



# Appeal Decision

Site visit made on 23 January 2024

**by V Simpson BSc (Hons) MSc MRTPI**

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

**Decision date: 22 February 2024**

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**Appeal Ref: APP/J1915/W/23/3315560**

**Hightrees, 1 Parkside, Buntingford, Hertfordshire SG9 9RT**

- 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 Miranda Delnevo of Bonus Canine against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1208/FUL, dated 9 June 2022, was refused by notice dated 4 November 2022.
  - The development proposed is described as 'I have already been granted a two year dog day-care/animal activity license by environmental health. Inspector was Neil Webb. I have since been informed by the planning department that "change of use" is required in order for the license to be granted'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The original description of the development, as stated on the application form, is specified within the banner above. However, the nature and extent of the development is wholly unclear from this description. Based on the evidence, and notwithstanding the Council's description of the development on the decision notice, I understand the development subject of this appeal to be 'the use of the site as a residential dwellinghouse and for business purposes associated with dog daycare'. The appellant and the Council have had the opportunity to comment on this description, and no objections have been raised. I therefore proceed on this basis.
3. The Council determined the application on the understanding that it was made retrospectively. However, the application form indicates that the change of use had not been undertaken at the time the application was made. Furthermore, and from my observations on site, I cannot be certain that any development that has been undertaken is as per the submitted plans and details. Therefore, this appeal is considered as a scheme for proposed development.
4. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

## **Main Issues**

5. The main issues are the effect of the development on;
  - the living conditions of occupiers of adjoining dwellings, with particular regard to noise and disturbance; and
  - highway safety.

## **Reasons**

### *Living conditions*

6. The appeal site comprises a semi-detached dwelling with associated gardens and areas of hardstanding, as well as a small paddock-type area beyond the rear garden. Gardens serving several nearby dwellings are also adjacent to parts of the paddock. Although a snap-shot in time, during my site visit, and from within the paddock, the sound of chirping birds was easily discernible above the moderate and frequent noise of vehicles using the nearby road network. As such and notwithstanding the road noise, I found the area to be somewhat peaceful. I have no reason to doubt that the types and levels of sound I encountered were typical of the area.
7. Barking is a normal behaviour for dogs. They may bark for many reasons, but in an environment where dogs are brought together in a restricted area, as is proposed under this appeal, there is an increased likelihood of barking, whimpering, and/or whining. Although such noises are unlikely to be constant, they would be variously likely during onsite exercise/training; periods of outdoor free play; at drop-off and pick-up times; and/or at times when unaccompanied. These noises would also be likely when other infrequent or irregular activities or noises occur in the area.
8. The presence of a range of dogs within the appeal site as part of a dog daycare business, would therefore be likely to result in intermittent bursts of loud noises of various pitches. Even though I have no reason to doubt that the dogs would be well-cared for, there would be considerable periods when the neighbouring residents would be subjected to noises that would be clearly and harmfully prominent above the existing background noises. Furthermore, the proximity of the nearby residential dwellings to the site, means that these effects would be especially pronounced at times when neighbours may have their windows open or when utilising their garden spaces.
9. There could be days and times when the number of dogs being cared for on-site in association with the dog daycare business would be nearer the lower estimate provided by the appellant. However, I am unconvinced that restricting the hours of operation and the maximum number of dogs permitted to be on-site at any one time to those suggested by the appellant, would overcome the previously identified harm. Nor would the planting of additional hedgerow shrubs, and/or scented climbing plants.
10. For the reasons given, the proposed development would cause harm to the living conditions of the occupiers of neighbouring residential properties, with particular regard to noise and disturbance. Consequently, it would conflict with policies DES4 and EQ2 of the East Herts Council East Herts District Plan October 2018 (the Local Plan). These policies require development to avoid significant detrimental impacts on the amenity of occupiers of neighbouring

properties and land, and to minimise the direct and cumulative impact of noise on the surrounding environment.

*Highway safety*

11. Parkside is a private road serving a low number of properties. Drivers travelling along the 2-way Ermine Street near the junction with Parkside, closest to the appeal site, are afforded good forward visibility. This is because of the straightness of the carriageway. Good visibility of oncoming traffic is also available when exiting this junction onto Ermine Street.
12. On the evidence before me, vehicle movements to and from the site which would be associated with the dog daycare business, would be likely to comprise a mixture of individual customer drop-off and collections, and individual and group drop-off/collections undertaken by the appellant. Details of the numbers of associated movements have not been provided. However, the appellant indicates that between 4 and 12 dogs would be cared for on-site in any one day, and that these would be dropped off and collected at various times throughout the day. As such, and subject to the number of dogs being restricted to no more than 12, the number of additional vehicles that would be attracted to the site in connection with the business, is likely to be moderately low and spread out.
13. I observed that the existing driveway within the appeal site is of sufficient size to accommodate at least 3 cars parked end to end. However, the width is such that only the vehicle closest to Parkside would be clear to manoeuvre on and off the site independently. Furthermore, while some parking spaces have been formed within the verge between Parkside and Ermine Street, the evidence suggests that these are associated with allocated dwellings, which do not include Hightrees. As such, these spaces cannot be relied upon to provide car parking provision for visitors to the appeal site.
14. The creation of an additional parking space within the front garden of Hightrees would enable parking and independent access and egress to be secured to the site for more than one vehicle at any one time.
15. Given the additional vehicle movements anticipated, and subject to the use of the extra on-site parking being restricted to customer drop-off and collection only, the on-site parking provision would be sufficient to meet the needs of the occupiers of the dwelling as well as the dog-day care business. The additional parking would also prevent the likely occurrence of dangerous or obstructive parking, such as at the closest road junction between Parkview and Ermine Street, and/or across driveways. Had the development been otherwise acceptable, this additional car parking provision could have been secured via an appropriately worded condition.
16. On either arrival or exit, it would be necessary for drivers to undertake a reversing manoeuvre between Parkside and the on-site parking. However, the need to undertake such a manoeuvre is common to many of the properties along this road. Drivers can then secure access Ermine Street in forward gear. The evidence does not indicate that there have been collisions, injuries, or near misses in the past either on Parkside or its junctions with Ermine Street. Therefore, and given the relatively low number of additional vehicle movements anticipated, such movements would not lead to either a harmful obstruction to the free flow of traffic in the area, or harm to highway safety.

17. For the reasons given, the development would not cause harm to highway safety. In respect of this main issue, it would comply with policies TRA2 and TRA3 of the Local Plan. Amongst other things, these policies require development to provide safe and suitable access for all users, which is acceptable in terms of highway safety, and to provide suitable car parking provision, to ensure the provision of safe environments.

### **Other Matters**

18. Even if a license has been granted for dog daycare/animal activity on the site, the licensing regime is separate and different from the planning process. The granting of a license therefore has a very limited bearing on my decision.
19. Although the occupiers of some neighbouring properties have not objected to the proposals, I have found that harm would be caused to the living conditions available to them. Furthermore, I must also consider the living conditions that would be available to future occupiers of these properties.
20. I am mindful that the National Planning Policy Framework states that local planning authorities should approach decisions on proposed development in a positive and creative way. However, given the nature of the Council's concerns, it is highly unlikely that better communication between the main parties, prior to the determination of the application, would have led to an alternative outcome. Furthermore, and even if informal support of the proposals was given by officers of the Council before the application was submitted, any such support would not have been binding.

### **Conclusion**

21. I have found that the development proposals would cause harm to the living conditions of the occupiers of neighbouring properties. Whilst I have also concluded that the development would not cause harm to highway safety, the absence of harm in respect of this consideration does not justify a different conclusion being reached regarding the acceptability of the development.
22. The proposed development would conflict with the development plan when taken as a whole. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. I therefore conclude that this appeal should be dismissed.

*V Simpson*

INSPECTOR



## Appeal Decision

Site visit made on 6 February 2024

**by A James BSc (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> February 2024

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### **Appeal A Ref: APP/J1915/W/23/3322175**

#### **33-35 Baldock Street, Ware, Hertfordshire SG12 9DN**

- 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 Andrews of Travis Perkins PLC against the decision of East Herts Council.
  - The application Ref 3/22/1264/FUL, dated 15 June 2022, was refused by notice dated 18 January 2023.
  - The development proposed is described as 'retention of: rearrangement of builders merchant yard including additional external racking units up to a maximum height of 4 metres.'
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### **Appeal B Ref: APP/J1915/W/23/3328449**

#### **33-35 Baldock Street, Ware, Hertfordshire SG12 9DN**

- 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 Chris Andrews of TP Property Company Limited against the decision of the East Herts Council.
  - The application Ref 3/23/0676/FUL, dated 3 April 2023, was refused by notice dated 26 May 2023.
  - The development proposed is rearrangement of builders' merchant yard including additional external racking units.
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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Preliminary Matters**

3. As set out above, there are 2 appeals on this site. Both schemes seek to reconfigure the builder's merchant yard and provide additional external racking in different configurations. I have considered each appeal on its individual merits. However, to avoid duplication I have dealt with the 2 schemes together, except where otherwise indicated.
4. Amended plans were submitted to the Council during the course of the planning application process relating to the scheme in Appeal A, which reduced the height of the external racking units. As a result, I have taken the proposal description for Appeal A from the decision notice and appeal form.

5. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 19 December and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal remain broadly the same. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party has been prejudiced by my approach.

### **Main Issues**

6. The main issue for both appeals is the effect of the proposed development on the character and appearance of the area, having particular regard to the Ware Conservation Area (CA) and the setting and therefore the significance of nearby listed buildings.

