



Appeal Decision

Site visit made on 7 November 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2023

Appeal Ref: APP/J1915/D/23/3314914

1 Bury Lane, Datchworth SG3 6ST

- 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 Olek Keenan against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/1440/HH, dated 28 May 2021, was refused by notice dated 27 October 2022.
 - The development proposed was originally described as 'Ground floor extensions and alterations. Ground floor orangery style extension with tall windows and rooflight above. New link between main house and 'gym' area. New roof over gym. Wall to gym raised and amended. Existing stair within existing house to be replaced with new. First floor extension. Internal remodelling. New windows and doors. Removal of existing chimney. New spiral staircase externally as per drawings'.
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Decision

1. The appeal is allowed and planning permission is granted for 'Ground floor extensions and alterations. Ground floor orangery style extension with tall windows and rooflight above. New link between main house and 'gym' area. New roof over gym. Wall to gym raised and amended. Existing stair within existing house to be replaced with new. First floor extension. Internal remodelling. New windows and doors. Removal of existing chimney' at 1 Bury Lane, Datchworth SG3 6ST, in accordance with the terms of the application, Ref 3/21/1440/HH, dated 28 May 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 000 rev P2, 001 rev P5, 002 rev P5, 003 rev P5, 004 rev P5, 005 rev P7, 006 rev P6, 008 rev P1, and 011 rev P1.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) No demolition or development shall take place other than in accordance with the written scheme of investigation for a programme of archaeological monitoring, prepared by Pre-construct Archaeology, and dated October 2022.

Preliminary Matters

2. The Procedural Guide: Planning Appeals – England advises that if an appeal is made, the appeal process should not be used to evolve a scheme, and it is

important that what is considered by the Inspector is essentially what was considered by the Council and interested parties at the application stage.

3. Prior to the Council's determination of the application, an amended proposed plan was submitted, omitting an external spiral staircase. Drawing number 005 P6 subsequently formed one of the plans on which the application was determined. Although no external spiral staircase is shown on this plan, it contains an annotation making reference to it. Both main parties agree that the proposed development does not include an external spiral staircase, and an amended drawing reference 005 P7 has been submitted as part of this appeal, on which reference to the spiral staircase has been omitted.
4. The appellant has requested that other amended plans also be considered as part of this appeal. I am satisfied the proposed changes to the exterior of the building - which include alterations to the positions and design of glazing and doors - are not significant, and would not fundamentally change the proposal. However, I cannot be certain that no parties would be prejudiced were I to take these amendments into account. Therefore, and with the exception of drawing reference 005 P7, this appeal has been determined based on the plans submitted in support of the application, and upon which the Council's decision was made. I have had regard to the degree of engagement for all parties in coming to this view.

Main Issues

5. The main issues are;
 - whether the extensions and alterations would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies, and, if so, the effect of the development on the openness of the Green Belt; and,
 - if the proposals would be inappropriate development, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether the development would be inappropriate development

6. The appeal site, which is within the Green Belt, contains a relatively large detached dwellinghouse. It has accommodation arranged over 2 storeys, and much of the house has pitched roofs above the first-floor accommodation.
7. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Framework paragraph 149 goes on to say that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless one of a number of exceptions are met. An exception, at paragraph 149 c), is the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building.
8. Part I of policy GBR1 of the East Herts Council East Herts District Plan – October 2018 (the district plan), indicates that planning applications within the Green Belt will be considered in line with the provisions of the Framework. As

such, part I of this policy conforms with the Framework in respect of Green Belt matters.

9. What is disproportionate in the context of extensions to buildings in the Green Belt, is not defined in either the Framework or policy GBR1. Therefore, the assessment of whether the proposal would amount to a disproportionate addition over and above the size of the original building, is a matter of planning judgment.
10. The house has been subject of previous extensions. In combination with the development proposals subject of this appeal, the evidence indicates that there would be a cumulative increase in the floorspace of the original buildings of 50.2%. While such an increase would be significant, it is reasonable to also consider size and scale when assessing whether a proposal would amount to a disproportionate addition.
11. The ground floor extensions would increase the overall footprint of the dwelling, but only by a little. Furthermore, and while parts of the walls of the link and gym would be taller than the existing link, these parts of the scheme, and the orangery, would be single-storey and have flat roofs. Moreover, their heights would be significantly lower than the majority of the original buildings.
12. Much of the proposed first-floor side extension would be constructed above an existing single-storey part of the building and set back from the existing building lines. It would also have a hipped roof and be lower in height than the adjacent 2-storey original part of the building. This part of the scheme would not therefore be dominant in either size or scale when compared with the original buildings.
13. For the reasons given above, and when considered together and in combination with previous additions, the proposals would be both limited in extent and subservient to the original buildings. Therefore, and notwithstanding the increase in floorspace proposed, the proposals would not constitute disproportionate additions to the original building. As such the development would not be inappropriate development in the Green Belt. Instead, it would comply with policy GBR1 of the district plan as well as the relevant provisions of the Framework. Consequently, there is no need to consider the effect of the development on the openness of the Green Belt, or for it to be demonstrated that very special circumstances exist.

Conditions

14. The Council have suggested a number of conditions, the wording of one of which has been amended for the purposes of clarity and to meet the six tests within paragraph 56 of the Framework.
15. The statutory condition which specifies the time-period for the implementation of the permission is imposed. For certainty, a plans condition is also included. A materials condition is necessary to ensure that the development does not cause harm to the character and appearance of the area.
16. A written scheme of investigation for a programme of archaeological monitoring prepared by Pre-construct Archaeology, was submitted in support of the application. It is necessary to impose a condition requiring that the development be undertaken in accordance with the measures identified within this programme. This is because the site is within an area of archaeological

significance, and the development has the potential to disturb archaeological remains. Such a condition will ensure no unacceptable harm would be caused in respect of archaeological remains within the site.

Conclusion

17. For the reasons given above, and having regard to the development plan as a whole and any material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR



Appeal Decision

Site visit made on 24 October 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/J1915/W/22/3310920

Fox Cottage, 81 Long Lane, Aston, Hertfordshire SG2 7HE

- 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 A Moreham against the decision of East Herts District Council.
 - The application Ref 3/22/0218/FUL, dated 1 February 2022, was refused by notice dated 13 May 2022.
 - The development proposed is described on the application form as 'Erection of detached four bedroom dwelling on land adjacent Fox Cottage. Demolition of mainly disused outbuildings, access provided via existing access from Long Lane.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development relates to the setting of a listed building. Accordingly, I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it may possess, as required under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

3. The main issues are:
 - whether the proposed development is inappropriate development in the Green Belt;
 - whether the site is a suitable location for housing having particular regard to the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would preserve the Grade II listed building, Fox Cottage, or its setting;
 - the effect of the proposed development on the living conditions of future occupiers, with particular regard to overlooking; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

4. The appeal site comprises a parcel of land to the south of Long Lane. It is formed of a series of single-storey buildings, areas of hardstanding and grassland. Although not included within the site location plan's red line, the site is associated with nearby Fox Cottage, a private dwelling. The site is within the Green Belt.
5. National Green Belt policy in the National Planning Policy Framework (the Framework) sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 149, is the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt. Policy GBR1 of the East Herts District Plan (LP, 2018) conforms to the general thrust of national Green Belt policy, setting out that planning applications will be considered in line with the provisions of the Framework.
6. Given the nature of the site, specifically the permanence of some existing structures and areas of hardstanding, I acknowledge that the site may be characterised as previously developed land, in line with the definition in the Framework. I also note that the proposed development would result in the removal of several existing structures and the consolidation of built form across the site. I also saw how intervening features in the landscape and its topography mean there is fairly limited visibility of much of the site from the surrounding area.
7. Nevertheless, the openness of the Green Belt has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm. The proposed development would introduce development of a greater height than the existing structures, at two-storeys high. This would be compared with the low-lying and traditional nature of the existing buildings across the site. There would also, in all likelihood, be domestic paraphernalia linked to the additional dwelling, including access and parking areas, parked vehicles, additional boundary features, amenity areas and bin storage. This would add to the effect on openness beyond a simplistic reliance on amount of ground covered or the volume of built form. At present the site retains an essentially open, rural character.
8. Overall, I conclude that the proposed development would fail to preserve openness. It would be inappropriate development in the Green Belt, rather than an exception permissible under Framework paragraph 149. However, in the light of the mitigating factors explained above, adverse effects to openness would reasonably be described as moderate. The proposed development would be contrary to the relevant provisions of LP Policy GBR1, which in summary seeks to protect the Green Belt from inappropriate development and to protect its openness.

