) hierarchy. I have imposed a condition requiring the submission of a sustainable surface drainage scheme [7], in lieu of the Council's suggested condition imposing the Environment Agency's flood risk standing advice which would not be precise or enforceable.
25. The various proposed hard and soft landscaping conditions will be amended and combined with the suggested conditions relating to boundary treatments and biodiversity to ensure that the site adequately assimilates into the area and appropriate ecological enhancements are made [8]. A further condition is necessary to ensure existing planting is protected during the construction period and that existing and proposed planting is retained into the future [9]. As the site is relatively flat and the existing buildings are to be retained, it is not necessary for detailed ground levels/contours to be submitted.
26. A condition is required to ensure the parking area is in place prior to occupation so as not to effect highway safety [10]. Secure bicycle storage and electric vehicle charging points are required to promote sustainable transport [11,12].
27. EHDP Policy WAT4 requires higher water efficiency standards in residential development than the Building Regulations in response to the challenging local circumstances on water supply in the area, therefore a condition on water efficiency is necessary and reasonable [13]. I am satisfied that a condition limiting the nitrogen oxide emissions from all gas-fired boilers is necessary and reasonable to ensure an adequate level of air quality in accordance with EHDP Policy EQ4 [14].
28. While Planning Practice Guidance states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity, given the close proximity of the proposal to the neighbouring listed buildings, in this instance, I am satisfied that it is necessary to prevent future enlargements, improvements or alterations to safeguard the rural agricultural character of the appeal site, preserving the setting of the listed buildings [15].
29. I have not imposed the Council's suggested condition regarding machinery operation hours as this is adequately addressed via other legislation and details of proposed working hours will be provided via Condition 3. Details of the external facing materials to be used in the proposal will be provided via Condition 5. Although in the setting of the adjacent listed buildings, no works are proposed to them. Therefore, it is not necessary to impose a further materials condition related to the 'making good' of existing buildings.

## **Conclusion**

30. Notwithstanding the Council's 5 Year Housing Land Supply position, for the reasons given above, I conclude that the development accords with an up-to-date development plan and the Framework and should be approved without delay. Therefore, subject to the identified conditions, the appeal is allowed.

*K Allen*

INSPECTOR

## 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:
  - NWA-19-007-S4LOC\_E Rev A
  - NWA-19-007-SURV Rev A
  - NWA-19-007-1 Rev A
  - NWA-19-007-2 Rev A
  - NWA-19-007-50 Rev A
  - NWA-19-007-51 Rev -
  - NWA-19-007-52 Rev -
- 3) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall include details of:
  - a) access, egress and turning arrangements;
  - b) the parking of vehicles of site operatives and visitors;
  - c) loading and unloading of plant and materials;
  - d) storage of plant and materials used in constructing the development;
  - e) wheel washing facilities;
  - f) cleaning of site entrances, site tracks and the adjacent public highway;
  - g) delivery, demolition, and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures. Before the development is first occupied a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.

- 5) No development above ground works, apart from approved demolition works and site preparation works, shall commence until samples of all external facing materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples before the development is first occupied.
- 6) No development above ground works, apart from approved demolition works and site preparation works, shall commence until details of the design and construction of the dwellings, demonstrating how summer overheating and winter heating energy demand will be minimised, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the development is first occupied.
- 7) No development above ground works, apart from approved demolition works and site preparation works, shall commence until a sustainable surface water drainage scheme to deal with the additional surface water run off arising from the development, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is first occupied and thereafter retained as such for that specific use.
- 8) No development above ground works, apart from approved demolition works and site preparation works, shall commence until, a landscaping/biodiversity scheme has been submitted to and approved in writing by the local planning authority. The details shall include:
  - a) retained landscape features;
  - b) hard surfacing materials;
  - c) planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment);
  - d) schedules of plants, noting species, sizes and proposed numbers/densities where appropriate;
  - e) boundary treatments indicating the type, position, design, and materials;
  - f) buffers around water bodies;
  - g) measures to enhance biodiversity, demonstrating a biodiversity net gain;
  - h) management/maintenance plan, indicating long term design objectives, management responsibilities and maintenance schedules;
  - i) an implementation programme.

Development shall be carried out in accordance with the approved details, management/maintenance plan and the agreed implementation programme.

- 9) All existing retained trees, hedges and plants on and immediately adjoining the site shall be protected from damage as a result of work on the site, to the satisfaction of the local planning authority, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent replacement British Standard, for the duration of the works on site. Any trees, hedges or plants (existing retained or proposed) that, within a period of five

years after planting (or replanting if previously failed), are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the local planning authority gives written consent to any variation.