### **Reasons**

7. The appeal site incorporates a two storey flat roof building, which is accessible from Baldock Street and forms part of a terrace, which contains a number of listed buildings. To the rear of the property is a builder's yard, which includes a covered canopy along one side. The remainder of the yard comprises of areas which are used to store building materials (including on racking) and hardstanding, which is used for vehicular parking and turning. Although the appellant states that the existing racking has been in place for several years, the Council advises that it does not have planning permission.
8. The appeal site lies within the Ware CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The CA covers a large part of the town, including its commercial centre and a section of the River Lea. The significance of the CA insofar as is relevant to this appeal is derived from its diverse range of high quality historic buildings, which include commercial, residential and industrial architecture, including buildings relating to the malting industry.
9. Section 66(1) of the Act requires me to have special regard to the desirability of preserving the setting of a listed building during the determination of an appeal. The appeal property forms part of a historic terrace, which contains a number of listed buildings. Nos 37 – 47 Baldock Street back onto the builder's yard and are Grade II listed buildings. The significance of these Grade II listed buildings insofar as is relevant to this appeal is derived from their sixteenth century architecture, timber frame construction and use of traditional materials. No 31 Baldock Street, which lies adjacent to the appeal property is another Grade II listed building. The significance of this listed building in relation to this appeal is derived from its seventeenth century architecture, timber frame, use of yellow brick and historic shopfront.
10. North Central Maltings and North Maltings lie to the rear of the appeal site and are Grade II listed buildings. They form part of a historic brewery yard, which has been converted to residential use. The significance of these listed buildings insofar as is relevant to this appeal is derived from their mid nineteenth century industrial architecture, their long rectangular form, presence of kilns and cowls and use of historic materials. The setting of the listed buildings incorporates the surrounding land, in which they are appreciated.

11. The builder's yard is screened from Baldock Street by the existing built form. There is a high boundary wall that runs along the rear boundary of the site and adjacent to the boundaries of properties that front onto Baldock Street. Views of the existing storage, racking and sheds within the yard are available from the access point to the rear and above the rear boundary wall. The northern boundary of the site is more open and consists of a low wall, with railings above. Public views are available into the builder's yard from Watton Road between the existing built form.
12. I appreciate that the builder's merchant lies within a commercial area and has been in situ for sometime. Nevertheless, the builder's yard currently appears in stark contrast from the high quality, historic environment in which it forms part.
13. Both appeals seek to provide additional external racking. However, aside from general areas within the site, it is unclear from the plans before me exactly where these units would be sited. Appeal A seeks to provide additional external racking units up to a maximum height of 4 metres within the central part of the site. The proposed plan shows that the storage areas adjacent to the north, east and western boundaries would be up to 3 metres in height. The proposed plan for Appeal B shows a storage area up to 4 metres in height adjacent to the northern boundary of the site and part of the eastern boundary. A larger storage area is proposed adjacent to the eastern boundary of the site, which would extend towards the centre of the yard and would be up to 3 metres high. A storage area of up to 3 metres in height is also shown adjacent to the western boundary of the site in Appeal B.
14. At present, the existing racking is predominantly sited adjacent to the builder's merchant building and within the central part of the site. While building materials are stacked at some height adjacent to the boundaries of the site, this is of an informal and low key nature and does not result in a continuous area of storage at a high level. The existing informal areas of storage enable views across the site to be retained of the neighbouring properties, some of which are of high architectural and historic merit.
15. The listed buildings that front onto Baldock Street have small back gardens. The provision of racking up to 3 metres in height adjacent to the eastern boundary of the site would exceed the height of the boundary wall and would partially obscure views of the rear elevations of these listed buildings. Consequently, the provision of additional racking in such close proximity to the boundaries of these listed buildings would detract from their setting and therefore the significance of these listed buildings. The proposed racking would also exceed the height of the rear boundary wall. The increase in the amount of visual clutter at height would also detract from the setting of the listed buildings within the historic brewery yard.
16. The provision of additional racking would intensify the amount of material which could be stored at height and create additional visual clutter. Both schemes would increase the prominence of the builder's yard within public views and would cause harm to the historic character of the area. As a result, I find that the proposal would fail to preserve the character and appearance of the CA.
17. As required by the Framework, great weight should be given to the conservation of a designated heritage asset, irrespective of the harm identified.

- I find the harm to be less than substantial to the significance of the CA and nearby listed buildings, but nevertheless of considerable importance. In accordance with paragraph 208 of the Framework, this harm should be weighed against any public benefits of the proposal.
18. The appellant states that both schemes would generate additional full-time jobs. The creation of additional jobs would also result in an increased employee spend in the local area, which would benefit other local businesses. The additional racking would enable the business to increase the amount and diversity of stock stored on site, which would help to ensure the long-term viability of the business, which is of value to local tradespeople. The Framework requires that significant weight should be placed on the need to support economic growth and productivity.
  19. The appellant alleges that the continued payment of annual business rates is a planning benefit. However, there is limited evidence before me to suggest that the proposal would generate additional business rates compared to the existing situation. While the appellant suggests there is potential for a proportion of the business rates to be retained for local priorities, there is no mechanism before me to secure such a proposal. I therefore give these alleged benefits limited weight in my decision. I also do not find that either scheme would improve the appearance of the site, as alleged by the appellant.
  20. Overall, I give significant weight to the economic benefits of the proposed development. However, this does not outweigh the great weight that I am required to give to the harm that I have identified to the designated heritage assets.
  21. For the reasons given above, I conclude that both appeal schemes would be harmful to the character and appearance of the CA and would harm the setting and therefore the significance of nearby listed buildings. Both appeal schemes would conflict with Policies DES4, HA1, HA4 and HA7 of the East Herts District Plan October 2018. These policies among other matters require that development respects or improves upon the character of the site and surrounding area; that development proposals preserve and where appropriate enhance the historic environment, including the CA and that proposals that affect the setting of a listed building will only be permitted where the setting of the building is preserved. Furthermore, the proposal would fail to accord with the Framework, which seeks to conserve and enhance the historic environment.

### **Other Matters**

22. While the appellant refers to other sites within the CA, which have areas of external storage and fencing, there are limited details before me to enable me to make a comparison. In any event, I am required to determine these appeals on their own merits.
23. I appreciate the height of the external racking is lower than typically required by the business. However, this does not justify the harm that I have identified above at this site.

### **Conclusion**

24. For the above reasons, I conclude that the developments subject of Appeal A and Appeal B would conflict with the development plan as a whole and there

are no material considerations, including the Framework, which would outweigh that conflict. Therefore, Appeal A and Appeal B are dismissed.

*A James*

INSPECTOR



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## Appeal Decisions

Site visit made on 12 December 2023

by **O S Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26<sup>th</sup> February 2024

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### **Appeal A - Ref: APP/J1915/W/23/3320990 Flats A & B, 71 Fore Street, Hertford 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 Mr and Mrs Chapman against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1841/FUL, dated 31 August 2022, was refused by notice dated 23 January 2023.
  - The development proposed is the replacement to front and rear windows at first and second floor with double glazed wood effect UPVC Sash white windows.
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### **Appeal B - Ref: APP/J1915/Y/23/3320993 Flats A & B, 71 Fore Street, Hertford SG14 1AL**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr and Mrs Chapman against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1838/LBC, dated 30 August 2022, was refused by notice dated 23 January 2023.
  - The works proposed are the replacement to front and rear windows at first and second floor with double glazed wood effect UPVC Sash white windows.
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### **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Preliminary Matter**

3. I have adopted the description of development from the decision notices because this is a more precise description of the proposed development.

### **Main Issues**

4. The main issues are:
  - whether or not the proposed development would preserve or enhance the character or appearance of the Hertford Conservation Area (the CA); and,
  - the effect of the proposed development on the special architectural or historic interest of the listed building, identified as 67, 69 and 71 Fore Street<sup>1</sup>.

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<sup>1</sup> List entry No 1268898.

## **Reasons**

### *Significance*

#### Listed building

5. The appeal relates to one of two semi-detached listed properties, at Nos 67 to 71 (odd) Fore Street. The building is three-storeys to the main part with two storey wings to either side. It is located on Fore Street, which is one of the principal shopping streets in the centre of Hertford. The significance of the listed building primarily derives from its front elevation, which is well detailed, pleasantly proportioned, and prominent along a busy, commercial street. However, the windows to the non-appeal property have been changed to uPVC although in a sash style. In addition, the window to the wing of the appeal property has been changed. It is still timber but of a different style and is no longer recessed into the façade. Of particular importance, therefore, are the recessed, timber framed, 12-pane sash windows to the upper floors of the main part of the appeal property, as they are the only remaining historic fenestration features to the front elevation.
6. To the rear, the main part of the listed building has retained its original fenestration pattern in the main. However, there are new windows to the wing section of the appeal property. They are timber but are not sash. The windows to the non-appeal property are uPVC, although in a sash style. The recessed, timber framed, 12-pane sash windows to the main part of the appeal property are therefore an important part of the significance of the listed building, as they are the only remaining historic fenestration features to the rear elevation.

#### Conservation area

7. As set out in the Hertford Conservation Area Appraisal and Management Plan, March 2017 (the Management Plan), the appeal site lies within Identity Area 1 – The Historic Core of the CA. In this area there is a variety of building styles and types. However, to the upper floors of the other buildings along both sides of Fore Street there is a relatively large proportion of timber framed sash windows. They are of different styles and detailing, eg number of panes, but there is a prevalence of timber framed sash windows. Where there are uPVC windows, they tend to be on more modern buildings. Where they are on historic buildings, the uPVC material is jarring and unattractive and the detailing of the windows and the panes unsuccessful. The Management Plan specifically mentions the importance of windows several times.
8. As far as it is relevant to this appeal, the significance of the CA is principally derived from the contribution made by the predominantly high quality of the historic buildings along Fore Street, including the large proportion of historic, timber framed, sash windows. The property the subject of the appeal contributes positively to this significance because it retains most of its timber framed sash windows to upper levels.

### *Proposed*

9. It is proposed to replace the existing front and rear windows at first and second floor levels with wood effect, uPVC, sash style casement windows coloured white. One small window to the rear would also be changed to be an obscure glazed uPVC window. The proposed windows would have 6 over 6 panes, apart

from within the front wing where it would be 3 times 4 panes. They would use surface glazing bars which would not be structural.