Appropriateness of location

9. The appeal site is located outside of any defined settlement boundary, and therefore within the open countryside. Notwithstanding this, as the site is

located near to established residential properties, it cannot reasonably be described as 'isolated' within the terms of Framework paragraph 80.

10. Aston End contains very limited services, including a public house. Further services and facilities are provided in Stevenage. However, these are located a reasonably long distance away from the site, and would require future residents of the development, if travelling by foot or cycle, to proceed along Long Lane, which is narrow with no dedicated footway/cycleway or wide verge and is unlit. This journey would also require residents to cross the road at least once. The journey would be particularly undesirable in winter months, after dusk or during inclement weather conditions.
11. Paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwellings would be highly reliant on the use of private vehicles to access most services and facilities, irrespective of the precise distance, due to a lack of satisfactory walking routes and a lack of public transport facilities within a reasonable distance of the site.
12. My attention has been drawn to a development at Hazel Park. Whilst I do not have the full details of that case before me, including its specific context and planning history, I note that it relates to a significant number of dwellings. As a result, the considerations that applied there, and the planning balance, are not directly comparable. Moreover, there is no substantive evidence before me to demonstrate that the presence of that site would improve the sustainability of the appeal site. Ultimately, the existence of that scheme does not lead me to an alternative conclusion on this main issue.
13. For the above reasons, I conclude that the appeal site would form an inappropriate location for the proposed development, contrary to the relevant provisions of LP Policies DPS2, VILL2 and TRA1. These policies, in summary, seek to ensure development is located in the most sustainable locations. This is in a similar vein to the objectives of paragraph 104(c) of the Framework, which says that transport issues should be considered from the earliest stages of plan making and development proposals so that opportunities to promote sustainable transport are identified and pursued.

Character and appearance

14. As reasoned above, views into the appeal site are relatively limited by reason of the position of public vantage points and intervening landscaping and levels. Despite this, parts of the site can be glimpsed from Long Lane. Clearer views are obtained from within adjoining privately owned land. From those vantage points, the site, including the existing buildings, retains a rural character that does not appear out of place here. This is consistent with the wider landscape. The existing arrangement of buildings is such that the appeal site does not appear as a separate entity to the Fox Cottage, with no strong visual boundaries between the site and dwelling.
15. The proposed development, irrespective of its precise footprint, would introduce a harmful domestic character to the site, and the building would have a more prominent presence than the existing low-key outbuildings, particularly as the proposed dwelling would reach two storeys high. The development would erode the contribution that the site makes to the open and rural nature

of the surrounding area, intensifying its use from rural to almost suburban in appearance. Consequently, the proposed development would have a harmful effect on the site and on the open rural character of Long Lane.

16. Overall, I conclude that the proposed development would have a harmful effect on the character and appearance of the area, contrary to the relevant provisions of LP Policies DES2 and DES4. These policies, when taken as a whole, seek to ensure that development in the countryside is appropriate for its location and does not harm the special characteristics of landscape character. This is in a similar vein to the objectives of the Framework insofar as good design and the protection of landscape character is concerned.

Heritage - special interest and significance

17. Fox Cottage is positioned to the north-east of the appeal site. It is a Grade II listed building¹, dating from the sixteenth century, with later elements. It is faced in brick and roughcast render. A later, prominent twentieth century addition exists to the rear.
18. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its architectural and historic interest. Important contributors in these regards, which are pertinent to the appeal, are its illustration as a vernacular hall house and the use of traditional building materials and techniques.
19. Pertinent to the appeal, in relation to the settings of the listed buildings and the contribution they make to the special interest and significance of assets, I have had regard to the definition of setting within the National Planning Policy Framework (the Framework).
20. To my mind, the closely associated grounds of the main house, including the adjacent outbuildings, driveway and gardens, have an historic, visual and functional connection with the heritage asset. These grounds form the asset's immediate setting and it is from here that the asset is best appreciated. This immediate setting contributes somewhat to the asset's special interest and significance.

Heritage – appeal proposal and effects

21. There is no doubt that the proposed development would change the appearance of the appeal site. However, the proposal, by reason of its nature, position and overall scale, would not harmfully disturb the identified historic, visual and functional relationship between the heritage asset and the appeal site, which forms part of its immediate setting and which contributes to the asset's significance. The listed building would remain legible, and the asset's historic and architectural interest would remain unaffected. The retention of a considerable separation distance and intervening landscaping features would reinforce this.
22. Overall, I conclude that the proposed development would preserve the Grade II listed building, Fox Cottage, and its setting. Consequently, it would not harm the significance of this designated heritage asset. In doing so, it would satisfy the requirements of Section 66(1) of the Act. The proposal would also accord with the relevant provisions of LP Policies HA1 and HA7, which in summary

¹ List Entry Number: 1101437

seek to protect heritage assets and their settings. This is in a similar vein to the National Planning Policy Framework (the Framework) insofar as the protection of heritage assets is concerned.

Living conditions

23. The proposed dwelling would lie to the south west of the existing dwelling, Fox Cottage. This would introduce habitable windows in a location where this is not currently the case, including at first floor level.
24. The orientation of the proposed dwelling relative to Fox Cottage, together with the separation distance between the two properties, is such that there would be no harmful loss of privacy to the occupiers of that property.
25. Consequently, I conclude that the proposed development would have an acceptable effect on the living conditions of neighbouring properties, in accordance with the relevant provisions of LP Policy DES4, which in summary seeks to protect living conditions.

Other considerations

26. The proposal would result in the removal of a number of existing buildings that are in a poor state of repair. The appellant considers these to be unsightly and that this would be a benefit. However, the removal of existing buildings, and general enhancement of the site, could happen without the redevelopment of the site. Moreover, I note that some of the buildings identified for demolition do not lie within the appeal site, illustrated as being outside the red line. I therefore afford this matter no weight.
27. I also note that the proposed development would meet some other planning objectives, including in respect of biodiversity. However, the absence of harm in those respects is essentially neutral in my determination of the appeal. I therefore give these considerations limited weight.
28. A letter of support has been received. However, that is not a benefit and has not led me to an alternative conclusion on the main issues. I afford this matter no weight.
29. My attention is drawn to a nearby site at Hazel Park. As discussed above, the circumstances at that site are not directly comparable with the appeal site. In any event, I have assessed the appeal based on the evidence before me and the site's individual circumstances. I therefore give these considerations limited weight.

Green Belt Balance and conclusion

30. The proposed development would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
31. Cumulatively, I attach no more than limited weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt and the very special circumstances necessary to justify the development do not exist.

32. From the evidence before me, the Council is unable to demonstrate a five-year housing supply. This means that the policies which are most important for determining the proposal are out of date in accordance with paragraph 11.d of the Framework. However, bullet (i) of paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the proposed development. In this case, I have found that there would be harm to the Green Belt. Therefore, the proposal would not benefit from the presumption in favour of sustainable development in this instance.