- 10) Prior to occupation of the development hereby permitted, the access, parking and turning areas shown on drawing NWA-19-007-50 Rev A, shall be provided, and thereafter retained as such for that specific use.
- 11) Prior to occupation of the development hereby permitted, a scheme detailing secure cycle parking, shall be submitted to, and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is first occupied and thereafter retained as such for that specific use.
- 12) Prior to occupation of the development hereby permitted, at least one electric vehicle charging point per dwelling shall be installed and be available for immediate use. The electric vehicle charging points shall thereafter be retained and kept in good working order as specified by the manufacturer.
- 13) Prior to occupation of the development hereby permitted, measures to ensure compliance with the Building Regulations optional water efficiency standard of 110 litres (or less) per person per day shall be incorporated and be available for immediate use. The measures shall thereafter be retained.
- 14) Prior to occupation of the development hereby permitted, all gas-fired boilers installed within the development hereby permitted must meet a minimum nitrogen oxide emissions standard of <40 mgNO<sub>x</sub>/kWh. The emissions standard shall thereafter be retained.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement, or other alteration of any dwellinghouse as described in Schedule 2, Part 1, Classes A, AA, B, C and E of the Order shall not be undertaken without the prior written permission of the local planning authority.

**\*\*\*End of Conditions\*\*\***





## Appeal Decision

Site visit made on 19 September 2023

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

an Inspector appointed by the Secretary of State

**Decision date: 2 October 2023**

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**Appeal Ref: APP/J1915/W/23/3315467**

**Area 4, Land south of Hare Street Road, Buntingford SG9 9HX**

- 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 Wheatley Homes against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0798/FUL, dated 8 April 2022, was refused by notice dated 16 December 2022.
  - The development proposed is a residential development comprising 10 bungalows, associated car parking provision and ancillary works.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The planning application was refused permission for several reasons. One of these pertained to the effects of the development upon highway safety. As part of the appeal proceedings, the appellant submitted additional information in respect of this matter. Following consideration of this information, the Council has confirmed that it satisfactorily addresses the concerns previously raised. I have no reason to disagree and have therefore preceded on this basis.

### Main Issues

3. The main issues relevant to this appeal are:
  - the effect of the development upon the character and appearance of the surrounding area;
  - the effects of the development upon biodiversity; and
  - whether the effects of the developments are such that a legal agreement to secure affordable housing, education, leisure and community facilities would be required.

### Reasons

#### *Character and appearance*

4. The appeal site consists of an undeveloped area on the periphery of a relatively recent residential development. Although the appeal site is on the edge of the settlement, a notable feature of the site's environs is the presence of open countryside. In result, the appeal site forms a transitional space between the built form of the settlement and the countryside beyond. In addition, the

appeal site is adjacent to a footpath that runs into the nearby countryside. To the rear of the appeal site is a belt of trees.

5. The proposed development would result in a significant increase in the overall level of built form, even though the proposal would involve the provision of bungalows. This would comprise the proposed dwellings, in addition to features such as boundary treatments and areas of hard standing. This means that the development would have a predominantly engineered appearance, irrespective of the inclusion of front gardens within the development.
6. These factors result in a scheme that would conflict with the general open character on the periphery of a larger residential development.
7. Furthermore, the proposal would be viewed alongside the relatively recent residential development. Therefore, the cumulative effect would be the creation of a more urban form of development due to the reduction in the overall level of open spaces surrounding dwellings. In consequence, the development would conflict with the existing more open character.
8. In addition, a notable feature of the existing residential development is the presence of spacious elements at key points in the development. This enables views through the residential development to the belt of trees to the rear of the proposed dwellings. These views allow for the existing residential area to harmonise with the wider rural area.
9. By reason of the quantum of the development within the appeal scheme and the siting of the proposed dwellings, such views would be severed. This means that the proposed development would result in an increased urbanising effect, which would conflict with the predominantly rural landscape of the wider surrounding area.
10. I have given consideration as to whether it would be possible to impose conditions regarding the materials from which the proposed dwellings are constructed from and the provision of landscaping.
11. Such conditions would ensure that the dwellings would have an appearance consistent with the neighbouring development and would provide some softening of the overall level of built form. However, the effectiveness of these would be reduced by reason of the loss of open space. In result, this suggestion does not overcome my previous concerns.
12. These matters are of particular concern due to the prominence of the appeal site. In addition to views from the neighbouring dwellings, the increased built form would also be perceptible from the footpath that runs near to the appeal site. There would also be some views, albeit to a lesser degree, from the nearby Hare Street Road. This means that the proposed development would be experienced by a great number of people. In result, the incongruous form of development would be strident.
13. Although there would be some changes to the views from the existing development, these are unlikely to be significant and would not result in an erosion of the existing development's character.
14. I have had regard to the presence of the tree belt near to the appeal site. This means that the proposed development would not be substantially viewable from the countryside beyond the appeal site. Therefore, the gently undulating

plateau that is a feature of this area would be retained. Although this reduces the effects arising from the development, it does not mitigate the previously identified harm.

15. The Council has raised some concerns regarding the lack of surveillance in the development. However, the parking and garden spaces of the proposed dwellings would have a layout like the character and appearance of the nearby existing dwellings. In addition, these spaces would benefit from surveillance from the proposed dwellings, as well as views from the street. However, this matter does not mitigate my previous findings.
16. My attention has been drawn to another development in Hare Street. I do not have the full information regarding the planning circumstances of this, which means that I can only give it a limited amount of weight. Nonetheless, I note that this development is not adjacent to a footpath and has a different layout. Therefore, there would be several differences between the existing and proposed development. In result, the presence of the existing development does not allow me to disregard my previous concerns.
17. 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 the requirements of Policies DES2, DES3 and DES4 of the East Hertfordshire District Plan (2018) (the Local Plan. Amongst other matters, these seek to ensure that developments demonstrate how they conserve the character of the district's landscape; retain, protect and enhance existing landscape features; and be of a high standard of design and layout.