### *The effects*

#### Listed building

10. To both the front and rear, the timber framed sash windows to the appeal property are in a relatively poor state of repair. However, no substantiated evidence has been provided of the precise level of wear and tear. This is not sufficient justification for the proposed loss of historic fabric. The existing windows in the main part of the property are an important part of the significance of the building and their loss without justification is unacceptable in-principle. In this case, total loss is proposed and there has been no consideration of repair which in many cases is an option. The windows in the wing section are less important because they have already been replaced. However, they do remain timber framed so are appropriate in material with similar physical characteristics and patina of the historic windows and so contribute to the appearance of the building.
11. The proposed replacement with uPVC windows would introduce an unattractive material that is not appropriate for a building of the age and style of the host property. I acknowledge that uPVC window design has improved and that a wood effect finish is proposed. However, it would still be clear that the windows are not timber framed. The glazing bars would be different in design and profile than timber glazing bars in order to support the double-glazed sealed units. Even if historically accurate horns were included, they would still be in uPVC and manufactured rather than hand crafted to fit the building and would be simply added as decorative in contrast to the historic roll of a horn which is mainly for strength.
12. The timber effect uPVC would not accurately reflect the look and feel of genuine timber. This could not be controlled by condition because it is a fundamental part of the nature of uPVC windows. Moreover, glazing reflections would change with the larger, double-glazed panes of modern glass. In the wing section, the proposed introduction of a more historically accurate glazing pattern would be a benefit, but would not overcome the harm caused by the proposed use of modern materials.
13. Whether or not the proposed windows would be better than those at No 69, they would be harmful. In any event, a poor intervention does not justify further harm. I appreciate the proposal would result in a greater degree of conformity across the listed building as a whole, because there would be uPVC to both the semi-detached properties. However, this does not overcome my fundamental concerns with the unjustified loss of the existing historic fabric and the intrinsically unsympathetic character and appearance of the replacement windows.

#### Conservation area

14. The front façade of the appeal property is particularly prominent in the CA because it faces onto a busy, commercial street. The proposed uPVC windows would harm the character and appearance of this street, appearing jarringly discordant particularly given the relatively high proportion of timber framed sash windows along this part of Fore Street.

### *Conclusion*

15. Therefore, the proposal would harm the special architectural and historic interest of the listed building. It would also fail to preserve or enhance the character or appearance of the CA. In terms of the National Planning Policy Framework (the Framework), I assess the level of harm to both the listed building and the CA to be less than substantial, but that harm nonetheless is a matter of considerable importance and weight. The proposal consequently fails to comply with Policies HA1, HA4, HA7 and HOU11 of the East Herts District Plan 2018 (the LP), which require high quality design and reflect the statutory protections given to heritage assets.

### **Planning Balance**

16. Paragraph 208 of the Framework states that, where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use.

17. The appellant has stated that it is necessary to upgrade the windows so that the flats can still be let and occupied, due to energy targets set out in the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) (the Regulations). However, s31 of the Regulations states that energy efficiency improvements do not need to be made if a listed building consent application has been refused. The works are not, therefore, required to ensure the flats can still be let.

18. Nevertheless, the existing windows are single glazed and are not energy efficient. Changing them to double glazed uPVC windows would improve the energy efficiency of the property. This is a public and a private benefit. However, it would be possible to improve the energy efficiency of the property through other means. In addition, any improvement in energy efficiency has not been quantified and would likely be relatively small. I therefore place limited weight on the proposed energy efficiency improvements to the property.

19. In accordance with Paragraph 205 of the Framework, I place great weight on the harm I have identified to the architectural and historic interest of the building and to the character and appearance of the CA. This outweighs the limited public benefits. The proposal is therefore unacceptable and fails to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapter 16 of the Framework.

### **Conclusions**

20. For the reasons above, the appeals are dismissed.

*O S Woodward*  
INSPECTOR



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# Appeal Decision

Site visit made on 8 January 2024

**by V Bond LLB (Hons) Solicitor (Non-Practising)**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>TH</sup> FEBRUARY 2024

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**Appeal Ref: APP/J1915/X/23/3319967**

**Maltons, Cambridge Road, Thundridge, Hertfordshire SG12 0ST**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Ali Shafiy against the decision of East Hertfordshire District Council.
- The application ref 3/22/2583/CLXU, dated 12 December 2022, was refused by notice dated 13 March 2023.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is described as 'An existing free standing demountable marquee located in the rear between the existing restaurant / bar & the existing smoking shelter. The marquee is over 2m from the boundary, 2.95m high & less than 50msq in area. The marquee is used for eating & drinking.'

**Summary Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.**

## Preliminary Matters

1. The application form refers to the development as an 'existing use' but it is apparent from other application documents that the development in question is operational development and I consider the application on that basis.
2. Amended plans were submitted during the course of the application as those originally submitted apparently did not properly reflect the size or position of the appeal marquee. The Council then determined the application based upon those revised drawings.

## Main Issue

3. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development ('LDC') was well-founded. This will turn upon whether the development described in my banner heading above would have been lawful as at the date of the LDC application. Planning merits are not relevant to the assessment<sup>1</sup> and the onus is on the appellant to make their case on the balance of probability.

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<sup>1</sup> Albeit that I have seen interested party comments setting out concerns in relation to matters of planning merit

## Reasons

### *Legislation/case law*

4. There is no suggestion from either of the main parties that the appeal marquee does not represent development requiring planning permission. Rather, the matter in dispute is whether it represents permitted development ('PD') granted planning permission by Article 3 and Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('Class G').
5. Class G grants planning permission for '*The provision of one moveable structure within the curtilage, and for the purposes, of a building used*' for purposes of a drinking establishment/for the sale of food and drink. The parties are agreed that the marquee in question is used for purposes permitted by Class G and that the limitations contained in G.1 would be met. Accordingly, the only matter in dispute is whether the appeal marquee is 'moveable' per the Class G description above.
6. The Council cites case law<sup>2</sup> dealing with the consideration of whether an item is a building. These cases indicate that in making such an assessment, regard must be had to size, permanence and degree of physical attachment. However, the matter to be determined in these cases was whether the item in question was a building (indicating that operational development requiring planning permission had occurred). As outlined above, the point in contention here is not whether the marquee is a building, but instead whether it is 'moveable'. As such, whilst the cases cited might contain some useful indicators as to whether or not an object is moveable, these were dealing with a different question and so their applicability is limited in this way.

### *Analysis*

7. The marquee is a metal framed object with fabric covering of some 10m in length by 4m in width, with a maximum height of 3m<sup>3</sup>. It has a significantly smaller footprint than that of the main appeal premises building. The size of an object has a bearing on whether or not it can reasonably be said to be moveable and I acknowledge that the marquee is large enough to mean that it was likely constructed on site. However, since the marquee falls fairly comfortably within the maximum footprint stipulated in G.1<sup>4</sup>, it would be illogical to find that its size indicated it to not be moveable; Class G envisages structures of a similar or even greater size being moveable.
8. The Council points to the degree of physical attachment of the marquee as evidence that it should not be deemed moveable. The marquee has no permanent foundation and is secured to the patio by a relatively small number of metal bolts and is attached to the barge boards of the adjacent part of the

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<sup>2</sup> *Skerritts of Nottingham Ltd v SSETR (No. 2)* [2000] 2 PLR 102; *R (oao Hall Hunter Partnership) v FSS* [2006] EWHC 3482 (Admin); and *Barvis v SSE* [1971] 22 P&CR 710

<sup>3</sup> The Council's measurements differ very slightly from those shown on the application plans albeit that both would meet with the G.1 size restrictions. For simplicity, my determination is therefore based upon a marquee of a size that is 3m or less in height, having less than a 50 square metre footprint and no part of which is within 2m of any residential curtilage and as otherwise described in the application documents

<sup>4</sup> Being the lesser of either 50% of the footprint of the main building or 50 square metres

- appeal premises by a fairly small number of screw fixings. Heating and lighting are provided suspended from the marquee roof frame, with the power supply provided from the adjacent outbuilding.
9. The appellant comments in response that structures of the size permitted by Class G would be likely to require some form of bracing for the purposes of stability and has submitted a letter from the manufacturer of the marquee stating that it could be dismantled and removed by non-professionals using basic tools in under two hours.
  10. In my view, the physical attachment of the marquee to the patio is no more than is reasonable to provide stability bearing in mind its size and the hard surface on which it sits. The appellant explains that the affixation to the barge board is to weatherproof the connection between the main building and the marquee. Both of these means of physical attachment could be fairly swiftly and easily detached, and I find as a matter of fact and degree that these do not render the marquee to not be moveable. On the contrary, the appellant's evidence is that the marquee can be fairly swiftly removed.
  11. The Council also draws my attention to how long the marquee has been in situ, that the appeal site would not readily accommodate this elsewhere, and that it is unlikely to be moved in view of its convenient position in relation to the main building. Reference is made to an earlier application dismissed at appeal<sup>5</sup> for a covered pergola in broadly the same position as evidence of an intention for the marquee to remain in situ. I share the appellant's view though that Class G does not stipulate that the structure should be moved, but only requires that it be moveable. The absence of an intention to move an object does not necessarily preclude it from being deemed moveable. In any event, the appellant outlines that it is possible that the marquee might be dismantled and reassembled off-site or might be disassembled and removed in summer months to enable more 'al fresco' dining.
  12. Drawing these matters together, Class G stipulates only that the structure is moveable and not that it will in fact be moved around within the appeal site. Its size is permissible under Class G and logically cannot therefore be a reason for it to be deemed not to be moveable. I accept that in reality there is a spectrum of moveability in the sense that a structure might theoretically be moveable but in practice would take many professionals a number of days to move. In this case, the means of attachment and construction of the marquee mean that it is less moveable than an structure that could be disassembled and moved in minutes, but it is more moveable than a structure which would take days to be disassembled and moved<sup>6</sup>.
  13. I find then as a matter of fact and degree on the evidence before me that, since the marquee could be disassembled with basic tools in less than two hours, it is moveable for the purposes of Class G. It therefore represents PD under Class G and is lawful.

## Conclusion

14. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the operational development described above was not well-founded

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<sup>5</sup> APP/J1915/W/21/3277099

<sup>6</sup> As was assumed to be the case as regards the marquee in the *Skerritts* judgment referenced above

and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

**Formal Decision**

15. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing operation which is found to be lawful.

*V Bond*

INSPECTOR

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# Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

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

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**IT IS HEREBY CERTIFIED** that on 12 December 2022 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are granted planning permission by Article 3 and Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 and so represent permitted development.

Signed

*V Bond*

Inspector

Date: 5<sup>TH</sup> FEBRUARY 2024

Reference: APP/J1915/X/23/3319967

## **First Schedule**

An existing free standing demountable marquee located in the rear between the existing restaurant / bar & the existing smoking shelter and being of a size that is 3m or less in height, having less than a 50 square metre footprint and no part of which is within 2m of any residential curtilage and as otherwise described in the application documents. The marquee is used for eating & drinking.