33. Accordingly, I conclude that the appeal should be dismissed.

A Price

INSPECTOR



Costs Decision

Site visit made on 2 November 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2023

Costs application in relation to Appeal Ref: APP/J1915/D/22/3310824 The Stables, London Road, Hertford, Hertfordshire, SG13 7NS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Chris Abbiss for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for "Conversion and alterations to garage/store/office to create residential annexe to include raising of roof, insertion of rooflights, doors and windows".
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where:
 - a party has behaved unreasonably; and
 - the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG clarifies that unreasonable behaviour may either be procedural or substantive. Although an application for costs may relate to events before the appeal, the PPG states that costs unrelated to the appeal are not eligible for an award.
4. The application for costs by the appellant is based on substantive grounds in that it alleges the Council acted unreasonably in persisting with objections to a scheme that an Inspector previously indicated to be acceptable at appeal¹ ('the previous appeal').
5. In accordance with section 38(6) of the 2004 Act² and section 70(2) of the 1990 Act³, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point of decision-making is therefore plan-led.

¹ Planning appeal APP/J1915/W/15/3023008, decision date 24 December 2015.

² Planning and Compulsory Purchase Act 2004

³ Town and Country Planning Act 1990 (as amended)

6. It will be seen from the appeal decision that I disagree with the grounds upon which the Council refused the application, namely; (1) that the development would result in the creation of a separate unit of residential accommodation in an inappropriate location; and (2) that the proposal would be inappropriate development in the Green Belt.
7. However, I am nonetheless satisfied that it was not unreasonable of the Council to have formed the conclusions it did in respect of the main issues relating to;
 - whether it would be inappropriate development in the Green Belt, on the basis that the scheme proposed an increase in height of the building, whereas the development allowed at the previous appeal did not⁴;
 - whether the scheme would be tantamount to the creation of a separate unit of residential accommodation in an unsustainable location, on the basis that the proposed annexe had 2 bedrooms and more floorspace than that allowed at the previous appeal which only contained 1.
8. I do nonetheless agree with the appellant that the Council did behave unreasonably in not placing sufficient weight on the conclusions of the Inspector at the previous appeal who found that the scheme's position outside the small curtilage associated with the Stables did not have a direct bearing on the functional relationship that existed between the two buildings and that there was therefore no basis to suggest that the annexe could not function in the manner proposed by the appellant.
9. Although the Council afforded minimal weight to the previous appeal scheme on the basis that it had lapsed, this did not mean that the Inspector's reasoning for their decision was no longer significant.
10. I recognise that a new District Plan was subsequently adopted after the previous appeal decision, but the wording of its main policy on the matter of residential annexes (Policy HOU13) does not refer to specific numerical figures in setting the maximum distance an annexe can be from the main dwelling; - it merely requires it to be 'close to and well related to and have a clear functional link to the main dwelling'. To my mind, these issues were considered by the Inspector at the previous appeal, who deemed the physical layout and existing functional relationship to be acceptable and capable of functioning as an annexe.
11. The wording of Policy HOU13 therefore retains flexibility in terms of the maximum separation distance between the main dwelling and annexe, necessitating a planning judgement by the decision-maker having regard to the evidence before them and their on-the-ground assessment. In the case before me, the Council did not demonstrate how the assessment of the scheme against Policy HOU13 differed from the policy applied to the previous appeal or how the circumstances on-the-ground had changed in the intervening period.
12. The above deficiency was further compounded by insufficient regard being given to a recent Council decision to issue a certificate of lawfulness which concluded that the annexe building in question already had a lawful residential

⁴ Paragraph 12 of the decision letter.

use in association with the main dwelling⁵, which indicated a clear functional relationship already existed between the two.

13. In view of this, I consider it unreasonable of the Council to have introduced the matter of siting into its first reason for refusal. The application for costs on this substantive ground therefore succeeds.

Conclusion

14. In view of the above, I find that unreasonable behaviour by the Council resulting in unnecessary and wasted expense has been demonstrated. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in addressing the matter relating to the siting of the annexe in the first reason for refusal is justified.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr Chris Abbiss the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in addressing the siting of the annexe in the first reason for refusal.
16. The applicant is now invited to submit to East Hertfordshire District Council, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Robert Fallon

INSPECTOR

⁵ Certificate of Lawful Use or Development Ref 3/21/0293/CLXU dated 10 June 2021.



Appeal Decision

Hearing held on 24 October 2023

Site visit made on 24 October 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/J1915/W/23/3319942

Paddock Lodge, New Barns Lane, Much Hadham, Hertfordshire SG10 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for the siting of a mobile home an agricultural worker's dwelling for which a previous planning permission was granted for a limited period.
 - The appeal is made by Chaldean Estates Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2459/VAR is dated 24 November 2022.
 - The application sought planning permission for the siting of a mobile home for an agricultural worker's dwelling granted planning permission for a limited period Ref 3/19/2616/FUL, dated 3 April 2020.
 - The permission is subject to a condition requiring the cessation of the use on or before 3 April 2023.
 - The reason given for the condition is: The development is a temporary expedient only having regard to amenity of the surrounding area.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Two documents were submitted during the Hearing which set out the vineyard's 5 year budget for operations (2023 – 2027); and a breakdown of capital expenditure. Given that they do not fundamentally alter the proposal and were of relevance to the discussions between all parties at the Hearing, I have taken them into consideration in my decision.

Main Issues

3. The main issues are a) whether or not there is an essential need for a mobile home to accommodate a rural worker; and b) the effects of the proposed development on the character and appearance of the area.

Reasons

Essential Need

Background

4. Planning permission was granted in April 2020 to use the appeal site for the temporary siting of a mobile home. The need for the mobile home was predicated on the basis of the Chaldean Estate's (the Estate) plans for diversification and in particular establishing an alpaca farm. The permission

was for a 3-year period and was subject to a standard agricultural occupancy condition. The permission was not tied to the alpaca enterprise. The diversification into alpacas was not subsequently pursued although the mobile home was placed on site and occupied.

5. In 2019, the Estate had already begun to diversify from its main activities, into growing grapes. Vines were planted in a part of the overall landholding just a few minutes' drive from the appeal site. That site is approximately 4 hectares (10 acres) in size and is now producing grapes which are supplied to a winery. It was explained at the Hearing that in 2022 the decision was taken to extend the grape growing activities and in May 2023, new vines were planted in a field of approximately 5.6 hectares (14 acres). This field is adjacent to the appeal site.
6. The application to extend the temporary permission for the siting of the mobile home was submitted after the decision to extend the vineyard but before the vines could be planted. The application did not explain that the alpaca farm had not come to fruition. Furthermore, no details or information of the vineyard were provided to support the need for the mobile home. Thus, without any supporting evidence the application was refused by the Council.
7. The Council is now aware of what has transpired in the intervening period and that a mobile home is said to be needed to house workers for the vineyard. Nevertheless, the Council maintains its assertions that an essential need for the mobile home has not been demonstrated.

Policy Context

8. The site lies within the rural area beyond the Green Belt. The Council's spatial strategy is to direct development to specified locations which can generally benefit from sustainable transport options and which in turn helps to protect the rural area beyond the Green Belt as a valued countryside resource. Thus, in locations such as the appeal site there is a general restriction on development. This approach is broadly consistent with the National Planning Policy Framework (the Framework).
9. Some specified forms of development are however permitted by the East Herts District Plan 2018 (EHDP) in the rural areas beyond the Green Belt. Aside from those specified in Policy GBR2, Policy HOU5 also establishes criteria against which dwellings for rural workers will be permitted. The general approach of HOU5 is not dissimilar to Paragraph 80 of the Framework, which specifically seeks to avoid isolated homes in the countryside unless specific circumstances apply, including the essential need for a rural worker.
10. At the Hearing the appellant favoured the wording of Paragraph 80 over that of HOU5, as it refers to 'homes', thereby encompassing a range of accommodation types, including mobile homes. However, given the size of the site and nature of the mobile home previously approved, there would be little practical difference between it being referred to as a 'dwelling' or a 'home'.
11. There was further discussion in relation to Policy HOU5, as it refers specifically to 'permanent dwellings', which was said to lessen its relevance to the proposal. However, Paragraph 80(a) also refers to rural workers living permanently (my emphasis) at or near their place of work in the countryside. In my opinion, the use of the word 'permanent' does not necessarily mean that

neither the EHDP nor the Framework would be applicable in this instance. Whilst the proposal would be time limited, it would nonetheless be present on site at all times, rather than for example seasonally, or just for specific events/operations. In that sense, it would be permanently located at the appeal site until April 2026.