### *Biodiversity*

18. The proposed development would be sited on an existing undeveloped piece of land. In considering this appeal, I have been directed towards adopted development plan policies that seek to ensure that developments deliver a net improvement in biodiversity.
19. I understand that, over the course of the planning application process, there was some disagreement regarding the baseline position. However, at the Final comments stage, the appellant submitted additional information which included a further assessment of the level of biodiversity.
20. However, this information has not been the subject of formal consultation with either the Council or any other relevant consultees. therefore, if I were to proceed to a decision with reference to this additional document it would cause prejudice to other parties. Therefore, I have not been able to give this weight in my assessment.
21. In result, I cannot be certain as the amount of biodiversity improvements that would be required in order to mitigate the effects of the proposed development. This is of particular concern given that the proposed development is near to open countryside and is currently undeveloped in nature.
22. In result, there is a likelihood that the appeal site could be used as a habitat for some species, in addition to potentially offering an environment for foraging. In addition, there is some potential for the appeal site to serve as an appropriate environment for plants to grow. Given this, the lack of certainty regarding the

level of biodiversity improvements that would be required is particularly concerning.

23. I have given consideration as to whether it would be possible to impose a condition to secure improvements to biodiversity either on, or off, site. However, without certainty regarding the level of biodiversity provision that should be made, it is not possible to draft a condition with sufficient precision to meet the statutory test of reasonableness for the imposition of a planning condition.
24. Therefore, I do not believe that a planning condition could be imposed to ensure that the development delivers the necessary improvements in biodiversity either through on-site, or off-site, provision. In result, the possibility of imposing a planning condition does not allow me to disregard my previous concerns.
25. I therefore conclude that the proposed development would not deliver the necessary improvements to biodiversity. The development, in this regard, would conflict with Policies DES2 and NE4 of the Local Plan. Amongst other matters, these seek to ensure that enhancement opportunities are appropriately addressed; and biodiversity is enhanced.

*Whether a legal agreement is required*

26. The proposed development seeks planning permission for the erection of 10 dwellings. In considering this appeal, I have been directed towards adopted development plan policies, which seek to ensure that developments of this scale include provision of affordable housing, in addition to financial contributions for the provision of community, leisure and education facilities. These aims are consistent with the requirements of the National Planning Policy Framework (the Framework).
27. However, from the outset, the proposed development was designed to meet the requirements of potential older residents. The submitted Unilateral Undertaking (UU) includes a clause that would ensure that the development is occupied by such residents only. This clause is necessary to ensure that the development conforms with the terms of the planning application. In addition, I am also mindful that the Framework is clear that the planning process should deliver a mixture of housing in order to meet the needs of all members of the community.
28. Considering this, the proposed development would not be occupied by younger residents. In consequence, the proposed development need not make a financial provision for matters pertaining to education and youth facilities provision.
29. This is because it is a requirement that any such financial contribution mitigate the effects arising from the proposed development only. It therefore follows that if the proposed development were not to be occupied by residents that would result in an increased demand for the provision of education and youth facilities, it would not be necessary and reasonable to secure mitigation for these areas.
30. I understand that the County Council has raised some concerns regarding the way these contributions are structured in the submitted UU. However, given that I have found that, subject to other requirements of the UU, such financial

contributions are not required. For this reason, and given that I am dismissing the appeal for other reasons, I do not need to give this matter further consideration.

31. The UU also secures the provision of affordable housing and obligations relating to the provision of library facilities, open space and recycling collections. This ensures that the effects of the development in respect of these matters would be mitigated. Furthermore, the proposed development would provide a mixture of tenures, which would ensure that it accords with the requirements of the Framework in respect of delivering a range of house types to meet the needs of all groups of society.
32. I therefore conclude that the effects of the development would give rise to the need for a legal agreement and that such agreement has been submitted. The development, in this regard, would comply with the requirements of Local Plan Policies HOU3; CFLR7; CFLR10; DEL1; and DEL2; and the Affordable Housing Supplementary Document (2020). Amongst other matters, these seek to ensure that new developments make a provision of affordable housing; make provision of adequate and appropriately located community facilities; promote healthy communities; facilitate the timely provision of infrastructure; and have planning obligations that make the development acceptable in planning terms.

### **Other Matters**

33. The Council cannot currently demonstrate a five-year housing land supply. In consequence, the provisions of Paragraph 11(d) of the Framework are engaged.
34. Amongst other matters, this states that planning 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. This is often referred to as the 'tilted balance'.
35. In this case, the development would include the provision of additional dwellings. Whilst the scale, in terms of dwellings to be provided, of the development is relatively small; I am mindful that the development would provide an appropriate amount of affordable housing.
36. In addition, it appears that there is a need in the locality for smaller dwellings and for bungalows. This would contribute to the delivery of such housing within the area. In consequence, I give this benefit a moderate amount of weight.
37. The proposed development would generate some economic benefits. These would comprise benefits arising from the construction process, in addition to support local services and facilities by the future occupiers of the development. However, given the scale of the development, these benefits are unlikely to be large in scale. Furthermore, in some instances, they are likely to be time limited in duration. This means that they can only be given a limited amount of weight.
38. The proposed development would result in the provision of additional public open space. However, there is no convincing evidence before me that suggests that there is a shortage of such facilities in the surrounding area. In result, it can only be attributed a limited amount of weight.