## **Second Schedule**

Land at Maltons, Cambridge Road, Thundridge, Hertfordshire, SG12 0ST

IMPORTANT NOTES – SEE OVER

## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

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

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

# Plan

This is the plan referred to in the Lawful Development Certificate dated: **5<sup>TH</sup> FEBRUARY 2024**

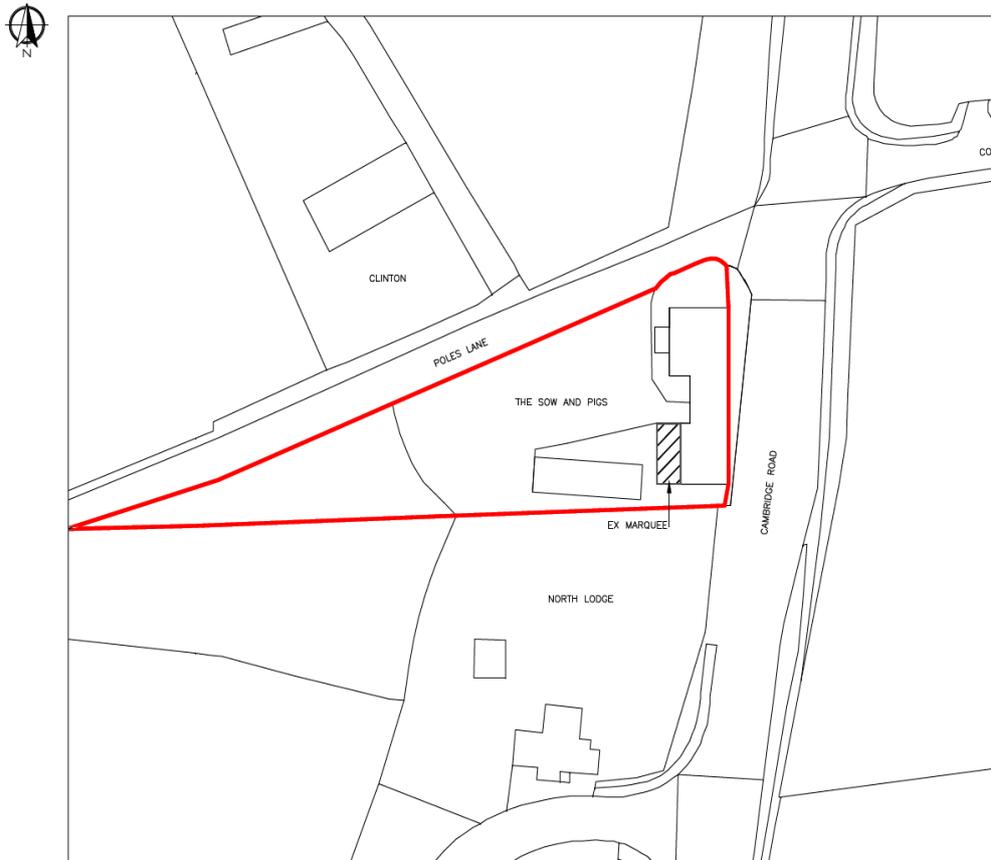
**by V Bond LLB (Hons) Solicitor (Non-Practising)**

**Land at: Maltons, Cambridge Road, Thundridge, Hertfordshire, SG12 0ST**

**Reference: APP/J1915/X/23/3319967**

Scale: Not to Scale

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# Appeal Decision

Site visit made on 5 January 2024

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

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

**Decision date: 20.02.2024**

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## **Appeal Reference: APP/J1915/W/23/3321931**

### **Land at 49 London Road, Bishops Stortford, Hertfordshire CM23 5NA**

- 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. J. Sayed against the decision of East Herts Council.
  - The application (reference 3/22/2660/FUL, dated 3 January 2023) was refused by notice dated 28 February 2023
  - The development proposed is described in the application form as follows: "demolition of existing single storey, three bedroom dwelling and replacement with two four bedroom dwellings".
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## **Decision**

1. The appeal is dismissed.

## **Main issues**

2. There are three main issues in this appeal. The first is the effect of the proposed development on the character and appearance and its surroundings. Related to that issue, it is necessary to consider whether the scheme would make adequate on-site car parking provision. The third main issue is the effect of the proposed development on biodiversity.

## **Reasons**

3. London Road (the A1060) is a busy through route in Bishops Stortford and the appeal site is located near to the centre of the town, opposite the junction of London Road and Station Road. The appeal site is easily accessible to local jobs and services as well as to public transport links, including the main line railway station.
4. Number 49 is located on the eastern frontage of London Road, between Grange Road and Warwick Road. This frontage and the side roads are essentially residential in character, while the western frontage of London Road is primarily non-residential, with a large supermarket at the corner of London Road and Station Road.
5. The dwellings on this part of the eastern frontage of London Road are mixed in character, including two-storey houses as well as the single-storey dwelling on the appeal site. These sites are closely built up and at a higher level than the

- highway, while the pedestrian footpath is rather narrow. Even so, the dwellings are set back from their front boundaries and they do not excessively dominate the road.
6. The dwelling at number 49 London Road is a modest bungalow with a tiled roof above rendered walls, set back from the road. The front garden is screened by a high front hedge and is reached from the road by a flight of steps. The back garden is mainly laid to grass, with a paved terrace and a small outbuilding. The properties on either side are significantly larger, two-storey semi-detached houses.
  7. It is now proposed that the existing single storey dwelling should be demolished and replaced with a pair of semi-detached dwellings with accommodation on three floors.
  8. A revised version of the National Planning Policy Framework was published in December 2023 and it has been taken into account in this appeal. It encourages the construction of new homes, in principle, subject to other planning considerations of course.
  9. Thus, the 'National Planning Policy Framework' also emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history, although it is also recognised that appropriate change may include increased densities. The achievement of good design includes the provision of good standards of accommodation.
  10. Policies in the Development Plan also identify the need for new housing, while seeking to achieve high standards of design. In particular, Policy DES4 of the 'East Herts District Plan' (dated 2018), and Policies HDP1, HDP2 and HDP3 of the 'Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision)' emphasise the importance of achieving a high standard of design. It is also recognised that higher densities may be appropriate, however, in order to make efficient use of land.
  11. The 'National Planning Policy Framework' also states that new developments should function well. It promotes sustainable transport (at Section 9) and recognises that parking standards need to be flexibly applied, taking account of specific site considerations.
  12. Policy TRA3 of the 'District Plan' and Policy TP8 of the 'Neighbourhood Plan' are concerned with residential parking provision but it is recognised that the need for on-site parking provision in relation to development proposals can be assessed on a site-specific basis, taking into account the provisions of the District Council's Supplementary Planning Document (entitled 'Vehicle Parking Provision at New Development').
  13. In Section 15, the 'National Planning Policy Framework' sets out the need for planning policies and decisions to contribute to and enhance the natural and local environment. Similarly, Policy NE3 of the 'District Plan' has the aim of seeking to enhance biodiversity and to create opportunities for wildlife.

14. The proposed new semi-detached houses would create a bulky building on the appeal site, with three-storey elevations to the main road and their back gardens. The building would have a considerable depth and mass on the site and would include an area of flat roof to create space for accommodation on the second floor. The footprint of the new building would be only a little larger than that of the existing bungalow but the building would be much larger in scale and bulkier than others nearby.
15. On the other hand, the architectural style of the new building would not be out of keeping with the surroundings. Moreover, although I have noted that the Bishops Stortford Conservation Area covers land to the east, west and north of the appeal site (without covering the appeal site itself), the scheme would not have a materially harmful impact on the character or appearance of the Conservation Area.
16. Nevertheless, the scale and dominance of the new pair of semi-detached houses would be excessive on the site, in my view. The new building would not be in harmony with the surroundings in London Road and it would be intrusive in the streetscene. I have formed the opinion that it would amount to an overdevelopment of the site.
17. Turning to the second main issue, I acknowledge that the site is well located in relation to local facilities and public transport connections. I am also aware that it could be difficult to achieve a safe and practical access for on-site parking, due to the ground levels and the nature of London Road. Even so, I am conscious that the project would generate two large four-bedroom houses and I have concluded that the scheme would also add unacceptably to parking pressures in the vicinity. This issue reinforces concerns about the scale of the proposed development, therefore.
18. The Council have also argued that insufficient information has been provided to clarify the effect of the proposals on biodiversity. Nonetheless, I have noted that the existing plot has little obvious biodiversity potential, in view of its small size and its nature, and I accept that this issue could have been dealt with adequately by the imposition of suitable conditions, if there had been no other objections.
19. Evidently, the appeal site lies within an established urban area, which is "sustainable" in planning terms, and the proposed development would make a small but useful addition to the provision of housing within the urban area. I am conscious that in this appeal the Council's failure to achieve its housing targets is an important consideration and, based on the evidence that has been submitted, I consider that a "tilted balance" should apply in the decision-making.
20. Nevertheless, I am convinced that the benefits of the proposals are significantly and demonstrably outweighed by the harm that would be done to the character and appearance of the surroundings, combined with the lack of parking provision for a scheme of this scale.
21. Hence, I have concluded that the scheme before me would conflict with both national and local planning policies (including the Development Plan) and that it ought not to be allowed. Although I have considered all the matters that

have been raised in the representations, I have found nothing to cause me to alter my decision.

*Roger C. Shrimplin*

INSPECTOR



## Appeal Decision

Site visit made on 7 February 2024

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

an Inspector appointed by the Secretary of State

Decision date: 29.02.2024

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**Appeal Ref: APP/J1915/D/23/3334483**

**The Beeches, Westmill, Buntingford Herts SG9 9LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs N & S Robson against the decision of East Herts District Council.
  - The application Ref 3/23/1429/HH, dated 25 July 2023, was refused by notice dated 20 September 2023.
  - The proposed development is the erection of a detached car port.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a car port at The Beeches, Westmill, Buntingford Herts SG9 9LL in accordance with the terms of application ref: 3/23/1429/HH dated 25 July 2023 and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20590-S002-1<sup>st</sup> (existing site plan) and 20590-P001-1<sup>st</sup> (proposed plans and elevations – with location plan).
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.
  - 4) No development shall take place until tree protection measures, which shall ensure that no storage, mixing of cementitious products or fires take place within 5 metres of the Root Protection Areas, have been put in place in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be maintained throughout the construction period.

### Main Issue

2. The main issue is the impact on the character and appearance of the Westmill Conservation Area, including the wider rural area and adjacent trees.