12. The criteria set out in Policy HOU5 includes providing evidence of an essential need for the accommodation; that the enterprise has been established for at least three years; is financially viable; and there is no other suitable accommodation locally. Whilst the Framework does not contain any definition of 'essential need', HOU5 indicates it to mean that one or more workers need to be available at most times. The Framework provides a basis within which Councils can produce their own distinctive plans and policies, and there is nothing to prevent them from 'fleshing out' such terms.
13. No financial test is referenced in the Framework. However, it is legitimate to consider that there should be evidence that the business has a reasonable prospect of success and will endure for the life of the permission sought. Otherwise, it would be difficult to conclude that there was an 'essential need' for an enterprise with no such prospect. Consequently, I do not see those financial considerations as incompatible with the Framework, within the overall context of 'essential need'. Indeed, the appellants provided information at the Hearing in relation to expenditure and income/costs/profit, which also implies an acceptance of its pertinence.
14. Furthermore, the Planning Practice Guidance (PPG) at Paragraph: 010 Reference ID: 67-010-20190722, sets out considerations that may be relevant in assessing essential need. While the PPG is guidance rather than policy, it nevertheless provides clear direction that financial considerations can be relevant.
15. In view of the above, I am satisfied that Policy HOU5 is not out of step with the Framework and provides an appropriate basis for establishing whether or not there is an essential need for this proposal.
16. Although the Council's assessment relied in large part on Planning Policy Statement 7 (PPS7) it has been supplanted by the Framework, which is supported by the advice of the PPG. Therefore, as it is no longer Government policy, I attach no weight to PPS7 in relation to this appeal.

Operational Activities

17. The appellant set out various activities that need to be undertaken in relation to growing grapes and which are said to demonstrate that an on-site presence is essential. Of these, the one cited as most important is the need to be available to respond quickly to frost, which generally occurs late at night or in the early hours of the morning. Frost is a particular risk factor for grapes, and if action is not taken quickly, it can reduce yields and set back the productivity of the vines.
18. However, cold weather and frosts are, to a certain degree, limited to particular times of the year. Furthermore, they can generally be forecast, enabling precautionary measures such as lighting frost candles to be undertaken in advance of the frost arriving, thereby ensuring the air temperature in and around the plants stays above freezing. Indeed, it seems to me that given the

size of the vineyards and in order for this work to be effective, it would need to be undertaken in advance of the frost actually occurring and thus monitoring of the weather and pre-planning would be a crucial part of the operations.

19. I acknowledge that workers being housed on the site would avoid any additional journeys to/from the Estate at these times of the day and would generally be more convenient to all involved. However, many employment roles require people to start work early, or indeed work unsocial hours.
20. A temporary additional presence on or close to the vines to deal with frosts may be justifiable on occasion or a seasonal basis. However, it is unlikely that such a presence would be required constantly during the likely affected periods to deal with the threat of frost, or for the rest of the year. Accordingly, I do not find that the suggested benefits of someone being on site to deal with frost protection equates to an essential need to live on site through to April 2026.
21. Other routine activities associated with the operations were highlighted, such as pruning, leaf stripping, picking, spraying the vines, maintaining the trellis, weeding, etc. However, there is nothing to suggest that such activities cannot be carried out in the daytime or that they require a presence around the clock. Again, I appreciate that having someone on site to undertake this work offers flexibility and if necessary, could allow personnel to assist with the appellant's other activities such as the forestry operations, if weather or other events dictate. However, it does not in itself demonstrate an essential need for someone to be living at the appeal site.
22. Similarly, security was also cited as a concern and a contributory factor for having a mobile home on site. I acknowledge that a presence on site may act as a deterrent to potential theft or anti-social behaviour and offer an additional watching eye for residents in the immediate vicinity. However, I noted that the vines are secured by high fencing and there was no substantive evidence to suggest that additional fencing, alarms or CCTV would not represent a reasonable security response or provide a sufficient deterrent.
23. Whilst I do not doubt that security is a very real concern and that there have been incidents in the past, the appellants were unable to provide any definitive statistics or substantive evidence relating to what crimes the site is currently or was previously subject to. Based on the information before me, it has not been demonstrated that a residential presence at the site is the only viable or practical option for providing security at the site.

Viability

24. There is no reason to suggest that the financial details presented at the Hearing are unreasonable or unreliable. The figures themselves indicate that the operation would, after a small projected loss in 2024, return to profit in 2025. This profit although initially small, would be expected to grow over subsequent years. In these circumstances, it appears that the business has a financial plan with seemingly good prospects of remaining economically sustainable over the longer term. These certainly provide grounds to believe that it would be operating for the lifetime of the permission that is sought.

Alternative Accommodation

25. It was stated at the Hearing that the appellant's longer-term ambitions are to convert the storage barn close to the Estate's office building, which has prior

approval for a change of use to 5 dwellings. The building is within the Estate compound and so is likely to be developed as rental properties for those working within the Estate.

26. However, the barn is currently being used for storage and funding for the conversion has yet to be secured. Furthermore, the approval can be implemented up until August 2025. In such circumstances, these houses are likely to be a more medium-term solution. In the shorter term, if the appeal is dismissed, there may be a period of time when the mobile home is no longer on site and the barn has yet to be converted.
27. There was no dispute between the main parties that the cost of rental properties in Much Hadham is high, and beyond the scope of rural workers. Thus, they would be forced to travel greater distances to work on the Estate. However, it was clear from my site visit that Bishop's Stortford is approximately 6 miles from the appeal site. It was also evident that there are other nearby settlements. I was not provided with details of the cost of renting in these other locations nor any indication on the availability of accommodation.
28. Given the current difficulties with the number of people available to work in agriculture and rural enterprises, having the accommodation on site clearly makes it easier to attract and retain staff. However, the evidence before me does not entirely rule out the possibility of other accommodation options being available in the short term, and which are both within a reasonable distance of the site and affordable for a rural worker.

Conclusion

29. From the appellant's point of view there are clearly operational benefits in being able to house workers on the appeal site. The longer-term financial viability of the vineyards do not seem to be in doubt and indeed there was a suggestion that in time, further fields could be given over to growing grapes.
30. As such, the proposal accords with certain aspects of Policy HOU5. However, it has not been shown that there needs to be a constant presence or availability of personnel on site at all times to deal with the vineyard's operations and activities. This leads me to conclude on this main issue that an essential need for a mobile home at the appeal site has not been clearly demonstrated.
31. Therefore, in this regard the development conflicts with Policy HOU5 of the EHDP which, amongst other things, requires an essential need to be demonstrated for a rural worker to live on site.
32. In doing so, the proposal would also conflict with the associated provisions of the Framework which seek to avoid isolated homes in the countryside.

Character and Appearance

33. There was no dispute between the main parties that the design of the mobile home was in keeping with its rural surroundings. It was also evident from the site visit that outside of the confines of the Estate, the mobile home is only really visible from a position to the north-west, where a public footpath that crosses through the Estate meets Bromley Lane. In comparison to the farm buildings immediately around it, the mobile home is small. It is also set against a backdrop of taller, mature trees which make it less conspicuous. Therefore,

the intrinsic harm associated with locating a mobile home for a temporary period in this countryside location is small.