39. In result, the proposed development would generate a limited to moderate benefits, which can be ascribed a moderate amount of weight. However, due to the significant harm that would arise from the granting of permission, in terms of the effects on biodiversity and the character and appearance of the surrounding area, I find that the adverse effects of granting planning permission significantly and demonstrably outweigh the benefits.
40. I understand that the appellant made some amendments to the scheme prior to the determination of the planning application. Although a matter of note, it does not overcome my previous findings.

### **Conclusion**

41. Although some of the effects of the development have been mitigated through the submission of the UU, the development would have significant adverse effects on biodiversity provision and the character and appearance of the surrounding area. Accordingly, the scheme would conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which 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 3 October 2023

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

an Inspector appointed by the Secretary of State

**Decision date: 13 October 2023**

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**Appeal Ref: APP/J1915/W/23/3321219**

**Land at Tewin Hill, Upper Green Road, Tewin, Hertfordshire AL6 0LJ**

- 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 Tewin Hill Limited against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1378/OUT, dated 11 July 2022, was refused by notice dated 11 November 2022.
  - The development proposed is the erection of 18 residential dwellings, together with access, car parking, public open space and landscaping.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The planning application was refused for several reasons. Following the submission of the appeal, the Council withdrew the reasons pertaining to drainage and the loss of agricultural land. I have no reason to disagree with the conclusions reached by the Council in these instances and, accordingly, have proceeded on this basis.
3. The application was submitted in outline, with all matters reserved for future consideration apart from access. I have therefore had regard to the details that pertain to the reserved matters on an indicative basis only.

## Main Issues

4. The main issues relevant to this appeal are:
  - whether the proposed development would be inappropriate in the Green Belt;
  - the effects of the development on the openness of the Green Belt;
  - the effect of the development upon the character and appearance of this surrounding area;
  - The effects of the development upon the living conditions of the occupiers of neighbouring properties;
  - The suitability of the appeal site as a location for the proposed development, with particular reference to the requirements of the development plan;
  - whether sufficient infrastructure would be provided; 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*

5. The appeal site is located in the Green Belt. Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan) states that planning decisions in the Green Belt should be considered in line with the National Planning Policy Framework (the Framework). The Framework regards the erection of new building in the Green Belt as generally being inappropriate. The Framework lists some exceptions to this (at Paragraph 149), which include that the undertaking of limited infilling in a village.
6. Although submitted in outline, the planning application sought permission for the erection of up to 18 dwellings. The development would also include access to the site. It is also likely that the development would include car parking areas, boundary treatments and vehicle manoeuvring areas. Therefore, the development would, cumulatively, create a significant amount of development and built form. For this reason, the development cannot be accurately described as being limited, even though the scale of the development has been reserved for future consideration.
7. The appeal site fronts onto Upper Green Road, which contains a number of dwellings. These are typically arranged in a linear fashion. To the side of the appeal site is Tewin Hill. Beyond Tewin Hill are more buildings. However, owing to the presence of Tewin Hill, the proposed development would not result in an enclosure of an existing line of dwellings in the surrounding area.
8. Although the layout of the development has been reserved for future consideration, it is likely that if the final development were to include up to 18 dwellings some of these would need to be arranged on a relatively large proportion of the appeal site, to achieve appropriate plot sizes.
9. In result, not all the proposed dwellings would have a frontage on to Upper Green Road. Therefore, the development would have a form that would differ from the predominantly linear form of the existing nearby dwellings. In result, the proposed development cannot be an infill.
10. There is some debate as to whether the appeal site is within a village. This is pertinent as the assessment of whether an appeal site is within a village needs to be made based on an individual site and its surroundings, rather than establishing whether an appeal site is within allocated settlement boundaries.
11. However, in this case, I have concluded that the proposed development would not be either limited in scale; and would not also be an infill. Therefore, an assessment on whether the appeal site is within a village need not be given further consideration in this case. This is because it has already been established that the proposal would not meet the definition of a not inappropriate development in the Green Belt in this instance.



12. Although the Framework lists other types of development that might not be inappropriate in the Green Belt, the proposal would not fall within any of these categories.
13. I therefore conclude that the proposed development would be an inappropriate development in the Green Belt as defined by Policy GBR1 of the District Plan and the Framework.