### Reasons

3. The appeal site lies towards the south western edge of the small village of Westmill. It comprises a modern detached dwelling which occupies an elevated position relative to the adjoining road. The frontage is marked by a grass bank at the top of which is a 'hit and miss' timber fence with newly planted laurel

- hedge behind. Two tall mature trees are located close to the side boundary towards the front of the adjoining property the canopies of which overhang the front corner of the appeal site with another tall tree located along the frontage.
4. The Westmill Conservation Area encompasses virtually all of the built development within the village as well as areas of open space and woodland. Plan 2 of the Westmill Conservation Area Appraisal and Management Plan (CAA) identifies the buildings of historic interest as well as important trees, hedgerows, open spaces and water features to be protected.
  5. The older central part of the village is characterised by 17<sup>th</sup> and 18<sup>th</sup> century smaller terraced and semi-detached cottages, many of which are listed. These are set close to the road frontage along which is an avenue of trees with small green at the western end. Larger properties in more extensive grounds including the Grade II\* listed St Mary's Church and Westmill Bury and adjoining Westmill Bury Farm barns lie at the eastern end. The CAA notes that Westmill's character is also defined by small scale open spaces that envelop the historic core, separate from the open countryside beyond. Trees predominate with some particularly fine rows.
  6. Properties located towards the edges of the conservation area, such as the appeal site, are predominantly detached and set back from the road frontage with a more spacious character. There are few listed properties within the immediate context of the appeal site but I note that the adjoining pair of cottages to the north (2 & 4 School Court) are identified as 'unlisted buildings to be protected from demolition' on Plan 2 and included as 'other unlisted buildings that make an important architectural or historic contribution' in the CAA. Whilst they do not appear to be identified formally by the Council as non-designated heritage assets, I saw that they are an attractive pair of cottages comprising of flint elevations with natural slate pitched roof, though appeared to have later extensions to the front. Plan 2 also identifies three trees along the northern boundary of the appeal site as important trees to be protected.
  7. The significance of the part of the conservation area in which the appeal site is located, which lies to the south, away from its main historic centre, is therefore derived from the mixture of traditional and modern buildings and their varied relationship with the street, as well as the important natural elements of the trees to the front of the appeal site and woodland opposite.
  8. The proposed car port would be sited forward of the existing dwelling and, due to its elevated position relative to it, would be visible within the street scene. However, it would be of a sympathetic traditional design and appearance with two open fronted bays and closed store section. The elevations would be of horizontal timber boarding, between oak timber posts with brick plinth and plain clay tiled roof to match the existing dwelling. It would be set back from the site frontage such that it would not appear overly large or dominating and over time, this impact would be mitigated to a further degree by the front boundary hedge which has been recently planted.
  9. The proposed car port would be likely to be seen in views approaching from the north from the centre of the conservation area and whilst the roof would be seen above the existing boundary fence, it would extend only marginally forward of the adjoining dwellings at School Court which themselves have forward projecting elements. The Appellant has provided examples of other properties within the village where garages are set forward to address the

Council's concern in this regard, albeit none of these are directly comparable to the situation at the appeal site. Whilst there are no similar examples in the immediate context of the appeal site, for the reasons given above, the proposal would not be a detracting feature in the street scene. Therefore, despite its forward siting relative to the dwelling, I find that it would be a complementary addition to both the conservation area and the wider rural area.

10. In this regard I find no conflict with Policies GBR2, VILL2 and HA4 of the East Herts District Plan 2018 (EHDP) which seek to ensure that development relates well to the village, is of an appropriate scale and design and in respect of outbuildings that they are of a scale, form and siting appropriate to the setting of the existing dwelling and surrounding rural area and generally appear as a subservient addition. Furthermore, they seek to ensure that the special interest, character and appearance of the conservation area is preserved, in particular that they are of a scale, form, height, design and overall character that accord with and complement the surrounding area.
11. With regard to the impact on the adjoining trees, the Appellant has provided an Arboricultural Impact Assessment (AIA) prepared by a qualified arboriculturalist. It includes a tree survey (trees T1 to T6) and the AIA concludes that the proposal requires no tree removal or facilitation pruning. It also confirms that it would result in negligible incursion of the identified Root Protection Areas (RPAs) of the adjacent affected tree T3 (sycamore).
12. The AIA also notes that the RPAs of both T1 and T3 encompass areas where building activity can occur as these are confined to areas already used as a drive and in view of the relatively small scale nature of the proposal, the effects are not considered to be significant. Possible impacts during construction works can be conditioned to ensure that they do not adversely affect the trees as suggested in the AIA. Therefore, there would be no conflict with EHDP Policy DES3 which, amongst other things, requires development proposals to demonstrate how they will retain and protect existing landscape features of amenity value to ensure no net loss.
13. Overall, having regard to all of the above, I consider that the proposal would preserve the character and appearance of the Westmill Conservation Area and the character of the wider rural area. There would thus be compliance with the development plan overall. The National Planning Policy Framework states that heritage assets should be conserved in a manner appropriate to their significance and the proposal would achieve this. There are no other material considerations that weigh against the proposal.

### **Conclusions**

14. Conditions to ensure that the development is built in accordance with the approved plans and use suitable matching materials are necessary for the avoidance of doubt and in the interests of the visual amenity of the area. Conditions to protect the adjacent trees during construction are also necessary for the reasons set out above.
15. I conclude that the appeal should be allowed and planning permission granted.

*P B Jarvis*

INSPECTOR



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# Appeal Decision

Site visit made on 26 January 2024

**by K E Down MA(Oxon) MSc MRTPI**

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

**Decision date: 9 February 2024**

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**Appeal Ref: APP/J1915/D/23/3333684**

**7 Postwood Green, Hertford Heath, Hertfordshire, SG13 7QJ**

- 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 Domenico Rocco against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/1443/HH, dated 26 July 2023, was refused by notice dated 21 September 2023.
  - The development proposed is a first floor, single storey and rear extension, front porch extension, alterations to façade, roofing and fenestration.
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## Decision

1. The appeal is allowed and planning permission is granted for a first floor, single storey and rear extension, front porch extension and alterations to façade, roofing and fenestration at 7 Postwood Green, Hertford Heath, Hertfordshire, SG13 7QJ in accordance with the terms of the application, Ref 3/23/1443/HH, dated 26 July 2023, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 00-200 P02, 00-201 P01, 00-202 P01, 00-210 P01, 00-211 P01, 00-212 P01, 00-213 P01, 98-001 P01, 98-002 P01, 98-200 P01, 98-201 P01, 98-202 P01, 98-210 P01, 98-211 P01, 98-212 P01, 98-213 P01.
    - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those set out in the original application, ref. 3/23/1443/HH, including on the application form.
    - 4) The rooms served by the first floor flank windows hereby permitted shall not be occupied until the windows have been fitted with obscure glazing to a minimum degree of obscurity level three, and no part of those windows that is less than 1.7m above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscure glazing shall be retained thereafter.
-

## **Main Issue**

2. There is one main issue which is the effect of the first floor side and rear extension on the character and appearance of the host dwelling and the surrounding area.

## **Reasons**

3. The appeal dwelling is a wide, two storey post war house on a generous plot. It is of unremarkable design with a single storey attached garage to one side and a small projecting flat roofed porch. To the rear it has undergone various single storey side and rear extensions which do not align, giving the dwelling a disjointed appearance.
4. The Council raises no objection to the single storey front extension, including the porch, or to the alterations to external materials including fenestration. Neither does it object to the element of the first floor side extension which adjoins the side wall of the original dwelling. In view of other extensions and alterations to similar dwellings in the street, I agree that these parts of the proposed development would be acceptable.
5. The Council notes that there are inconsistencies between the proposed plans and elevations in that the first floor windows do not match. I have considered these inconsistencies which appear to relate to the position of the small first floor windows in the proposed front elevation. These appear to be minor positional variations. Most noticeably, one window is shown in plan to sit symmetrically above the porch. However, this is not reflected on the elevation where it is offset. Nevertheless, this arrangement does not materially detract from the character or appearance of the dwelling. I therefore find that whilst the arrangement shown on the plan view is more logical; either would be acceptable and the differences are not therefore material.
6. Turning to the first floor rear extension and that part of the first floor side extension which wraps round the dwelling, the Council does not object to the overall depth which would sit over replacement ground floor extensions. I agree this would not be excessive. The proposed rear building line at first floor would match that seen at No 6 and would be similar to other two storey rear extensions visible from the appeal site.
7. Nevertheless, the first floor rear extension would increase the width of the dwelling with a seamless addition to the side. The proposed elevation would be symmetrical. It would incorporate two rear facing gables that finished below the height of the main ridge and incorporated contemporary glazing, together with a flat roofed section between the gables that would sit at eaves level. In my view, although enlarged and altered, the proposed extension would not detract from the character or appearance of the dwelling but would rather update it in a sympathetic way. The extension would be well proportioned, notwithstanding its width, and would give the dwelling a more balanced and cohesive appearance.
8. In opposing the flat roof element at first floor eaves level, the Council refers to Policy HOU11 c) of the East Herts District Plan (DP), 2018. This resists flat roofs above ground floor as being visually undesirable other than in exceptional circumstances. However, I consider the flat roof to be an integral element of the overall design which enables a pleasing, contemporary appearance without

overwhelming the roofscape or rear elevation of the dwelling. I therefore consider it to represent an innovative design approach which would comply with Policy HOU11 c).

9. Turning to the surrounding area, the rear of the dwelling faces Hertford Heath Park. This is separated from the appeal site by a close boarded fence some 2m high and, in the park, a belt of trees. Thus, the extensions would be substantially screened from the park. Even if the trees were to be removed, the fence and distance between the park and the rear elevation would be sufficient to ensure that the extensions were not overbearing or otherwise harmful to the character of the village.
10. It is concluded on the main issue that the proposed first floor side and rear extension would be of a size, scale and design that would not detract from the character or appearance of the host dwelling or the surrounding area and in combination with the other proposed extensions would be acceptable. In consequence, the proposed extensions would comply with Policies VILL1, DES4 and HOU11 of the DP. Taken together these expect development, including extensions, to be of a high standard of design that is appropriate to the character, appearance and setting of the existing dwelling and/or surrounding area such that they are in keeping and relate well to their location and, in the case of extensions, generally appear as a subservient addition.
11. Turning to conditions, the Council suggests three conditions in addition to the statutory commencement condition. I agree that the development should be carried out in accordance with the approved plans and in materials that match those set out in the original application in order to provide certainty and to protect the character and appearance of the host dwelling and the surrounding area. In addition, a condition requiring the first floor flank windows serving bathrooms to be obscure glazed and partially non opening is necessary in order to protect the living conditions of neighbouring occupiers with respect to privacy.
12. For the reasons set out above, and having regard to all other matters raised, including concerns raised by a third party regarding overlooking from the Juliet balconies, I conclude that the appeal should be allowed.