34. However, I have found that an essential need for a rural worker to live at the appeal site has not been demonstrated. Therefore, even the small amount of harm to the character and appearance of the area that I have identified would not be offset or justified and thus a conflict would arise with Policies GBR2 and DPS2 of the EHDP. These policies, amongst other things, establish a spatial strategy that generally direct development away from rural areas, which in doing so also protects the character and appearance of the countryside.

Other Matters

35. Were a worker to be housed on site, a daily commute would be avoided, as would out-of-hours journeys to the site for say frost protection work. Nevertheless, the location would be likely to necessitate other journeys by car to access a reasonable range of shops, services and facilities. The limited range of shops and facilities in Much Hadham would be unlikely to meet the full range of needs a person might have. Furthermore, although Much Hadham might be cyclable from the site there are no public transport options and walking is unlikely to be attractive to many people. However, even if I were to conclude that the development had a neutral effect in terms of overall travel requirements, it would not alter or outweigh the harms I have identified above.
36. The listed buildings to the northeast of the appeal site (Carldane Court and Fig Tree Cottage) were confirmed at the Hearing as being Grade II. From my observations, insofar as they relate to this scheme, the setting of these heritage assets is the area immediately surrounding them, with the significance arising from their age and architectural features. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed buildings or their setting, or any features of architectural or historic interest which they possess. In view of the topography, intervening mature planting and separation distances involved, I find that the proposal would have a neutral effect on the setting of these heritage assets.
37. The Council has raised concerns regarding various works around the mobile home, such as fencing and a pergola, which are said to be unauthorised. I indicated at the Hearing that these were not matters relating to the variation of condition and so were beyond the remit of this appeal. I have not therefore included other references to these works within my decision.

Conclusion

38. The proposed development conflicts with the development plan as a whole and there are no material considerations, including the Framework, either individually or in combination, that suggest a decision should be made other than in accordance with the development plan.
39. Therefore, for the reasons given, the appeal is dismissed.

Stewart Glassar

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Neil Davis	Director, Davis Planning
Alan Granger	Estate Manager, Chaldean Estates Limited
Michael Pettifer	Investment Director, Chaldean Estates Limited

FOR THE LOCAL PLANNING AUTHORITY:

Rachel Collard	Team Leader, East Herts District Council
Janna Hon	Planning Officer, East Herts District Council

DOCUMENTS submitted at the Hearing:

Vineyards 5 Year Budget
Capital Expenditure on Vineyards



Appeal Decision

Site visit made on 2 November 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2023

Appeal Ref: APP/J1915/D/22/3311097

46 Pepper Hill, Great Amwell, Ware, Hertfordshire, SG12 9RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Jacey Thompson against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0711/VAR dated 8 April 2022, was refused by notice dated 22 August 2022.
 - The application sought planning permission for the erection of a new first floor with alterations to the ground floor of the existing dwelling house and a new detached garage with workshop/storage over without complying with a condition attached to planning permission 3/11/0306/FP dated 17 May 2011.
 - The condition in dispute is No 2 which states that:
The development hereby approved shall be carried out in accordance with the following approved plans: 1231, 1231/4, 1231/SK/4 and 1231/SK/5 received on the 23rd March 2011 and Plan 1, 1231/1, 1231/2 and 1231/3 received on the 24th February 2011.
 - The reason given for the condition is:
To ensure the development is carried out in accordance with the approved plans, drawings and specifications.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new first floor with alterations to the ground floor of the existing dwelling house and a new detached garage with workshop/storage over at 46 Pepper Hill, Great Amwell, Ware, Hertfordshire, SG12 9RZ, in accordance with application Ref 3/22/0711/VAR dated 8 April 2022, without compliance with condition number 2 previously imposed on planning permission 3/11/0306/FP dated 17 May 2011 and subject to the conditions set out in the attached schedule.

Procedural matter

2. The revised National Planning Policy Framework ('the Framework') was published on 5 September 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework¹. As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

Main issues

3. The main issues are:

- whether varying condition No 2 to permit an amended scheme would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;
- 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

Appeal site context and background issues

4. The appeal site falls within the Green Belt and previously contained a detached bungalow set well back from the Pepper Hill vehicular highway. Pepper Hill is a busy classified road (A1170), the western side being characterised by detached & semi-detached dwellings of varying age, scale and architectural design, and the eastern flank by open paddocks/fields.
5. At the time of my site inspection, a significant amount of construction work had taken place to create a new first floor above the bungalow, although this had yet to be completed. A detached garage had also been erected at the front of the site. As a consequence of these works, both parties hold the view that the previous planning permission² remains capable of being fully implemented.
6. The appellant proposes that condition No 2 be varied so that a full gable roof can be constructed above the new first floor, as opposed to the previously approved half-hipped roof. The appellant states that this is necessary to address a building regulations requirement for the bedrooms to be fitted with fire escape windows, necessitating a change in their height and position on the wall plate.

Whether varying condition No 2 to permit an amended scheme would be inappropriate development in the Green Belt

7. Policy GBR1 of the District Plan³ states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 149 of this document states that a local authority should regard the construction of new buildings as inappropriate in the Green Belt, aside from a number of exceptions which include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
8. The evidence before me reveals that the original bungalow had not been subject to any previous extensions. Although the Council and appellant have both arrived at different figures in respect of the scheme's resultant increase in cubic volume, it is important to note that Paragraph 149 does not refer to specific numerical figures. The Framework therefore retains flexibility in the case of extensions and does not set an upper numerical limit.

² Planning Permission 3/11/0306/FP dated 17 May 2011.

³ East Herts District Plan, October 2018, East Herts Council.

9. I recognise that the roof extension would represent a significant addition to the building, but when taken cumulatively with the modest size of the detached garage and the absence of any other previous extensions, it is my view that the overall development falls within the upper limits of what I would consider proportionate to the original bungalow. As a consequence, I find that the scheme would not be a disproportionate addition to the original building, which means that it does not constitute inappropriate development in the Green Belt.
10. In view of the above, I conclude that the proposal to vary condition No 2 to permit an amended scheme would comply with Policy GBR1 of the District Plan which seeks, amongst other things, to ensure that Green Belt planning applications are considered in line with the provisions of the Framework. For the same reason, I also find that it would accord with Paragraph 149 of the Framework.

Conditions

11. The Planning Practice Guidance makes it clear that decision notices for a grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged.
12. I have considered the conditions imposed on the original planning permission and those suggested by the Council. The Council's request for a materials condition is not necessary as this was not on the original planning permission and in any event, these details are specified on the approved plans. Condition No 2 has been updated with the new plan numbers and the remaining obscure glazing condition (No 3) remains as originally imposed.

Conclusion

13. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed and that condition 2 should be varied.

Robert Fallon

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 details:- The submitted location plan and drawing nos. 1231 (site plan); 1231/SK/4 (existing elevations); 1231/SK/5 (existing floor plans); 1231/3 (detached garage); 1231/4 (roof plans, but only insofar as it relates to the detached garage); 023.1 (existing plans & elevations, site & location plan); and 023.5 (proposed plans & elevations, site & location plan).
- 3) The first-floor north-facing bathroom window openings shall be fitted with obscured glass and fixed closed, other than a single top-hung fanlight to each window for ventilation purposes, and shall be permanently retained in that condition unless otherwise agreed in writing with the Local Planning Authority.

End of Schedule



Appeal Decision

Site visit made on 31 October 2023

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 November 2023

Appeal Ref: **APP/J1915/W/23/3320814**

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Frank Banner against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/1309/FUL, dated 21 June 2022, was refused by notice dated 4 January 2023.
 - The development proposed is described as "Full Planning Permission for the conversion of existing stable building to provide a new single residential unit and associated parking and amenity space".
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of stable building to provide a single residential unit and associated parking and amenity space at Jesmond Cottage, 2 Cross Road, Epping Green, Hertfordshire SG13 8NG in accordance with the terms of the application, Ref 3/22/1309/FUL, dated 21 June 2022, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. I have amended the description in my decision above for clarity and to remove words not describing acts of development.