*Effect on openness*

14. The appeal site consists of an undeveloped field, located adjacent to various other fields. The site is near to the built form of Tewin. The appeal site is somewhat undulating in nature. The boundaries of the site are marked by a combination of fences and hedges.
15. The proposed development would comprise up to 18 dwellings, in addition to the proposed access. It is also likely that the development would include items such as driveways, parking areas, vehicle manoeuvring areas and boundary treatments. These items would, in unison, result in a significant increase in the overall level of built form. Therefore, the proposed development would result in a general erosion of the spatial sense of openness that is a feature of the Green Belt.
16. In addition, the proposed development would result in an expansion of the settlement into the countryside arising from the type and likely quantum of buildings that would be constructed. In result, the development would create a diminished level of open space in the existing field. This would mean that the space between buildings, which give the settlement of Tewin a more rural appearance, would be diminished.
17. Irrespective of the height of the proposed dwellings, it is likely that they would be visible from several different vantage points. There would be several views from a large proportion of the neighbouring dwellings. Views would be of items such as dwellings, access points and parking.
18. In addition, given that the development would include the provision of residential dwellings, it is likely that at times vehicles would park within the confines of the final development and that elements of domestic paraphernalia would be placed within the boundaries of the appeal site. These items, in conjunction with one another, would also contribute to the formation of an engineered appearance.
19. Therefore, the proposed development would be readily apparent from the nearby road network. This would include parts of Upper Green Road and Tewin Hill. Therefore, the proposed development would result in an erosion of the visual sense of openness that is a feature of the Green Belt.
20. Although the appeal site is not part of a designated landscape, it has an open character. This would be eroded by the proposed development. In particular, views of the development upon a ridge in the landscape would be possible.
21. I therefore conclude that the proposed development would result in an erosion of the visual and spatial sense of openness in the Green Belt. The development would therefore conflict with the requirements of Policy GBR1 of the District Plan and the Framework. Amongst other matters, these seek to ensure that developments maintain the Green Belt's sense of openness.

### *Character and appearance*

22. The proposed development would result in the creation of a notable number of dwellings. This would be in addition to several other elements of development, associated with the use of the site for residential purposes, as described previously. The appeal site consists of a field, which is undulating in nature. The appeal site is also near to other fields.
23. The appeal scheme would result in a significant overall increase in the level of built form, by reason of the scale of the proposed works. In result, the proposed development would create an urbanised appearance. This would conflict with the general open and rural character that is a feature of the surrounding landscape.
24. In addition, the proposed development would result in a more built up appearance when viewed from the nearby road of Upper Green Road. Currently, the presence of space between buildings allows for the settlement to harmonise with the rural areas beyond. By reason of the scale of the proposed development, the proposal would result in an erosion of the verdant character of the settlement.
25. Furthermore, from Tewin Hill, the proposed development would also be viewed alongside several other fields, which assist in giving the area a rural character. The development, by reasons of the expansion of built form, would result in an incongruous development and erosion of the wider area's more rural character.
26. In result, the proposed development, irrespective of the scale and form of the dwellings would be incongruous.
27. This causes a concern given the relative prominence of the development. In addition to views from the section of Upper Green Road nearest the appeal site, the proposed development would also be apparent from the neighbouring dwellings. Some of these dwellings feature windows on the upper floors and directly face the appeal site. This means that the development would be readily perceptible.
28. In addition, views of the proposed development would be available from parts of the nearby road of Tewin Hill. By reason of the topography of the surrounding area, the development is likely to take place on a ridge in the land. This means that the proposed dwellings would be readily apparent from the wider area.
29. Therefore, owing to the number of viewpoints from which the proposed development would be visible and the potentially large number of people that might experience the scheme, the proposal would be a strident addition to the landscape.
30. In reaching this view, I have had regard to the possibility of some views from other vantage points in Upper Green Road. Whilst the proposed development is likely to be visible from these locations, they are likely to be only partial in nature. Furthermore, they would also be of a backdrop including other buildings in the surrounding area. In result, the development would not result in harm to the character of these areas; however, it would not offset my previous findings.

31. 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 the requirements of Policies DES2, DES3 and DES4 of the District Plan. Amongst other matters, these seek to ensure that developments conserve, enhance or strengthen the character and distinctive features of the district's landscape; retain, protect and enhance existing landscape features; and promote local distinctiveness.

*Living conditions*

32. The proposed development would be sited adjacent to an existing house, which is shown on the submitted plans as being 80 Upper Green Road. Although the planning application was submitted in outline, access was not reserved for future consideration. Therefore, it is clear that the access to the development would be near to the shared boundary with No. 80. Amongst other points, No. 80 features windows that face the appeal site, as well as a garden that is sited adjacent to the shared boundary.

33. By reason of the likely quantum of the development, the proposed scheme is likely to result in a greater number of vehicle movements entering and leaving the site. In reaching this view, I have had regard to the indicative layout. Although some dwellings would face Tewin Hill, the only vehicle access point is adjacent to No. 80.

34. Due to the increased number of vehicle movements, there would be additional noise that would be generated. This would comprise movement of vehicles into and out of the proposed development, in addition to any vehicles that might manoeuvre in the development itself. These would include noise from vehicles being moved into car parking spaces.

35. In addition, it is likely that noise would be generated from within the gardens of the proposed dwellings as part of the use of these spaces by the occupiers of the development. This would likely represent a notable increase in the overall levels of noise, when compared to the existing use of the appeal site.

36. This means that there would be an increased level of noise that would be audible within the confines of the existing property at No. 80. This would be most apparent in the garden of the dwelling. However, the existing dwelling features several windows that face the appeal site. During periods of good weather, it is likely that these windows may be opened. This would occur irrespective of the use of any rooms served by the windows of the neighbouring dwelling.