*KE Down*  
INSPECTOR



# Appeal Decision

Site visit made on 2 February 2024

**by K E Down MA(Oxon) MSc MRTPI**

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

**Decision date: 28<sup>th</sup> February 2024**

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## **Appeal Ref: APP/J1915/D/23/3324872**

### **18 Well Row, Bayford, Hertfordshire, SG13 8PW**

- 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 M Phillips against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/0633/HH, dated 29 March 2023, was refused by notice dated 31 May 2023.
  - The development proposed is erection of 2No outbuildings to provide a gym and office. Demolition of existing garage.
- 

## **Decision**

1. The appeal is allowed and planning permission is granted for erection of 2No outbuildings to provide a gym and office. Demolition of existing garage at 18 Well Row, Bayford, Hertfordshire, SG13 8PW in accordance with the terms of the application, Ref 3/23/0633/HH, dated 29 March 2023, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20491-S001-1<sup>st</sup>, 20491-P002-1<sup>st</sup>.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those set out on approved plan ref. 20491-P002-1<sup>st</sup>.

## **Main Issues**

2. There are four main issues. Firstly, whether the proposed outbuildings would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; secondly, the effect of the proposed outbuildings on the openness of the Green Belt; thirdly, the effect of the proposed air conditioning units on the living conditions of neighbouring occupiers with respect to noise; and fourthly, if the proposed outbuildings would amount to inappropriate development, whether the harm, by reason of inappropriateness and any other harm is clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify the development.
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## Reasons

### *Whether inappropriate development in the Green Belt*

3. Bayford is a small village in open countryside and lies within the Green Belt. The appeal dwelling is one of a short row of similar, semi-detached houses on relatively wide plots which front the highway and back onto fields. It lies within the village boundary. The appeal dwelling has a detached single garage to the side which is proposed to be demolished. No objection is raised to this, and I agree it would be acceptable.
4. The proposed outbuildings would be sited in the rear garden. One would be set a short distance behind the dwelling and close to the boundary with No16, which comprises mostly vegetation and is relatively open. The other would be set further from the dwelling and on the opposite side of the garden, close to the boundary with No 20 which comprises a high, close boarded fence.
5. Policy GBR1 of the East Herts District Local Plan (LP), 2018, states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 states that the construction of new buildings should be regarded as inappropriate except in a number of circumstances, such as the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. Although the proposed buildings are not conventional extensions, the High Court has ruled [*Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)*] that for the purpose of Green Belt assessment an outbuilding should not be assumed not to be an extension simply because it is not physically attached to the host building. Whether a detached structure would amount to an extension of the existing building is a matter of fact and degree. Factors that may be relevant include whether, in the case of a residential outbuilding, it would be a "normal domestic adjunct", its purpose, its relationship with the original building and its size.
7. In this case planning permission has recently been granted for single and two storey extensions to the rear and side of the original dwelling. Although the proposal includes demolition of the garage and existing single storey projections, these extensions if built, whilst considered proportionate by the Council, would noticeably increase the size of the modest original dwelling. I do not have full details of the permitted extensions but, in view of the size of the proposed outbuildings, I consider it likely that, taken together with the permitted extensions, they would amount to a disproportionate increase over the size of the original dwelling. In the absence of further evidence, I therefore find that the outbuildings could not reasonably be considered as proportionate extensions to the original dwelling. The exceptions set out in paragraph 154 of the Framework do not therefore apply in this case.
8. It is concluded on the first main issue that the proposed outbuildings would amount to inappropriate development in the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt, including that by reason of inappropriateness.

### *Openness of the Green Belt*

9. The Framework states that the essential characteristics of Green Belts are their openness and permanence. The proposed outbuildings would be set within the garden of the dwelling but would be clearly visible from the open countryside beyond. Although single storey they would be some 3.5m by 7m and 3.5m by 5.5m respectively and would have a height of about 3.8m. Together they would have a noticeable effect on the openness of the area which would result in modest harm to the openness of the Green Belt.
10. It is concluded on the second main issue that the proposed outbuildings would materially detract from the openness of the Green Belt and given the location of the site on the edge of open countryside this would result in a limited encroachment of the countryside which would conflict with one of the purposes of Green Belts. The harm caused to the Green Belt by reason of effect on openness and purposes of the Green Belt attracts substantial weight.

### *Living conditions - Noise*

11. The proposal includes the provision of two modest air conditioning units, one attached to the western elevation of each outbuilding, facing towards the open countryside. The Council considers that these might cause a significant detrimental impact on the amenity of occupiers of neighbouring properties, which would conflict with LP Policy DES4 due to noise. However, the position of the units, their scale and the separation distance between them and the closest noise sensitive receptor would ensure that properly maintained air conditioning units would be unlikely to cause material disturbance to neighbouring occupiers.
12. The Council also suggests a conflict with LP Policy EQ2 which seeks to avoid noise pollution. However, the examples of noise generating development set out in the explanatory text to the policy, including traffic, aircraft, industrial, commercial and outdoor recreation noise, suggest that the policy is designed to control larger scale noise sources, rather than the everyday noise from commonplace sources associated with minor development.
13. It is therefore concluded on the third main issue that the proposed air conditioning units would have no materially detrimental impact on the amenity of occupiers of neighbouring properties with respect to noise and that the provision of a noise impact assessment would not be justified. In consequence, there would be no conflict with LP Policies DES4 or EQ2.

### *Other considerations*

14. The appellant draws my attention to one other consideration which she considers might amount to the very special circumstances necessary to justify the proposal. On 28 February 2023 the Council granted a Lawful Development Certificate (LDC) for the erection of two outbuildings and the demolition of the garage. The outbuildings were in the same locations and of the same footprints as those now applied for. However, they were flat roofed, having a height of some 2.5m.
15. The Council took the view that the additional height of the buildings the subject of this appeal would materially increase the loss of openness to the Green Belt

over and above that resulting from the LDC proposal and as such they did not represent a meaningful fallback.

16. However, on 27 July 2023 the appellant secured an LDC for the erection of two outbuildings and demolition of the garage but in this case the buildings were essentially the same scale and design as the appeal buildings but were located 2m from each respective side boundary and hence sited more prominently within the site, thus having a greater effect on the openness of the Green Belt than the appeal proposal.

17. I consider that if the appeal was dismissed it is highly likely that the appellant would implement one of the LDC schemes and, given the width of the garden which would be sufficient to accommodate the buildings if they were set away from the boundaries, the aesthetically more pleasing pitched roof design would be more likely to be implemented. Overall, I therefore find that the LDCs would amount to a realistic fallback with a genuine prospect of being implemented and that the LDC for the pitched roof design, which would have a greater effect on openness than the appeal scheme, would be the more likely. This carries considerable weight.

18. It is concluded on the fourth main issue that the other consideration in this case would clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that the very special circumstances necessary to justify the development therefore exist. In consequence, there would be no conflict with national policy set out in the Framework or with LP Policy GBR1.

### **Conditions**

19. Turning to planning conditions, the Council suggests three conditions in addition to the statutory commencement condition. I agree that the development should be carried out in accordance with the submitted plans for the avoidance of doubt. A condition requiring external materials to match those of the existing building would not be reasonable since the development comprises stand-alone buildings which have a different finish to the host dwelling. The proposed materials are clearly shown on the submitted drawings. I shall therefore impose a condition requiring these to be implemented in order to protect the character and appearance of the surrounding area. Finally, the Council suggested a condition requiring an assessment of noise and rating levels for the proposed air conditioning units at the nearest noise sensitive premises. However, for the reasons set out in paragraphs 11-13 above, such a condition would be unnecessary and unreasonable and I shall not therefore impose it.

### **Conclusion**

20. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*KE Down*  
INSPECTOR

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# Appeal Decision

Site visit made on 5 January 2024

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

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

**Decision date: 15.02.2024**

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## **Appeal Reference: APP/J1915/D/23/3331016**

### **Land at 23 Cambridge Road, Sawbridgeworth, Hertfordshire CM21 9JP**

- 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 Miss J. Maiden against the decision of East Herts Council.
  - The application (reference 3/23/0864/HH, dated 31 May 2023) was refused by notice dated 21 August 2023.
  - The development proposed is described in the application form as a vehicle access.
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### **Decision**

1. The appeal is dismissed.

### **Main issue**

2. The main issue to be determined in this appeal is the effect of the proposed development on highway safety and convenience.

### **Reasons**

3. Sawbridgeworth is a substantial town in Hertfordshire and Cambridge Road (the A1184) is the busy main road leading north out of the town. In the vicinity of the appeal site, development along the road frontages is mainly residential in nature, although there is a variety of building types, set back from the road in some cases but not in others.
4. The appeal site is located on the western frontage of the road, where there is a wide verge, with some trees, alongside the footpath. On-street parking provision is also made on this side of the road, although some of the properties on both road frontages have direct vehicular access on to the main road. Of those, some have sufficient space on-site to enable cars to enter and leave in forward gear. Others, however, require parked cars to back out into the road (or to back into their site).
5. It is stated that the on-street parking bays on the western frontage of the highway were created primarily to serve dwellings on this side of the road but there are no restrictions to that effect. I accept that others also use these parking bays, to the disadvantage of local residents.