Main Issue

3. Whether the proposed development would be in a suitable location in respect to local services and facilities.

Reasons

4. The appeal site comprises a stable building within the grounds of Jesmond Cottage, a dwelling in the small rural village of Epping Green.
5. Policy DPS2 of the East Herts District Plan 2018 (EHDS) establishes a hierarchy for the location of new housing in the District. At the bottom of this hierarchy is limited development in the villages. Epping Green is not identified in the EHDS as a 'Group 1' or 'Group 2 Village', so is considered a 'Group 3 Village'. This category of village is described in the EHDS as having a poor range of services and facilities, such that it is often necessary for residents to travel outside the village for most of their daily needs.
6. The EHDS's overall development strategy prioritises Group 1 Villages for additional housing over villages in Groups 2 or 3. Nevertheless, the reference to "the villages" within the hierarchy in Policy DPS2 does not preclude

development in Group 3 Villages. Policy VILL3 of the EHDS supports limited infill development identified in an adopted Neighbourhood Plan within Group 3 Villages. In addition, part III of the policy sets out criteria to be met by all development in Group 3 villages, such as location, connectivity and scale in relation to the village.

7. I understand Epping Green does not fall within an area covered by an adopted Neighbourhood Plan. However, the proposal is for conversion of an existing building rather than the infilling of a gap in development. The building is near other dwellings in Epping Green so the new home would not be isolated. The Council has not suggested the proposal would fail any of the criteria under part III of Policy VILL3. On the evidence before me, I see no reason to disagree. Therefore, on balance, I find the proposal would not conflict with Policy VILL3 of the EHDS.
8. Policy TRA1 of the EHDS requires development proposals to be primarily located in places which enable sustainable journeys to be made to key services and facilities, prioritising modes of transport other than the car where feasible.
9. Epping Green has few services and facilities so the proposal would be likely to generate some additional car use. Nonetheless, the larger village of Little Berkhamsted is close enough to be within easy walking or cycling distance, particularly during daylight hours. Epping Green is also served by two bus routes to larger settlements, with onward connections by bus and train. Another mainline railway station is a short drive away. Therefore, the proposed dwelling would have reasonable access to local services and facilities, with a choice of transport modes comparable to that found in some other rural areas. Overall, future occupants' use of services and facilities in nearby settlements would support the vitality of the wider rural community, which would outweigh the limited harm from a modest increase in car use.
10. For the above reasons, I conclude the proposed development would be in a suitable location in respect to local services and facilities. Accordingly, I find no conflict with Policies DPS2, VILL3 and TRA1 of the EHDS. I also find no conflict with Policy INT1 of the EHDS, which sets out the principle of sustainable development. I also find no conflict with the National Planning Policy Framework (the Framework) where it supports housing in rural areas that will enhance or maintain the vitality of rural communities; acknowledges that development in one village may support services in a village nearby; and seeks a genuine choice of transport modes bearing in mind the opportunities to maximise this in rural areas.

Other Matters

11. I note the recent decisions relating to use of the appeal site as a residential annexe to Jesmond Cottage. However, I have considered the appeal proposal on its merits.

Conditions

12. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.

13. Conditions 3 and 4 in the schedule below are necessary to protect retained trees and hedges during construction and secure appropriate replacements if they die. Condition 5 is necessary to minimise the use of mains water in the new dwelling in accordance with Policy WAT4 of the EHDS. Condition 6 is necessary to mitigate harm to air quality from the development in accordance with Policy EQ4 of the EHDS. Condition 7 is necessary to safeguard the character and appearance of the appeal site and surrounding area.

Conclusion

14. I have found the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

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: SP01-JC2CR/A Site Plan; EX01-JC2CR/A Existing Layout; PROP01-JC2CR/B Proposed Layouts; VAP01-JC2CR/C Vehicle Access Plan.
- 3) All retained trees and hedges shall be protected from damage during construction in accordance with British Standard BS5837, including by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details and shall be maintained during the course of works on site. Nothing shall be stored or placed within any fenced area. There shall be no unauthorised access within any fenced area.

In this condition "retained tree" and "retained hedge" mean an existing tree or hedge which is to be retained in accordance with the approved plans and particulars.
- 4) If any retained tree or hedge is cut down, uprooted or destroyed or dies within five years of completion of the development another tree or hedge shall be planted at the same place and that tree or hedge shall be of such size and species and shall be planted at such time as may be specified in writing by the local planning authority.

In this condition "retained tree" and "retained hedge" mean an existing tree or hedge which is to be retained in accordance with the approved plans and particulars.
- 5) The dwelling hereby permitted shall achieve a maximum mains water consumption target of 110 litres per head per day.

- 6) The dwelling hereby permitted shall not be occupied until details of one electric vehicle charging point have been submitted to and approved in writing by the local planning authority. The approved charging point shall be provided prior to first occupation and shall be retained thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no works or development as described in Schedule 2, Part 1, Class E or Schedule 2, Part 2, Class A of the Order shall be undertaken other than those expressly authorised by this permission.



Appeal Decision

Site visit made on 14 November 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/J1915/W/23/3320970

59A Fore Street, Hertford, Hertfordshire SG14 1AL

- 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 S Muriel against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/1706/FUL, dated 10 August 2022, was refused by notice dated 16 January 2023.
 - The development proposed is wood effect Upvc sash casement windows.
-

Decision

1. The appeal is allowed and planning permission is granted for wood effect Upvc sash casement windows at 59A Fore Street, Hertford, Hertfordshire SG14 1AL in accordance with the terms of the application, Ref 3/22/1706/FUL, dated 10 August 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved drawing No 20375-P002 Plans and Elevations as Proposed.
 - 3) The exterior of the development hereby permitted shall be constructed in the materials specified on the submitted application form and drawing No 20375-P002 Plans and Elevations as Proposed.

Preliminary Matter

2. The Council's decision notice refers to plan 20375-P001 however it is clear that the plan submitted to and considered by the Council was 20375-P002. The Council accept this was an admin error and so for clarification the appeal was considered based on plan 20375-P002.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host building and Hertford Conservation Area.

Reasons

4. The appeal building is a mid-terraced three storey building located within the town centre. The ground floor is commercial with the other floors being in residential use. The front of the building is rendered white and contains timber framed sash windows painted black. The four eastern most windows are twelve paned with the remaining windows being four paned. The rear of the building is

brick and contains sash windows as well as some smaller windows, two of which are UPVC. The appeal building is located within the Hertford Conservation Area.

5. The special interest of the Hertford Conservation Area relates to its historical development and layout, including the design and arrangement of buildings within it. In considering proposals for planning permission, the duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
6. The appellant suggests that the existing windows are not energy efficient and the reason for replacing them is to meet the minimum energy efficiency standards.
7. The design of the replacement windows seek to replicate the design of the existing windows. In particular, the windows on the front elevation would be twelve pane sash windows which would result in uniformity, improving the overall appearance of the host building.
8. I acknowledge the Council's aims in seeking to preserve the character and appearance of Conservation Areas and note that in some cases uPVC windows can be harmful. However, while the windows proposed are uPVC they are wood effect and are designed to mirror the style of the existing windows. In this regard, they would be indistinguishable in appearance and therefore would not alter the character and appearance of the host building. The proposal would therefore have a neutral effect on the Hertford Conservation Area.
9. I conclude that the proposal would not harm the character and appearance of the host building or Hertford Conservation Area. I find no conflict with policies HA4 and HOU11 of the East Herts District Plan October 2018. Amongst other things, these seek to ensure development preserves or enhance the special interest, character and appearance of the area.