37. In result, the proposed development would reduce the ability of existing residents to undertake the full range of activities within their property, and also experience an appropriate level of peace and quiet.

38. In considering this appeal, I have had regard to whether a condition could be imposed to secure additional screening that might reduce the level of noise that would be audible at the neighbouring property. However, if this were to be installed it would result in a more urbanised and developed appearance which would conflict with the rural character of the surrounding area. In result, this suggestion does not overcome my previous concerns.

39. Owing to the size of the appeal site and the positioning of the access, I have no reason to believe that a development could not be designed to ensure that the

erection of new buildings would not have an adverse effect upon the levels of privacy and outlook experienced by existing residents. However, this does not outweigh the preceding findings.

40. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of the neighbouring property. The development, in this regard, would conflict with the requirements of Policy DES3 of the District Plan. Amongst other matters, this seeks to ensure that developments retain, protect and enhance existing landscape features which are of amenity value.

*Suitability of the site*

41. The appeal site is near the boundaries of the settlement. The nearby roads feature separate pavements, although these are not extensive. In addition, there is no street lighting. The settlement of Tewin features a level of services that would be typically expected within a smaller, rural, settlement.
42. Owing to the positioning of the appeal site in relation to Tewin, residents would have relatively easy access to the services and facilities that are on offer within the settlement. However, given the level, and type, of provision, it is likely that residents would need to travel to other settlements to access the full range of facilities and services that they are likely to require on a frequent basis.
43. This poses a concern as the roads linking Tewin to other settlements typically do not feature pavements or streetlighting. Therefore, the lack of a welcoming environment for pedestrians or cyclists is likely to encourage travel by motor vehicles.
44. Although the appeal site is near to bus stops, the evidence before me does not indicate that there is an extensive bus service. Therefore, it is likely that public transport would not serve an option for all journeys that the future residents are likely to need to undertake.
45. In result, it is likely that the residents that would require services and facilities that are not available in Tewin itself would travel by private car to other settlements. This would mean that the proposed development would, by reason of its siting, lead to an increase in the number of journeys that would be required.
46. Although the proposed development could include some cycle storage, this would not offset the adverse effects as previously described arising from the appeal site's location, and the surrounding road network.
47. This would conflict with the aims of the Development Plan and the Framework, which seek to ensure that new developments are situated in areas where residents have different travel options and access to all the services and facilities that they are expected to require.
48. My attention has been drawn to previous appeal decisions in the Council's administrative area. Although the appeal site before me is closer to other larger settlements, there is a notable distance that residents would need to travel and an absence of effective alternatives other than private vehicles. In result, these previous decisions do not allow me to forego my preceding concerns.

49. I therefore conclude that the proposed development would not be appropriately sited. The development, in this regard, would conflict with the requirements of Policies DPS2 and TRA1 of the District Plan. Amongst other matters, these seek to deliver sustainable development in accordance with an allocated hierarchy; and promote sustainable transport.

#### *Infrastructure*

50. In considering this appeal I have been directed towards Policies DEL2, CFLR1, CFLR7, CFLR9, CFLR10 and TRA2 of the District Plan. Amongst other matters these seek to ensure planning obligations are sought where they are necessary to make the development acceptable in planning terms; that residential developments will be expected to provide open spaces; provide adequate and appropriately located community facilities; maximise the impact it can make to promoting healthy communities; make appropriate provision for new education facilities; and mitigate trip generation.

51. Given that the proposed development is likely to include an element of family accommodation, it is apparent that such facilities would be required in order to meet the varying needs of the future occupiers of the development and to ensure that the effects of the development would be mitigated. In addition, I am mindful that a requirement of the Framework is to provide a mixture of house types in order to meet the needs of all members of the community.

52. The appellant has submitted a draft Unilateral Undertaking (UU). This includes items including affordable housing; open space; library facilities; educations; waste services; youth facilities; sports and play facilities; and community facilities. However, the UU has not been signed.

53. In consequence, had I been minded to allow this appeal, the UU that has been submitted would not be capable of taking effect. In result, this would mean that the necessary infrastructure that would be required by the future occupiers of the proposed development would not be provided. This would therefore mean that the needs of the future occupiers if the development would not be met.

54. I acknowledge that the appellant is working on completing a UU. However, it is imperative that documents are submitted in accordance with the timetable for appeal proceedings. This has not occurred in this instance. In result, I am compelled to determine the appeal on the basis of the information before me. This means that the development would generate some harm in this regard.

55. I have given consideration as to whether a condition could be imposed to secure the required infrastructure. However, given that this would need to cover the payment of financial contributions and the tenure of the dwellings, it would not be possible to phrase such conditions with sufficient precision and reasonableness.

56. In result, this suggestion does not allow me to forego my previous considerations. Therefore, the absence of a completed legal agreement amounts to harm that would arise from the proposed development.

57. I therefore conclude that the proposed development would not make sufficient provision for associated infrastructure. The development, in this regard, would conflict with Policies DEL2, CFLR1, CFLR7, CFLR9, CFLR10 and TRA2 of the District Plan.