6. Number 23 Cambridge Road is one of a group of similar semi-detached houses, set back from the highway behind their front gardens. The front gardens have sufficient depth to allow for a car to be parked but the gardens are not large enough to enable a car to turn before re-entering the highway.
7. It is now proposed that a dropped kerb should be installed at number 23 Cambridge Road, to enable vehicular access to the property and to allow for the provision of an off-street parking space.
8. Under the broad heading "Promoting sustainable transport", Section 9 of the 'National Planning Policy Framework' deals with a number of transport related issues. It points out the need to address concerns about the transport network (including in terms of "capacity and congestion") and to prevent significant impacts on highway safety. It is intended that congestion ought to be reduced (and hence that new development should not inhibit the free flow of traffic, in principle), but it is of particular importance to ensure that "*safe and suitable access to the site can be achieved for all users*".
9. Policy TRA2 of the 'East Herts District Plan' (dated October 2018) is likewise, aimed at achieving safe and suitable highway access arrangements for all users.
10. Furthermore, broader national and local planning policies that seek to encourage good design intrinsically include a requirement to maintain highway safety and convenience.
11. In this case, the proposed dropped kerb and its associated parking area would require cars parked at number 23 Cambridge Road to either enter or leave the new parking area in reverse gear. In spite of the wide verge area that is available for the crossing, this would increase the number of awkward turning movements in the highway and would inevitably interfere with the traffic flow on the main road. I am persuaded that there would be a significant interference with the traffic flow on the main road (which is a busy classified A-road) that would be unsatisfactory in terms of highway safety.
12. It has been pointed out that no restrictions currently apply to the existing parking bays, and that special health concerns are relevant for the appellant in this case. It is not within the scope of this decision to suggest such potential restrictions, however.
13. It has also been pointed out that emerging cars would leave the appeal site between parked cars in the lay-by area alongside the main road. I am not persuaded that this would significantly increase dangers to pedestrians but it would add to the difficulty of emerging into the traffic flow, underpinning the broader objection that has been raised.
14. On the other hand, I do not accept that the loss of a parking space on the highway would justify a refusal of planning permission, since residents at the appeal site would be likely to park on the highway in any case. Indeed, that appears to have been the rationale for the parking bays. Of course, a new provision would be created at the appeal site, albeit for the private use of that property.

15. Nevertheless, I have concluded that the proposed dropped kerb and parking area at number 23 Cambridge Road would have an unacceptable impact on highway safety and convenience, since it would interfere excessively with the free flow of traffic on the busy main road.
16. Hence, I have formed the opinion that the scheme before me would conflict with both national and local planning policies (including the Development Plan) and that it ought not to be allowed. Although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

*Roger C. Shrimplin*

INSPECTOR

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# Appeal Decision

Site visit made on 26 January 2024

**by K E Down MA(Oxon) MSc MRTPI**

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

**Decision date: 9 February 2024**

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**Appeal Ref: APP/J1915/D/23/3329989**

**10 Spring View Road, Ware, Hertfordshire, SG12 9LB**

- 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 Funmi Watkins against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/1132/HH, dated 13 June 2023, was refused by notice dated 8 August 2023.
  - The development proposed is the demolition of a single storey extension and erection of a two storey extension. Replacement of existing roof with a new second storey with pitched roof. Replacement windows and doors. Internal reconfiguration.
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of a single storey extension and erection of a two storey extension. Replacement of existing roof with a new second storey with pitched roof. Replacement windows and doors and internal reconfiguration at 10 Spring View Road, Ware, Hertfordshire, SG12 9LB in accordance with the terms of the application, Ref 3/23/1132/HH, dated 13 June 2023, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: B.EX.0.1, 0.2, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, D.PR.0.1, 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2.
  - 3) Prior to the commencement of above ground construction, details of the external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Following approval, the development shall be carried out in accordance with the approved details.

## Main Issue

2. There is one main issue which is the effect of the proposed extensions and alterations on the character and appearance of the host dwelling and the surrounding area, including the street scene of Spring View Road.
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## Reasons

3. Spring View Road is a residential street with steeply sloping topography. The appeal dwelling and its neighbours are set on significantly higher ground, above other dwellings in the road. The appeal dwelling can be seen when entering the street, although it is partially screened by mature trees. The dwelling is a post war bungalow on a wide but shallow plot with the main garden being to the north-east side of the dwelling. It has been extended in the past, including a large and bulky box dormer which is clearly visible from Spring View Road on the north-east roof slope, and a single storey side addition beyond this which together give the dwelling a disjointed appearance. Nevertheless, the property appears more modest in scale than its closest neighbours, which are bulkier chalet bungalows, and than other dwellings on lower ground which are two storey houses. It is also different in its design, which is unremarkable.
4. The existing single storey addition and box dormer would be removed to which no objection is raised. The proposed extensions include the raising of the roof of the central part of the bungalow to form a first floor, partly within the roof space. The increase in ridge height would be some 1.6m which would not appear excessive in the context of the dwelling and its setting. Although the alterations would create a two storey dwelling, the prominent and characteristic front gable would be retained, the main entrance would be moved to the centre of the building and new windows would introduce interest and a more pleasing arrangement. The raising of the roof and associated alterations would therefore comprise a sympathetic and proportionate addition to the host dwelling.
5. The dormer and single storey extension would be replaced by a two storey, flat roofed extension. This would be some 1.8m deeper than the existing single storey addition, projecting some 5m from the original side wall. The roof height would be below the ridge of the enlarged central section. The Council considers that the scale and design of the proposed extension would be bulky and would dominate the host dwelling. However, the additional projection at ground floor would be modest and whilst there would be added bulk at first floor, this would be carefully designed as an innovative and contemporary addition that would enable two storey accommodation within a similar footprint and without an excessive increase in height above that of the existing bungalow.
6. Overall, the side extension would appear in keeping with the central element and not cramped on the large plot or overly dominant in the context of the enlarged bungalow as a whole. It would be finished in a horizontal timber cladding which would be sympathetic to its wooded setting and to which the Council raises no objection. Although large and despite being clearly visible from Spring View Road, I find that the two storey side extension, whilst introducing a clear change, would not detract from the character or appearance of the dwelling.
7. Whilst the proposed extensions would not be subservient, as is generally expected by Policy HOU11 of the East Herts District Plan (DP), 2018, the wording of the policy clearly anticipates circumstances, such as the appeal proposal, where more substantial additions and alterations would be in accordance with the objectives of the policy and hence acceptable. Likewise, a flat roof above ground floor is policy compliant where it represents an innovative design approach such that it complies with HOU11 (a).

8. Other proposed alterations include the addition of roof lights, the rendering and cladding of the central and south-west sections of the dwelling and the replacement of windows and doors with modern aluminium frames. The Council does not object to these changes, and I agree they would be acceptable, helping to raise the standard of design and promoting higher levels of sustainability. This would be in accordance with the objectives of the National Planning Policy Framework, 2023.
9. It is concluded on the main issue that the proposed extensions and alterations would have no materially detrimental effect on the character or appearance of the host dwelling and the surrounding area, including the street scene of Spring View Road. In consequence, they would comply with Policy HOU11 (a) and (c) of the DP. Taken together and amongst other things these expected extensions and alterations to be of a scale, mass, form, siting, design and materials that are appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area.
10. Turning to conditions, the Council suggests four conditions in addition to the statutory commencement condition. I agree that the development should be carried out in accordance with the approved plans for the avoidance of doubt and to preserve the character and appearance of the host dwelling and the surrounding area. In addition, since details of materials are not shown on the submitted plans and will differ from those used in the existing building, a condition is necessary to require details to be submitted and approved by the Council, prior to the commencement of above ground construction so as to protect the character and appearance of the surrounding area.
11. The Council also suggests a condition requiring details of proposed ground levels, slab levels and ridge heights to be submitted and approved. However, the upward extension would be over the existing ground floor and the slab level of the side extension relative to this is clearly shown on the approved drawings, as is the finished ridge height. I therefore consider that the proposed condition is neither necessary nor reasonable.
12. The Council also suggests a condition requiring a bat survey on the basis that the site is close to Ware Chalk Mine Wildlife Site which is understood to be identified primarily due to the bat population, bats being protected species. However, no details of the site, including its location and designation status, are provided in evidence and no comments were received from either Natural England nor the Herts and Middlesex Wildlife Trust both of whom were consulted on the proposed development. Moreover, the Council's delegated report concluded that the proposed development was not considered to have a detrimental impact on wildlife. I therefore have no evidence to suggest any potential effect on bats and hence no reasonable justification for requiring a bat survey. I shall not therefore impose the suggested condition.
13. For the reasons set out above and having regard to all other matters raised, including the representations of a third party regarding land stability and effect on trees, I conclude that the appeal should be allowed.

*KE Down*  
INSPECTOR

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# Appeal Decision

Site visit made on 26 January 2024

**by K E Down MA(Oxon) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

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## Appeal Ref: APP/J1915/D/23/3329440

### 128 Ware Road, Hertford, SG13 7HR

- 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 Dr Ashley Gray against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/1180/HH, dated 3 July 2023, was refused by notice dated 4 September 2023.
  - The development proposed is a two storey side and rear extension to provide accommodation for elderly relatives, following demolition of existing garage and annexe building.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. There are two main issues. Firstly, the effect of the proposed extension on the character and appearance of the host dwelling and the street scene of Ware Road; and secondly, whether there is a clear functional link between the proposed extension and the host dwelling.

### Reasons

3. The appeal dwelling is a traditional, detached house on a wide plot set back from Ware Road in an elevated position and behind frontage vegetation. It is a well proportioned, hip roofed double fronted dwelling with a central, forward projecting section under a lower hipped roof. It has an attached single storey garage to the side with a single storey brick annexe behind. The street scene in the vicinity of the appeal dwelling is mainly residential in character with no regular scale or design of dwellings, particularly on the south side of the street where the appeal site is located. Most dwellings are detached and on generous plots and a number that I saw have been extended in the past.
  4. The garage and annexe at the appeal site and an existing chimney would be demolished to which no objection is raised. I agree that the removal of the garage and annexe which are of no particular architectural merit would be acceptable and although the chimney contributes to the traditional appearance of the dwelling its removal would not result in material harm.
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5. The proposed extension would fill much of the gap between the dwelling and the side boundary, increasing its width by about 50%. It would be two storey with a front facing gable and a roof height lower than that of the existing house. Although dwellings with front facing gables are seen elsewhere in the vicinity, the design, including the windows, would be at odds with that of the existing house. Moreover, although the roof would be set down, the eaves height would be similar to the host dwelling and its setback from the host dwelling would be limited. This, coupled with the prominent front gable and width of the extension would result in a dominant and incongruous addition that would materially detract from the symmetry design and proportions of the host dwelling.
6. The proposed rear elevation would also differ noticeably from the host dwelling but the asymmetric single storey projection would introduce interest and soften the effect of the two storey element. Moreover, the rear of the host dwelling has previously been extended at single story and the fenestration is mismatched. I therefore consider that the proposed extension would not materially detract from its appearance.
7. The appellant justifies the design as being modern and energy efficient. However, its boxy appearance would have little architectural merit and its size and unsympathetic design which would unbalance the host dwelling, particularly when seen from the front, would not be outweighed by a more energy efficient building, particularly since I have no evidence that a more sympathetic design could not incorporate a similar level of energy efficiency.
8. The appellant suggests that the position of the extension, set back from the street and screened by frontage vegetation, would limit its effect. However, it would be clearly visible through the open driveway and as a result would have a detrimental effect on the character and appearance of the street scene.
9. I note the appellant's reference to the need for adaptable, safe, accessible and inclusive buildings but these should be achievable without compromising character or appearance and therefore carry little weight in this case.
10. It is concluded on the first main issue that the proposed extension would, owing to its scale and design, have a materially detrimental effect on the character and appearance of the host dwelling and the street scene of Ware Road. In consequence, it would conflict with Policies DES4, HOU11 and HOU13 of the East Herts District Plan (DP), 2018, the Kingsmead Neighbourhood Plan (NP) and the National Planning Policy Framework (NPPF). Taken together and amongst other things, these expect extensions, including annexe extensions, to be of a high standard of design such that they are of a size, scale, mass, siting and design that does not dominate the existing dwelling and is appropriate to its character, appearance and setting and that of the surrounding area.
11. Turning to the second main issue, the Council suggests that the size of the extension, internal configuration, including separate entrance and the partial separation of the rear garden would imply that no clear functional link was demonstrated between the extension and the main dwelling.
12. However, the extension would be physically attached to the host dwelling, would be accessed via the same front drive, share the same parking area and the rear garden would remain substantially as one. There would be an intervening door between the extension and the host dwelling and although this