Conditions

10. I have considered the Council's suggested conditions in the event I were to allow the appeal. Where necessary, and in the interests of clarity and precision, I have slightly altered them to more closely reflect the advice in the National Planning Policy Framework and the Planning Practice Guidance.
11. In addition to the standard condition which relates to the commencement of development, I have specified the approved plans for the avoidance of doubt. A condition relating to materials is also necessary to ensure that the appearance of the proposal would be satisfactory in the street scene.

Conclusion

12. For the reasons set out above and having regard to the development plan as a whole and all other material considerations, I conclude the appeal should be allowed.

D Wilson

INSPECTOR



Appeal Decision

Site visit made on 24 October 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2023

Appeal Ref: APP/J1915/W/23/3320083

Elbow Lane Farm, Elbow Lane, Hertford Heath SG13 7QA

- 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 Teresa Walker against the decision of East Herts District Council.
 - The application Ref 3/22/1935/FUL, dated 12 September 2022, was refused by notice dated 2 December 2022.
 - The development proposed is the demolition of stable block and partial demolition of equestrian block and the development of the remaining equestrian block to include 4, 4 bedroomed dwellings and 2, 3 bedroomed dwellings, including associated landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's description of development as this more concisely describes the development proposed.
3. The site lies within the Green Belt. There is no dispute between the Council and appellant in that regard, or in respect of design. I have no reason to disagree with those findings. I therefore deal below with the matters in dispute.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for housing having particular regard to the accessibility of services and facilities;
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to overlooking; and
 - whether appropriate measures to mitigate against overheating and carbon dioxide emissions are proposed.

Reasons

Site and location

5. The appeal site is located outside of any defined settlement boundary, and therefore within the open countryside. Notwithstanding this, as the site is located within a complex of established residential properties, it cannot in my view be reasonably described as 'isolated' within the terms of National Planning Policy Framework paragraph 80 (the Framework).

6. Policy DPS2 of the East Herts District Plan (DP, 2018) directs development to sustainable brownfield sites, sites within urban areas, urban extensions and limited development in villages. DP Policy TRA1 seeks to promote sustainable transport by directing development in locations where sustainable journeys can be made to key services and facilities.
7. Some key services including a school, public houses and local shop exist within Hertford Heath, to the north of the site. A greater variety of services and facilities exist at Hoddesdon, further afield. I accept that the distance between the proposed dwellings and those settlements would be similar to that of those adjacent. Nevertheless, to reach those settlements by foot or cycle, individuals would need to proceed along the access drives of the site, and then along a rural lane, either Elbow Lane or Mangrove Lane. Both of these routes are narrow, unlit and do not have dedicated footways, cycle paths or wide verges. Irrespective of the precise distance, these routes are unsatisfactory and would be particularly undesirable in winter months, outside daylight hours or during inclement weather conditions.
8. I also acknowledge that there are public rights of way in the area, including near to the appeal site, which could in part be used to reach services and facilities. However, these routes, whatever the precise distance, are not sufficient to rely on, particularly as they are unlit and of an uneven terrain. They would unlikely provide a realistic or attractive alternative for most people to access shopping facilities, schools or day-to-day needs. Furthermore, there is no evidence before me to demonstrate the distance between the site and the nearest bus stops. I note a bus route serves Hertford Heath, but this requires access via the same unsatisfactory routes discussed above.
9. Paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwellings would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory walking routes and a lack of public transport facilities within a reasonable distance of the site.
10. I accept that the former commercial use of the site, initially a research facility and later an equestrian centre, was likely intensive. However, there is no substantive evidence before me, such as a transport assessment, to demonstrate the number of vehicle movements then compared with those now likely. In any case, as the appellant has set out, those former commercial uses ceased some time ago and cannot be relied on in perpetuity to make comparisons in favour of inappropriate development. I also appreciate that the scheme has been amended since a previously refused planning application for a larger scheme. Nevertheless, those matters do not lead me to an alternative conclusion.
11. The appellant sets out that no objection was received from the highway authority in respect of this, or some previous, schemes¹ at Elbow Lane Farm. However, planning officers are not bound to take the advice of specialist officers in making decisions. Even where there is no dispute in respect of highway safety, matters of sustainable travel must still be taken into account.

¹ Refs 3/19/1597/FUL; 3/19/1696/VAR; 3/20/1440/FUL

12. For the above reasons, I conclude that the appeal site would form an inappropriate location for the proposed development, contrary to the relevant provisions of DP Policies DPS2 and TRA1. These policies, in summary, seek to ensure development is located in the most sustainable locations. This is in a similar vein to the objectives of paragraph 104(c) of the Framework, which says that transport issues should be considered from the earliest stages of plan making and development proposals so that opportunities to promote sustainable transport are identified and pursued.

Living conditions - neighbouring occupiers

13. The proposed dwellings would be positioned to the north of established dwellings, including 9 Beaufort Park. No 9 is not currently overlooked from the north or west by reason of the lack of residential development in those directions at present. The nearest proposed dwellings would be south facing and would feature ground and first floor windows in their front elevations. Those windows are illustrated on the submitted plans as being angled.

14. Whilst the windows of the nearest proposed dwelling would be angled away from No 9, the windows of the proposed other south facing dwellings would be angled directly towards it, including its private amenity space. Due to the position of the proposed dwellings relative to the established No 9, together with the relatively short separation distance, future occupiers would be able to overlook, from an elevated position, the rear windows of No 9 and its amenity space. Consequently, the proposed development would have a harmful effect on the privacy of those occupiers.

15. That this was not a reason for refusal on a previous planning decision² for an alternative scheme does not change my conclusion. I am assessing the scheme based on the plans before me.

16. Overall, I conclude that the proposed development would have a harmful effect on the living conditions of the occupiers of neighbouring properties, contrary to the relevant provisions of DP Policy DES4, which taken as a whole seeks to ensure adequate amenity for residents.

Overheating and carbon dioxide emissions

17. DP Policies CC1 and CC2 require all new development proposals to demonstrate how the design, materials, construction and operation of the development would minimise overheating in summer and reduce the need for heating in winter, and demonstrate how carbon dioxide emissions would be minimised across the development site.

18. I note the appellant's argument in respect of the building being designed to align with modern standards, including through the use of air source heat pumps and installation of insulation. However, I have no details of those proposed measures, or substantive evidence before me, that demonstrates that the proposed development could realistically achieve those policy objectives.

19. Nevertheless, I note that the Council has suggested a number of conditions should the appeal be allowed, including one in relation to overheating and the reduction of energy demand. Under a previous appeal³ at the site, the

² 3/21/1326/FUL

³ APP/J1915/W/22/3304110

Inspector in that case considered this an appropriate and reasonable approach. I have no reason to disagree with those findings.

20. Consequently, whilst I have found that there is insufficient evidence to demonstrate that the proposal would have an acceptable effect in respect of overheating and carbon dioxide emissions, such matters could be satisfactorily dealt with by condition. Therefore, subject to condition, the proposed development would be in accordance with the relevant provisions of DP Policies CC1 and CC2. These policies, in summary, seek to ensure that development proposals avoid overheating in homes and minimise carbon dioxide emissions.

Other Matters

21. My attention is drawn to appeal reference APP/J1915/W/22/3298432. Although I acknowledge that that appeal dealt with similar issues, the proposal was for a single dwelling and not on the same site. For these reasons, the two cases are not directly comparable. In a similar vein, I do not consider that referenced appeal APP/J1915/W/15/3141323 is directly comparable to the scheme before me as this relates to a proposal under prior approval. In that appeal decision, it is clearly stated that there was, under the relevant legislation, no test in respect of sustainability of location. Ultimately, those decisions do not lead me to an alternative conclusion under the main issues.
22. No substantive information in relation to cited cases 3/18/1806/VAR or 3/20/0242/FUL are before me and, as such, I cannot make direct comparisons between them and the case before me. Nevertheless, each case is considered on its own individual circumstances and the existence of those previous permissions has not led me to an alternative conclusion under the main issues.