### *Other considerations*

58. The Council cannot currently demonstrate a five-year housing land supply. However, given that the proposed development would result in harm to the Green Belt, the provisions of Paragraph 11 d(ii) of the Framework do not apply. Nonetheless, the local housing supply is a material consideration that I must give weight to.
59. However, given that the precise current housing land supply position and as the proposed development would result in the provision of a maximum of 18 dwellings, the weight that can be attributed to the proposed development is reduced.
60. I also acknowledge that the proposed development could deliver a policy compliant level of affordable housing, which is in some need in the locality. In addition the evidence before me is indicative that the proposed development would be deliverable. In consequence, I give the benefits arising from the proposed development to the local housing supply a moderate amount of weight.
61. The proposed development would deliver some biodiversity improvements. This is notable given that the appeal site is predominantly grassland associated with its existing agricultural use. In consequence, this can be given a moderate amount of weight.
62. The proposed development would generate some economic benefits arising from the construction process, in addition to support to local businesses and facilities arising from the occupation of the proposed development. However, by reason of the number of dwellings that are proposed, these benefits are likely to be relatively small-scale in impact. Furthermore, some of these are also likely to be of a time-limited duration. In consequence, this matter can also only be given a limited amount of weight.

### **Other Matters**

63. My attention has been drawn to previous appeal decisions. I do not have the 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 for developments of different scales when compared to the scheme before me. In addition, they are in different geographical locations.
64. In result, the assessment of any benefits or adverse effects are likely to be different to the conclusions reached in respect of the appeal scheme and the merits of its own location. It therefore follows that the presence of previous appeal decisions do not allow me to disregard my previous findings.
65. The appeal site is not located in a Conservation Area, would not affect any Listed Buildings and is in Flood Zone 1. Whilst these are matters of note, they represent only some of the issues that must be considered and therefore do not overcome my previous findings in respect of the main issues.

### **Planning Balance**

66. 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.

67. 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.
68. In addition, the harm that would arise to the character and appearance of the surrounding area, the lack of a completed legal agreement, the unsuitable nature of the appeal site's location and the harm to the character and appearance of the surrounding area also can be attributed a significant amount of weight.
69. The other considerations I have identified individually and collectively carry a moderate to limited amount of weight in favour of the proposal. As such the harm to the Green Belt, in addition to the harm to the living conditions of the occupiers of the neighbouring property, the character and appearance of the surrounding area and the unsuitable nature of the appeal site's location, is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.

### **Conclusion**

70. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which 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 25 July 2023 by Darren Ellis MPlan MRTPI

**Decision by John Morrison BA (Hons) MSc MRTPI**

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

**Decision date: 14 September 2023**

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**Appeal Ref: APP/J1915/D/23/3316690**

**3 Staff Houses, Crouchfield Lane, Chapmore End, Hertfordshire SG12 0HE**

- 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 Gemma Ali Turnbull against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1668/HH, dated 4 August 2022, was refused by notice dated 8 December 2022.
  - The development proposed is described as a double rear extension.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Preliminary Matters

3. The decision notice and appeal form refer to the 'removal of front porch, construction of two storey rear extension and new front porch, garage conversion and replace front garage door with new window, a new first floor side window and enlarged first floor rear window. This best describes the proposed development in more accurate and complete terms. I have therefore taken it into account.
4. Since the submission of the appeal, a new version of the National Planning Policy Framework 2023 (the Framework) has been published albeit the substance thereof in regard to the main issues of the appeal has not changed. The main parties will not therefore be prejudiced by it being taken into account in this decision.

### Main Issues

5. The main issues are a) whether the proposal would be inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt; and c) if it would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
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## **Reasons for the Recommendation**

### *Inappropriate Development*

6. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building. This is provided that the extension does not result in a disproportionate addition over and above the size of the original building. The Framework defines 'original building' as 'a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.'
7. Policy GBR1 of the East Herts District Plan 2018 (DP) seeks to protect the Green Belt and requires development proposals therein to be considered in line with the Framework. Neither the DP nor the Framework define what is meant by disproportionate. The Council has a preferred allowance of a 50% but this figure is not mentioned in GBR1.
8. The appeal property is a semi-detached two-storey dwelling set in a generous plot. The property has been previously extended over two storeys. There is also a two-storey rear element with a dormer window which has no planning history. However, there are no similar rear extensions or dormer windows at the adjacent properties, and the pattern of the brickwork below the render differs slightly to the brickwork of the rest of the house. Furthermore, the appellant refers to the two-storey rear element as part of the original dwellinghouse, yet also refer to it as an extension. It is therefore not clear whether it is part of the original dwellinghouse for Green Belt purposes.
9. The Council states that the previous and proposed extensions, when taken together, would increase the floor area of the original dwelling by 86% and the footprint by 72%. The appellant contests this, stating that the floor area would increase by 73.6% and the footprint by 71.2%. Even if the existing rear element is part of the original dwellinghouse and using the lower figures provided by the appellant, the increase in both floor space and footprint above that of the original dwellinghouse would be substantial.
10. Size can be more than a function of footprint and can include bulk, mass, and height. In this case, the scale, bulk and mass of the building have already been considerably increased through the previous works. The proposed rear extension would further increase the massing and scale of the dwelling. Consequently, the proposed rear extension together with the previous additions would cumulatively amount to a disproportionate one over and above the size of the original building. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

### *Openness*

11. Openness is an essential characteristic of the Green Belt. Planning Practice Guidance explains that openness is capable of having both spatial and visual aspects, so that both the visual impact of the proposal and its volume may be relevant.<sup>1</sup>
12. The proposed rear extension would increase the visual and spatial bulk and massing of the dwelling and would therefore result in an unavoidable reduction in the openness of the Green Belt. Given the, in context, modest size of the

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<sup>1</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

extension and the built-up residential nature of the surrounding area, harm to the visual aspect would be limited. The harm to the spatial aspect would however remain. One of the fundamental aims of Green Belt policy is to keep land permanently open.

*Other Considerations*

13. It has not been demonstrated that claimed improvements to the energy efficiency and structural integrity of the property could not be achieved with a scheme that causes less harm to the Green Belt. In addition, subservience and suitable materials would be arguably expected for a successful scheme and would consequently carry only limited weight. Furthermore, adjacent properties have rear single or two storey extensions, but no details of any planning permissions therefore have been provided. It is thus not possible to compare the reasons for allowing such to the appeal scheme.

**Conclusion and Recommendation**

14. The proposal would cause harm to the Green Belt by way of inappropriateness and through reducing openness, to which substantial weight should be afforded. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified above do not clearly outweigh the totality of the harm for the reasons set out. Consequently, the very special circumstances necessary to justify the proposal do not exist.
15. Accordingly, the proposal would conflict with DP Policy GBR1 and with the Framework, the aims of which are set out above. There are no material considerations, including the approach of the Framework, which indicate that a decision should be made other than in accordance with the development plan. The appeal should therefore be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

16. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

*John Morrison*

INSPECTOR



## Appeal Decision

Site visit made on 25 July 2023 by Darren Ellis MPlan MRTPI

**Decision by John Morrison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 5<sup>th</sup> September 2023**

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**Appeal Ref: APP/J1915/D/23/3317155**

**12 Firs Walk, Tewin Wood, Tewin, Hertfordshire AL6 0NZ**

- 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 D Cooper against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1709/HH, dated 10 August 2022, was refused by notice dated 1 December 2022.
  - The development proposed is described as 'erection of single storey extension to rear of existing house.'
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

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

### Reasons for the Recommendation

#### *Inappropriate Development*

4. The National Planning Policy Framework 2021 (the Framework) establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building. This is provided that the extension does not result in a disproportionate addition over and above the size of the original building. The Framework defines 'original building' as 'a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.'
  5. Policy GBR1 of the East Herts District Plan 2018 (DP) seeks to protect the Green Belt and requires development proposals therein to be considered in line with the provisions of the Framework. Neither the DP nor the Framework define
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'disproportionate'. The officer report states that the Council has a preferred allowance of a 50% for development in the Green Belt, however this figure is not mentioned in GBR1.

6. The appeal property is a large detached two-storey dwelling set in a substantial plot. It has been previously extended, including with a side and rear extensions. When taken together, the Council suggests the previous and proposed extensions would increase the footprint of the original property by 119%. The appellant has not challenged this figure.
7. Size can be more than a function of footprint and can include bulk, mass, and height. In this case, the scale, bulk and mass of the building had already been considerably increased through the previous additions. The proposed rear extension would further increase the massing and scale of the dwelling. Consequently, the proposed rear extension together with the previous extensions would cumulatively amount to a disproportionate addition over and above the size of the original building. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

#### *Openness*

8. Openness is an essential characteristic of the Green Belt. Planning Practice Guidance states that openness is capable of having both spatial and visible aspects, so that both the visual impact of the proposal and its volume may be relevant.<sup>1</sup>
9. The proposed rear extension would increase the visual and spatial bulk and massing of the dwelling, creating built form where there was previously none and would therefore result in an unavoidable reduction in the openness of the Green Belt. Given the, in context, modest size of the extensions, the built-up residential nature of the surrounding area, and as no trees would be removed, that harm would be limited. Nonetheless, one of the fundamental aims of Green Belt policy is to keep land permanently open.

#### *Other Considerations*

10. Should the appeal be allowed, the appellant has suggested that a condition could be used to improve the soft landscaping on the site. However, this would not sufficiently mitigate the harm that would be caused to the Green Belt as identified above since it would relate to both inappropriateness as a matter of principle and still reduce the spatial aspect of the Green Belt's openness in any case.

#### **Conclusion and Recommendation**

11. The proposed rear extension would cause harm to the Green Belt by way of inappropriateness and through reducing openness, to which substantial weight should be afforded. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified above do not clearly outweigh the totality of the harm. Consequently, the very special circumstances necessary to justify the rear extension do not exist.

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<sup>1</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

12. Accordingly, the proposed rear extension would conflict with DP Policy GBR1 and with the Framework, the aims of which are set out above. There are no other material considerations before me, including the approach of the Framework, which indicate that a decision should be made other than in accordance with the development plan. The appeal should therefore be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

13. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

*John Morrison*

INSPECTOR