would be some distance from the kitchen, that is as a result of the layout of the host dwelling and cannot be used to imply a lack of functional link, particularly since the extension has no separate kitchen. The extension is applied for as an annexe and the householder application form was submitted. Both of these were accepted by the Council.

13. In terms of size, the evidence states that the extension would provide annexe accommodation for two elderly relatives. Whilst their needs are not made explicit, the provision of space for a lift, circulating space, an accessible en-suite and clear access to the bed in the main bedroom do not imply that the space is excessive but rather that it is to cater for disability and/or infirmity in a convenient and comfortable environment. Likewise, a second bedroom is reasonable in that a live-in carer or overnight presence may be required either now or in the future. The Council refers to the "Technical housing standards – nationally described space standard" to justify its position that the space would be excessive. However, these are minimum standards and may not provide suitable special needs housing.
14. Overall, I find that neither the scale, layout nor facilities of the proposed extension suggest that a clear functional link would not exist between it and the host dwelling. On the contrary, most factors point to a clear link between the two. I therefore consider that the extension could function as and therefore amount to a residential annexe. Proof of need is not a pre-requisite for an annexe. Moreover, it is open to the decision maker to impose a condition, ensuring that it remained as annexe accommodation in the future.
15. It is concluded on the second main issue that there would be a clear functional link between the extension and the host dwelling. The proposed extension would thus amount to annexe accommodation, as set out in the application. In consequence, it would comply with Policy HOU13 of the DP, insofar as it supports a residential annexe where it forms an extension to the main dwelling and is capable of being used as an integral part of the dwelling. Moreover, there is no evidence that the annexe would provide more than the minimum level of accommodation required to support the needs of the occupant(s).
16. The Council also suggests a conflict with the NP and the NPPF. However, the point of conflict is not clear and I find that no conflict is demonstrated.
17. A third party raised concerns regarding loss of outlook and privacy to No 124 and effect on trees and parking space. However, the proposed extension would be separated from this property by an access drive serving No 126 to the rear and proposed side facing windows would be secondary so could be required to be obscure glazed. Moreover, there would be no direct effect on trees and ample parking would remain for vehicles, despite the loss of the garage.
18. Notwithstanding my findings on the second main issue, these would not alter or outweigh my conclusions on the first main issue. Therefore, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*KE Down*  
INSPECTOR

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# Appeal Decision

Site visit made on 2 February 2024

**by K E Down MA(Oxon) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27<sup>th</sup> February 2024**

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**Appeal Ref: APP/J1915/D/23/3330627**

**Tollgate House, Amwell Hill, Great Amwell, Hertfordshire, SG12 9QZ**

- 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 Ross Newham against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/1239/HH, dated 26 June 2023, was refused by notice dated 23 August 2023.
  - The development proposed is erection of a new 2-bay cart shed.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. Since the application was determined, a revised National Planning Policy Framework (Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework and new paragraph numbers in reaching my decision.

## Main Issues

3. There are four main issues. Firstly, whether the proposed outbuilding would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; secondly, the effect of the proposed outbuilding on the openness of the Green Belt; thirdly, the effect of the outbuilding on the character and appearance of the area with regard to trees and the setting of the Grade II listed building; and fourthly, if the proposed outbuilding would amount to inappropriate development, whether the harm, by reason of inappropriateness and any other harm is clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Whether inappropriate development in the Green Belt*

4. Amwell Hill (A1170) is a busy road that lies within the Green Belt. There is sporadic development on both sides of the highway. The appeal site is accessed via a gated entrance off Amwell Hill. It comprises a Grade II Listed dwelling set on a large and steeply sloping plot. The dwelling is on high land with the site entrance and site of the proposed cart shed on the lowest part of the site, some 55m away. Despite the presence of other buildings, including dwellings, in the vicinity the site is not within a defined settlement and the character of the area is that of open countryside.
5. The proposed cart shed would have two bays and a roughly square footprint. It would have a pitched, tiled roof. It would be located immediately to the northwest of the site entrance and under the canopy of a large tree. The existing drive would be extended to provide access to the cart shed. This would come within a short distance of the tree trunk.
6. Policy GBR1 of the East Herts District Local Plan (LP), 2018, states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 states that the construction of new buildings should be regarded as inappropriate except in a number of circumstances, such as the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. Although the proposed building is not a conventional extension, the High Court has ruled [*Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)*] that for the purpose of Green Belt assessment an outbuilding should not be assumed not to be an extension simply because it is not physically attached to the host building. Whether a detached structure would amount to an extension of the existing building is a matter of fact and degree. Factors that may be relevant include whether, in the case of a residential outbuilding, it would be a "normal domestic adjunct", its purpose, its relationship with the original building and its size.
8. In this case the cart shed in itself would not be excessive in size. However, it is clear from the evidence that a number of other planning permissions have been granted for the extension of the original dwelling. It is not therefore clear whether the cart shed, in conjunction with other extensions, would amount to a disproportionate addition over and above the size of the original dwelling. Moreover, although its use may be for the parking of domestic vehicles, this is not clear from the evidence and there is an existing garage at the site, closer to the dwelling. Finally, the outbuilding would be a significant distance from the original dwelling. The functional relationship between the original dwelling and the proposed cart shed is thus not proven and the significant separation distance reinforces my view that, on the basis of the evidence, it could not reasonably be considered as an extension to the original dwelling. The

exceptions set out in paragraph 154 of the Framework do not therefore apply in this case.

9. It is concluded on the first main issue that the proposed cart shed would amount to inappropriate development in the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt, including that by reason of inappropriateness.

#### *Openness of the Green Belt*

10. The Framework states that the essential characteristics of Green Belts are their openness and permanence. The proposed cart shed would be a modest structure on a currently undeveloped site resulting in harm to the spatial openness of the Green Belt. However, it would be largely hidden from beyond the appeal site and domestic in scale and would result in limited harm to the visual openness of the Green Belt.

11. It is concluded on the second main issue that the proposed outbuilding would lead to some minor harm to the openness of the Green Belt.

#### *Character and appearance*

12. Tollgate House is a Grade II listed building constructed in the seventeenth century forming a small house. Its significance largely derives from its architectural and historic interest as an early example of domestic rural architecture contributing to an understanding of its significance in the countryside.
13. The proposed cart shed would be located close to several mature trees which contribute to the setting of the listed building and to the wider, wooded setting of Amwell Hill. In addition, they have amenity and biodiversity value. In particular, the building would lie within the root zone and under the canopy of one particularly large and prominent tree which is visible from the street and makes a significant contribution to the character and appearance of the appeal site. The proximity of the proposed cart shed and the extended driveway to the trees means that there is clear potential for harm to either or both the root zone and canopy during construction or in the longer term. No evidence has been submitted regarding the trees, their ability to withstand development in close proximity or any details of the proposed foundations or paving that might ameliorate potential harm.
14. It is suggested that planning conditions could be used to require an arboricultural assessment prior to development. However, I have no evidence that suitable methods could be employed to protect the trees, given their proximity to the proposed building. In consequence, there is no certainty that there would not be material harm to or potential loss of trees and hence no certainty that the setting of the listed building and the character and appearance of the wider area or biodiversity would be preserved.
15. The harm I have found to the setting of the listed building is less than substantial but nevertheless of considerable importance and weight. There would be minor economic benefits from the purchase and installation of the materials for the structure. However, these would be insufficient to outweigh the considerable importance and weight I attach to the harm I have identified.

16. I therefore conclude on the third main issue that the proposed outbuilding would have a potentially harmful effect on the character and appearance of the area with particular regard to trees and the setting of Tollgate House a Grade II listed building. In consequence, it would conflict with LP Policies HA1, HA7, NE3, DES3 and DES4. Taken together and amongst other things these expect new development to preserve and where appropriate enhance the historic environment including the setting of listed buildings, not to result in the loss of or significant damage to trees and to retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value.

*Other considerations*

17. The appellant draws my attention to the design and overall scale, mass and bulk of the proposed cart shed and to its siting and use that he says would be incidental to the enjoyment of the dwelling. In addition, the appellant would be willing to enhance soft landscaping through the provision and implementation of a landscaping scheme. These matters, it is suggested, might amount to the very special circumstances necessary to justify the proposal.

18. However, all development, both inside and outside the Green Belt, should be of a high quality design and of a size and in a location that does not materially harm the existing surroundings. Moreover, the provision of enhanced landscaping is frequently necessary. I do not therefore find that these matters could be afforded more than limited weight.

19. It is therefore concluded on the fourth main issue that the other considerations drawn to my attention would be insufficient clearly to outweigh the harm that would be caused to the Green Belt by reason of inappropriateness and harm to the openness, which carries substantial weight, and the potential harm to the character and appearance of the wider area, the setting of the listed building and to biodiversity. The very special circumstances necessary to justify the development do not therefore exist and the proposed outbuilding would conflict with LP Policy GBR1 and national policy set out in the Framework.

20. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*KE Down*  
INSPECTOR