Planning Balance

23. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework, paragraph 11(d) are engaged. This states that in such a situation where development plan policies are deemed out-of-date, planning permission should be granted unless one of two criteria apply. One of these, and which is pertinent to the appeal scheme before me, is if any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
24. The appeal scheme would represent a net addition of six dwellings to the district's housing supply. This is a clear benefit. There would also be some economic benefits during the construction of the dwellings and the bringing about of extra trade to services and facilities in the wider area once occupied. However, these benefits, including the supply of housing, would inevitably be limited due to the relatively small scale and nature of the development proposed.
25. The improvement of the wider grounds, in respect of open space and amenity space, for the benefit of existing residents and biodiversity, as contended by the appellant, is not inherently dependant on the scheme before me. This matter does not weigh in favour of the appeal.
26. Against those matters is the significant and long-lasting harm I have identified in respect of a lack of access to services by a sustainable choice of travel. On

balance, I find that the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

27. For the reasons above, having regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR



Appeal Decision

Site visit made on 7 November 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/J1915/W/23/3320214

Grudds Farm, Unclassified Road U42 North East from Stanstead Hill to Great Hadham Road, Green Tye, Hertfordshire SG10 6JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sam Prior against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2155/FUL, dated 11 October 2022, was refused by notice dated 17 February 2023.
 - The development proposed is the change of use of land from agriculture to residential use, and erection of outbuilding to provide garage and ancillary accommodation.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agriculture to residential use, and erection of outbuilding to provide garage and ancillary accommodation, at Grudds Farm, Unclassified Road U42 North East from Stanstead Hill to Great Hadham Road, Green Tye, Hertfordshire SG10 6JP, in accordance with the terms of the application, Ref 3/22/2155/FUL, dated 11 October 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: Site Block & Location Plans PRI110, Proposed Elevations – drawing No.1, Proposed Floor Plan – drawing No.2, and Street Scene – Drawing No.3.
 - 3) Prior to any above-ground construction works being commenced, details of the external materials to be used in the construction of the outbuilding hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details.
 - 4) If any contamination is found during the course of the construction of the outbuilding hereby permitted, development on the part of the site so affected shall be suspended. A risk assessment shall then be carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. The approved schemes shall be carried out before the development is resumed or continued.
 - 5) The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as Grudds Farm.

Preliminary Matters

2. Notwithstanding the content of the delegated officer report, the Council has subsequently confirmed that the site is not within a Conservation Area.

Main Issue

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

Reasons

4. The appeal site contains a house and its associated residential curtilage, as well as an adjoining area of land, currently laid to grass.
5. Policy GBR2 of the East Herts Council East Herts District Plan dated October 2018 (the district plan) seeks to ensure that rural areas beyond the Green Belt are maintained as a valued countryside resource. Although the proposals subject of this appeal do not comprise forms of development that are specifically supported by policy GBR2, the policy is permissive and does not preclude other forms of development.
6. Subject to a series of criteria being met, policy HOU12 of the district plan provides support for the change of use of land to residential garden. Amongst other things, the policy requires the development to; be unlikely to have an adverse effect on the character and appearance of the surrounding area and landscape; be well related to other residential land; and, to not result in harmful incursions into the countryside.
7. There is no physical demarcation between the existing residential curtilage and the area of land subject of the proposed change of use. Even if the parts of the site beyond the residential curtilage were formally used for the grazing of animals, from the evidence and my observations on site, it is no longer in use for such purpose.
8. A mix of trees, hedgerows, and dense undergrowth separate the rear portions of the appeal site from the countryside beyond. Albeit within a rural area, the garden extension would occupy land which is both between the house on the appeal site and a neighbouring residential property, and which is adjacent to a series of agricultural and commercial buildings. The character and appearance of the whole of the well-enclosed appeal site is therefore, more closely aligned with that of the neighbouring buildings and gardens, than that of the open countryside beyond.
9. Although the garden extension would project further back than the garden at Marigolds, the boundaries to the rear section of the extended curtilage would follow the existing tree and hedge lines that enclose the site. There is no proposal to remove this boundary treatment. Furthermore, intervening buildings would prevent the extended curtilage from being readily visible from the road. Therefore, and even if residential paraphernalia were subsequently to be located within the extended curtilage, this would not be harmful to the established character or appearance of the area.
10. Albeit large, and taller than the buildings on the land between the road and the appeal site, the proposed outbuilding would be generally aligned between the host dwelling and the house at Marigolds. It would also be subservient in terms

of its size, scale, and mass, to the host dwelling. Therefore, and given the high degree of enclosure of the site, the proposed outbuilding would not be visually prominent when viewed from the road, the nearby countryside, or Marigolds. Furthermore, those parts of the building that would be visible from such locations, would be viewed in the context of the nearby buildings and development, rather than as a harmful incursion into the countryside.

11. Even if hardstanding were to be formed to the front of the proposed garaging, it would not be readily visible from outside of the site, and it would not have a harmful urbanising effect on the area.
12. For the reasons given, the proposed development would not be harmful to the character and appearance of the area. Consequently, and in respect of the main issue, it would comply with policy HOU12 of the district plan, and it would not conflict with policy GBR2 of the same document. It would also comply with the parts of the National Planning Policy Framework (the Framework) that seek to ensure that development; is sympathetic to local character and landscape setting; maintains a strong sense of place; and which would conserve the natural environment.

Other Matters

13. The appeal site is located close to Grudds farmhouse and the barn at Grudds farmhouse. Both of which are grade II listed.
14. I have a duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the [listed] building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 199 of the Framework guides that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation.
15. The barn is a thatched and tiled timber frame building, which the evidence suggests is partly in a wet moat. The official listing record indicates that sections of the farmhouse date back to the 16th century, and that it also contains the remains of a wet moat. The significance of these heritage assets therefore stems from their historic fabric and use. The setting of the assets is, in part, informed by the nearby outbuildings and agricultural fields.
16. The taller host dwelling and other intervening buildings would separate the proposed outbuilding from the listed buildings. Furthermore, the hedgerows and historic field boundaries would be unchanged by the proposals. For these reasons, the proposals would preserve the setting of the heritage assets, and they would not cause harm to the assets or their significance. That being the case, the requirements at paragraphs 200 and 201 of the Framework are not engaged.

Conditions

17. The Council has suggested a number of conditions, the wording of which has been amended where appropriate. This is for the purposes of clarity and to meet the six tests within paragraph 56 of the Framework.
18. The statutory condition which specifies the time-period for the implementation of the permission is imposed. For clarity, a plans condition is also imposed.

19. A materials condition is necessary to ensure that the development does not cause harm to the character and appearance of the area.
20. Extracts of maps and images dated between 1879 and 2000, indicate that the part of the site upon which the building would be constructed, has historically been undeveloped. That being the case, I am not persuaded that this part of the site has previously hosted an agricultural building. Nevertheless, given the historic agricultural use of the land and the proximity of other farm and former farm buildings, contamination of the site cannot be entirely ruled out. That being the case, and even if no contamination condition was imposed on the permission granted for the host dwelling, it is appropriate to take a precautionary approach in respect of this matter. A contamination condition is therefore found to be necessary. If contamination is encountered during the implementation of the development proposals, the condition requires further actions to be undertaken. This is to ensure that the development would not cause unacceptable harm to either human health or the land and water environments.
21. A condition preventing the use of the building other than for purposes ancillary to the residential use of Grudds Farm is imposed. If the development were not to be used in accordance with the terms of the planning permission, or if there was to be a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required.

Conclusion

22. For the reasons given above and having regard to the development plan as a whole and any other relevant material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR