



## Appeal Decision

Site visit made on 5 February 2024

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

**Decision date: 11<sup>TH</sup> March 2024**

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**Appeal Ref: APP/J1915/Y/23/3319776**

**3 The Gate House, Hadham Hall, Little Hadham, SG11 2EB**

- 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 Angus Hudson of Sworders against the decision of East Hertfordshire District Council.
  - The application reference is 3/21/1669/LBC.
  - The works proposed are reconfiguration of internal office layout including reinstatement of a second floor, insertion of two roof lights.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr Angus Hudson of Sworders against East Hertfordshire District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. As the appeal relates to a listed building consent I have had special regard to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. Since the determination of the application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

### Main Issue

5. The main issue in this appeal is whether the proposal would preserve a Grade II\* listed building, "The Gatehouse Range at Hadham Hall 60 Metres West of Hadham Hall" (Ref: 1211100) (the LB), and any of the features of special architectural or historic interest that it possesses.

### Reasons

6. The LB dates from the early 16<sup>th</sup> century and is part of a manorial complex that has experienced significant change over time. It contains a gateway, which separates the building into two halves. The eastern half of the LB, which is the subject of this appeal, incorporates fabric associated with the construction of the 1440 manor house of Thomas Baud.

7. A significant part of the special interest of the building is derived from the principal roof trusses. These arch-braced collar trusses are atypical for the period and demonstrate a high level of craftsmanship. The wider fabric of the building also provides an important material record of its evolution and phased development over time from when it was first constructed. As the appellant points out, very few buildings survive in any form from the mid-15th century and only a small number of 16th century buildings remain as intact. The legibility and preservation of this fabric is consequently of the utmost importance. Turning to external features relevant to the proposal, there is a cohesive use of materials with a common patina and integrated palette that provides visual links with the other key historic buildings within the manorial complex.
8. Given the above, I find the special interest of the building, insofar as it relates to this appeal, to be primarily associated with the evidential and aesthetic value of historic construction materials and techniques that have been used. I find that these elements directly contribute to the special interest of the building.
9. In 2007 the Council granted Listed Building Consent for internal alterations<sup>1</sup>. Subsequently, in 2010 a revised application<sup>2</sup> for internal alterations was submitted and approved (the 2010 permission). Both permissions included works to create a second floor, in the 2010 permission by the insertion of a mezzanine. That proposal also included the insertion of three windows into the roof, to provide natural light for the proposed second floor. The works to install one of these windows have been carried out. It is common ground between the parties that, being partly implemented, the 2010 permission is extant.
10. However, the 2010 permission has been in place for a considerable period of time without the bulk of the works being implemented. Further, the appellants have, over a period of time subsequent to that permission, sought to secure an alternative to them. I thus consider it unlikely that the appellants would proceed to fully implement the 2010 permission. Nonetheless current case law holds that "the prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect". Such a theoretical possibility is sufficient, in this instance, to make the position a material consideration.
11. The current proposal would insert a second floor, extending the existing staircase to access it, together with various other alterations to the ground floor and the insertion of two windows into the roof.
12. The insertion of a second floor would reflect more closely the form of the building following the addition of the 17th century cross beams. However, from the drawings, the joists would be positioned on top of the beams, rather than between them as they would have been originally. Although the joints for the floor joists would remain clearly visible, the juxtaposition of these different phases would be lost as well as intact views of the earlier trusses and the wall plates. Consequently, there would be a loss of legibility in terms of the historic phasing and a diminution of the aesthetic sweep of the collar trusses.

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<sup>1</sup> Council Ref:3/07/1313/LB

<sup>2</sup> Council Ref: 3/10/1187/LB

13. The north elevation of the east range has a clay tile roof with a clay tile ridge. The roof tiles show signs of patch repairs but are relatively uniform although probably of late 19th or early 20th century date. The proposal would insert two further skylights in the north roof slope. These would be inserted between the rafters and, thus, no historic material would be lost. This notwithstanding, the north roof slope contributes positively to the aesthetic character and appearance of the building given the largely uninterrupted sweep of this elevation.
14. The insertion of the additional windows would further disrupt the roof form and its appearance, both when observed from outside and within and this amounts to harm to the aesthetic character of the LB. Further, the additional windows would further undermine the visual continuity of form with the other buildings in the complex. The presence of existing, modern features on the roof slope does not justify further harm.
15. The doors on the north elevation of the LB would be replaced with a glazed window. Whilst the existing doors are relatively modern, they are solid. There is no evidence before me to demonstrate that a glazed door has been present at any previous time in this location. The proposed glazed door would consequently be an inauthentic and alien addition lacking any clear historical justification.
16. A screen in the current lobby would be relocated to a position closer to the main entrance and the area given over to form a reception area. A door would be fitted into the new, glazed screen. The screen would divide the lobby area without regard to any historic building layout. However, as this is the relocation of an existing screen with similar effect, the overall effect on the significance of the LB would be neutral.
17. I note that an earlier oak staircase serving the building, which is partly dismantled and stored in that location, would be removed as a result. This would result in a loss of the earlier fabric of the building, albeit that storage of the materials could continue.
18. The staircase will lead to the first floor with a kitchenette replacing one of the WCs and access created through a blocked former doorway to a storage area above the lobby and reception. This will involve the removal of a section of 20th century walling that blocked up an historic opening. The rest of the first floor will remain substantially unchanged but the staircase will be continued to the second floor.
19. The proposal would remove partitioning installed as part of the 1992 conversion and reconfigure the layout with partitions featuring a large proportion of glazing. This would provide a greater feeling of spaciousness and appreciation of the earlier, more open layout of the ground floor.
20. A disused doorway connecting the lobby to the current office would be closed off and become a cupboard. This doorway is modern. These changes would not necessitate removal of older building fabric. I am satisfied that their appearance and impact could be controlled by suitably worded planning conditions.

21. Overall, I find that the proposed development would fail to preserve the special interest of the listed buildings. Consequently, I give this harm considerable importance and weight in the planning balance of these appeals.
22. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the scale of change to the external appearance, that the roof trusses would remain largely visible, albeit separated visually by a floor and that the proposal also effects how the building is experienced, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
23. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.
24. The proposal would provide additional floorspace for the current business operating from the LB. However, there is no evidence before me to demonstrate that the business is at risk without the proposed works.
25. Given the above and in the absence of public benefits that outweigh the harm that I have identified, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II\* listed building. This would fail to satisfy the requirements of the Act, and conflict with Policies HA1 and HA7 of the East Herts District Plan (2018) that seek, among other things, to preserve and, where appropriate, enhance the historic environment, including listed buildings, and ensure that development meets the tests set out in national policy. As a result the proposal would not be in accordance with the development plan, so far as it is relevant.
26. The appellants argue that the 2010 permission, which is still extant, could be implemented in full and that it would have a greater adverse impact on the LB than the current proposal.
27. Externally and on the proposed second floor, the current proposal and the 2010 permission would have very similar effect.
28. However, the 2010 permission would breach a 15<sup>th</sup> century internal wall to create an opening close to an existing splayed window. It would again breach this wall on the first floor. Given the scarcity of buildings from this period and the evidential value of the wall in relation to the layout and legibility of the 1440 manor house, this fabric is clearly of exceptional historic interest.
29. The oak staircase would be re-used to form access to the first floor. However, in so doing there would be further loss of historic ceiling fabric to create the necessary opening and a number of historic joists would be removed to create the stairwell to the second floor. Whilst re-using historic fabric, there is no evidence before me to indicate that there was, historically, a stair in this location. It would consequently be an inauthentic addition lacking any clear historical justification.
30. Given the scale of change to the external appearance, the magnitude of loss and importance of the historic fabric, that the roof trusses would remain largely

visible, albeit separated visually by a floor and that the 2010 permission also effects how the building is experienced, I also find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

31. In conclusion, whilst I find that the proposal would fail to preserve the special interest of the LB, the overall harm to the LB resulting from the current proposal would be less than that of the 2010 permission, were it to be implemented in full. However, given the prolonged intervening time period without full implementation, I place limited weight on the 2010 permission as a fall back position. I thus find that, on balance, the implementation of the 2010 permission does not provide a clear and convincing justification for the current proposal, and therefore the requirements of paragraph 206 of the Framework are not fulfilled.

### **Conclusion**

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

*I A Dyer*

INSPECTOR



## Costs Decision

Site visit made on 5 February 2024

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

**Decision date: 11<sup>th</sup> March 2024**

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### **Costs application in relation to Appeal APP/J1915/Y/23/3319776 3 The Gate House, Hadham Hall, Little Hadham, SG11 2EB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Angus Hudson of Sworders for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of listed building consent for reconfiguration of internal office layout including reinstatement of a second floor, insertion of two roof lights
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### **Decision**

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

### **Reasons**

2. Paragraph 30 of the government's Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellants are seeking a full award of costs against the Local Planning Authority as they consider that the Council acted unreasonably in failing to appropriately consider the fallback position of implementing a permission granted in 2010<sup>1</sup> (the 2010 permission), resulting in the expense of an unnecessary appeal.
4. The Council were aware of the 2010 permission and does not dispute that it is implementable in the alternative to the current proposal. This is referred to in both the Officer's Report and the comments of their Conservation Officer. However, they considered that, in view of remaining concerns regarding the current proposal and changes to planning policy, most importantly the introduction of the National Planning Policy Framework, their refusal of permission was justified. The Council therefore were aware and considered the fallback option of the 2010 permission when determining the application.
5. The appellants have tested the Council's decision through the appeal process. It will be seen that I have come to a similar overall conclusion to the Council. The Council have, through the provision of the Officers Report, the comments of its Conservation Officer and its Statement of Case, substantiated its argument regarding the basis of its decision.

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<sup>1</sup> Council Ref: 3/10/1187/LB

6. I do not consider that any of the evidence provided by the appellants was unnecessary or that additional unnecessary or wasted expense was incurred in the provision of that evidence.

**Conclusion**

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*I A Dyer*

INSPECTOR



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## Appeal Decisions

Site visit made on 23 January 2024

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

an Inspector appointed by the Secretary of State

Decision date: 6 March 2024

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### **Appeal A Ref: APP/J1915/W/23/3323002**

#### **Hillside Farm, Hillside Lane, Great Amwell, Hertfordshire SG12 9SH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by John Ruane against East Hertfordshire District Council.
  - The application Ref 3/22/0274/VAR, dated 9 February 2022, was refused by notice dated 24 February 2023.
  - The application sought planning permission for demolition of building attached to listed building and replacement with new Class E (g) office use building and glazed link, alterations/extensions to and conversion of all other existing buildings to Class E (g) office use, provision of 35 car parking spaces with associated landscaping and bin/cycling stores without complying with a condition attached to planning permission Ref 3/20/1051/FUL, dated 21 January 2022.
  - The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the approved plans, documents and reports listed at the end of this Decision Notice.
  - The reason given for the condition is: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.
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### **Appeal B Ref: APP/J1915/Y/23/3323013**

#### **Hillside Farm, Hillside Lane, Great Amwell, Hertfordshire SG12 9SH**

- 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 John Ruane against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0264/LBC, dated 7 February 2022, was refused by notice dated 9 February 2023.
  - The works are the retention of new windows and rooflights.
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### **Decisions**

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

### **Preliminary Matters**

#### *The appeals*

3. The appeals are made further to a development for new and converted buildings in a farm complex to create a series of office buildings, with associated works. The appellant has installed rooflights and windows in one of the buildings the subject of the development – the Grade II listed 'Barn at



Hillside Farm<sup>1</sup> – outwith the terms of the planning permission<sup>2</sup> and listed building consents<sup>3</sup>. The appellant is therefore seeking to regularise the unauthorised works through a new listed building consent and by changing condition 2 of the planning permission to refer to updated drawings. Both were refused by the Council and two appeals have therefore been submitted – the s78 appeal in relation to the s73 application to change condition 2 of the planning permission and the s20 appeal in relation to the listed building consent.

4. The works relate to a Grade II listed building and I have therefore had special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses, in accordance with s16 and s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).

#### *Revised drawings*

5. Two of the rooflights have been inserted in a slightly different location to those as depicted on the drawings accompanying both applications. The appellant has submitted revised drawings to reflect the amended rooflight locations. The Council has not commented on the revised drawings. However, the changes are minor and non-material. I have therefore accepted the revised drawings<sup>4</sup> and have determined the appeals on that basis.

#### *Descriptions*

6. The s78 appeal is in relation to a s73 application and I have therefore retained the original description of development, in light of the *Finney*<sup>5</sup> judgment. There is no conflict between the proposal and the description of development.
7. It is not possible to apply for retrospective listed building consent and the s20 appeal is for retention of the works. I have amended the description of development of the s20 appeal to reflect this.

#### *Insufficient information*

8. The second reason for refusal for both appeals relates to insufficient information having been provided regarding the detail of the proposed windows and rooflights. However, this has since been superseded by events because they have been installed and I have confirmed on my site visit that the submitted drawings accurately reflect the fenestration as installed. The appellant has also confirmed in writing the type of rooflight that has been used. This reason for refusal is not, therefore, a main issue for the appeals.

#### *Policy*

9. A revised version of the National Planning Policy Framework (the Framework) was released towards the end of 2023. None of the changes are material to the appeals and I have therefore referred to the revised Framework where appropriate without having re-consulted the main parties.

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<sup>1</sup> List entry number 1341856

<sup>2</sup> Ref 3/20/1051/FUL, dated 21 January 2022

<sup>3</sup> Refs 3/20/1052/LBC, dated 3 November 2022 and 3/19/1206/LBC, dated 3 October 2019

<sup>4</sup> For the avoidance of doubt, the drawing refs are: 217460 SP 201 Rev H; 202 Rev F; 203 Rev G

<sup>5</sup> John Leslie Finney v Welsh Ministers & Carmarthenshire County Council, Energiekontor (UK) Limited

## **Main Issue**

10. The main issue for both appeals is the effect of the unauthorised works on the special architectural or historic interest of the Grade II listed building, Barn at Hillside Farm.

## **Reasons**

### *Significance*

11. The barn is 16<sup>th</sup> Century. It is timber framed and weatherboarded, with a brick plinth. The roof is made of red tiles with gable ends. The timber framed roof structure is extensive, attractive and largely original, or at least historic. There also remains a large amount of historic fabric to the walls and roof of the building, which is well preserved. The barn has been converted to office use as part of the planning permission and listed building consents. The permission and consents allowed for the insertion of an internal floor and internal partition walls and glazing. The barn has therefore lost its original use and some of its plan form. The approved works also include fairly substantial glazing either in or close by to the old entrances, but the permitted glazing elsewhere is more limited, relating to only a small number of relatively small windows, in a haphazard pattern on the elevations.
12. The barn is physically connected to, albeit without a direct internal link, a large partially new and partially converted building that extends sideways from one of the gable ends and then forms a large U-shape around a retained but re-landscaped courtyard area. This other building is part of the same office development the subject of the permission and consent. The barn's setting has therefore significantly changed to be part of this office complex.
13. The significance of the barn therefore largely relates to its large amount of retained historic fabric, and to the fact it can still be readily appreciated, intrinsically, as a historic barn, with relatively limited, and sensitively located, glazed insertions. In this description of its significance, I have ignored the rooflights and windows that have been installed and are subject to these appeals. Whilst existing, they are unauthorised and it is therefore incumbent upon me to assess the significance of the building without those works.

### *The works*

14. The rooflights that have been installed outwith the terms of the planning permission and listed building consents number four within the lower part of the main roofslope on both sides, ie eight in total. The rooflights all serve the large first floor office area, which is largely open plan and runs both ways from the double height foyer, without significant interior walls. There were no rooflights as part of the approved permission and consents. 15 additional windows have also been inserted, including, at the first floor level, two to the south east elevation, six to the opposite elevation, and two to the gable end. At the ground floor level, there are five, one to the south east elevation of the barn, two on the opposite elevation, and two further to the gable end.

### *Assessment*

15. The barn originally had few external openings. The historic openings were confined to the large timber entrance door and opening to one elevation and much smaller doors and four windows to the other elevation. The limited

- openings made a fundamental contribution to the character and appearance of the barn. It is important to retain this legibility of its original use and appearance.
16. Four rooflights on each roof slope is a significant intervention. They are flush to the roof, which limits visibility at oblique angles. However, the size and number of them is still prominent, even lower in the roof slope because the angle and height of the roof means that its entire slope is highly visible. In addition, whilst there is some variation in their locations, both along the roof slope itself and by reference to the window pattern to the main elevations, any variation is limited. There is a strong degree of symmetry, at odds with the character of the barn.
  17. The rooflights are of high quality and they match those used to the other building that is part of the office development. They are either positioned behind a retained historic rafter or have been located where a non-historic rafter is located and has been cut and then re-used as internal header and footer frames to the windows. Only a limited amount of important historic fabric has therefore been lost or repurposed. However, these factors do not fully mitigate the harmful effects of the rooflights on the character of the listed property.
  18. The new windows have been designed to reflect the style of those as approved. They are black framed, sit within the weatherboarding, and are located between the historic timber frame of the building. They therefore match the design of the approved windows and would result in a minimal loss of historic fabric. All the windows are relatively small and eight of them are 'slot' windows which are particularly narrow. However, the number of windows is excessive. As approved, only a small number of windows were allowed, which meant that the barn could retain its character. The windows do bring greater balance to the gable end but this is a harmful effect that does not reflect the need to retain a degree of irregularity to reflect the historic character of the barn. The insertions now built therefore negatively alter the character of the barn in comparison to the as approved scheme.

### *Conclusion*

19. The works have therefore harmed the special architectural and historic interest of the listed building, and they fail to comply with the Framework and with Policies HA1 and HA7 of the East Herts District Plan 2018 (the LP), which reflect the Framework.

### **Planning Balance**

20. The development has caused less than substantial harm to the significance of the listed building. A public benefit of the works is the increased light that would be allowed into the office floorspace. However, the first floor level is served by several approved windows. Whilst some are fairly small 'slot' windows, because of its open plan nature this area also borrows light from the foyer area which benefits from extensive approved glazing. The ground floor is compartmentalised into the foyer and two separate rooms to either side. The smaller room has a glazed partition to the foyer area and is lit by a series of large windows to the opposite elevation. The larger room is more separated from the foyer and does not benefit from meaningful borrowed light. However, it is lit by two approved windows in the gable end, and five other approved

windows to the two side elevations. The lower level of the ground floor does not change these considerations because this has not changed the mezzanine level or which rooms the consented windows serve.

21. Therefore, all affected internal spaces already benefit from alternative light sources, both directly and indirectly. There is a balance to be struck between the practical requirement for the consented office use needing natural light and protection of the historic character of the barn. Whilst natural light is important, it is reasonable to expect the occupiers of the barn to accept, and indeed expect, lower daylight levels in a barn conversion compared to within a traditional office building. I have not been provided with any substantiated evidence that the additional light is required to let the office space or to ensure the ongoing viable use of the property.
22. The public benefit of the works is therefore limited. In accordance with Paragraph 205 of the Framework, I place great weight on the harm to the significance of the listed building that I have identified. This harm therefore outweighs the public benefits and the works fail to comply with Paragraph 208 of the Framework.

### **Conclusions**

23. For the reasons above, Appeal A is dismissed.
24. For the reasons above, Appeal B is dismissed.

*O S Woodward*  
INSPECTOR



# 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: 12<sup>th</sup> March 2024

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**Appeal Ref: APP/J1915/W/23/3323073**

**The Chalk Pit, The Causeway, Furneux Pelham SG9 0LW**

- 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 Jeremy Hinton against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0719/FUL, dated 4 April 2022, was refused by notice dated 2 December 2022.
  - The development proposed is a detached dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at The Chalk Pit, The Causeway, Furneux Pelham SG9 0LW in accordance with the terms of the application Ref 3/22/0719/FUL, subject to the conditions in the attached schedule.

## Preliminary Matters

2. Notwithstanding the description of development on both the decision notice and the appeal form, this appeal has been determined on the basis that the proposal is that stated on the application form.
3. On the decision notice it is indicated that the appeal site is within the Furneux Pelham Conservation Area. However, other application and appeal documentation demonstrate that the appeal site is outside of but adjacent to the Conservation Area (CA). I therefore proceed on that basis.
4. I have considered the comments made by the main parties in respect of the revised National Planning Policy Framework (the Framework) in determining this appeal.

## Main Issues

5. The main issues are the effect of the development on;
  - the character and appearance of the area and the significance of the Furneux Pelham Conservation Area; and
  - whether the appeal site is a suitable location for the proposed development, with particular regard to the spatial strategy within the development plan.

## Reasons

### *Character and appearance*

6. In common with the similarly sized adjacent 'paddock' area, the site fronts onto the road known as the Causeway, and is largely surrounded by trees. There are

- also additional trees across the site. The tree and shrub growth afford the site a sense of intimacy and enclosure. This is in sharp juxtaposition with the much larger and open fields, to the south and west of the appeal site and on the opposite side of the Causeway.
7. Much of the village of Furneux Pelham is within the Furneux Pelham Conservation Area (CA). The significance of the CA is partly informed by the many historic buildings within it, which enable the historic evolution of this rural village to be understood. Areas of open space and many of the roadside hedgerows and trees within the CA also reinforce the links between the historic rural village and the agricultural land beyond it. The agricultural land and fields surrounding the CA therefore make a positive contribution to its significance. They also contribute to the pleasant and verdant character and appearance of the area.
  8. The adjacent 'paddock' which is within the CA, is identified as an important open space within the Furneux Pelham Conservation Area Character Appraisal<sup>1</sup> (the CA appraisal). However, the proposed development would not encroach onto this land. Furthermore, there is no proposal to remove the trees and hedgerows along the boundary between the appeal site and the 'paddock'. The qualities of this adjacent area of open space and its value to the CA, would not therefore be diminished following the implementation of the proposed development.
  9. The on-site trees and hedgerows contribute to the verdancy and distinctive quality of the area. Drawing number 04/C which is a proposed plan, shows the retention of trees within the site. While it would be necessary to cut back the roadside hedgerow to secure the identified visibility splays, from the evidence, most of this hedgerow and the trees within it, could be retained.
  10. Only the small 'paddock' separates the appeal site from the built-up edge of the village of Furneux Pelham. Furthermore, existing trees and hedgerows along the site boundaries would prevent all but glimpses of the proposed development when approaching the village along the Causeway. Therefore, and subject to the retention of most of the onsite trees and hedgerows, the proposed development would not comprise a form of ribbon development that would harmfully erode the rural character of the area. Nor, given its very different characteristics from that of much of the nearby agricultural land, would it cause harm to the significance of the CA.
  11. To prevent harm being caused to either the character and appearance of the area or to the significance of the CA, it would be necessary to impose a condition requiring a landscaping scheme to be provided to and agreed upon by the local planning authority. If it is necessary to remove any trees or stretches of hedgerow, the condition would require suitable replacement provision be made. It would also require that retained trees be protected during the works.
  12. For the reasons given, the proposed development would not cause harm to the character and appearance of the area or to the significance of the CA. Consequently, and insofar as they relate to this main issue, the development would comply with policies GBR2, DES2, DES4, HA4, and INT1 of the East Herts Council East Herts District Plan October 2018 (the Local Plan). Amongst other things, these policies require development to be of a high standard of

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<sup>1</sup> Furneux Pelham Conservation Area Character Appraisal and Management Proposals – Adopted 2017

design and layout; to conserve the character and distinctive features of the landscape; and to preserve the special interest, character, and appearance of conservation areas. It would also comply with the parts of the Framework that seek to ensure that development conserves the historic environment and is of a high-quality of design that is sympathetic to local character and history.

#### *Development strategy*

13. Policy INT1 of the Local Plan provides a presumption in favour of sustainable development. Further to this, Local Plan policy TRA1, which relates to sustainable transport, seeks to ensure that development is primarily located in places that enable sustainable journeys to be made. It also requires that a range of sustainable transport options be available to future occupants.
14. Within the Local Plan, Furneux Pelham is identified as a group 2 village, where policy VILL2 of the Local Plan provides general support for limited infill within the settlement. However, the Local Plan shows that the appeal site is located outside of the Furneux Pelham village settlement limits, and that it comprises a rural area beyond the Green Belt. Local Plan policy GBR2 identifies the types of development that will normally be permitted in such areas. It includes development that constitutes the partial or complete redevelopment of previously developed sites in sustainable locations, where appropriate to the character, appearance, and setting of the site and/or surrounding area.
15. A definition of previously developed land (PDL) is provided within the glossary of the Framework. Although vacant at the time of my site visit, there is a building on the site. Furthermore, the evidence indicates that minerals were historically extracted from the site, and that it was subsequently used for landfill waste disposal. Moreover, during my site visit waste was observed within the top layer of made ground, and the Council indicates that there has been no provision for the restoration of the site through development management procedures. Therefore, and based on the evidence and my on-site observations I have been unable to establish that any of the exclusions specified within the Framework PDL definition apply. I therefore have no reason to conclude that the site is not PDL, and so proceed on the basis that it is.
16. The evidence indicates that Furneux Pelham contains a range of services and facilities. These include a school; pub; church; village hall; shop; doctors surgery; and post office, as well as bus stops from which busses to nearby towns can be secured. Therefore, and although the appeal site is located a short distance outside of the village boundary, this does not necessarily mean that the site is in an unsustainable location for residential development.
17. Albeit a snap-shot in time, during my site visit I found the Causeway to be a very lightly trafficked road, with good forward visibility, and I have no reason to doubt that these circumstances were a-typical. Furthermore, and despite the stretch of road closest to the appeal site being subject to a 60mph speed limit, the submitted speed survey demonstrates vehicles travelling significantly slower than the speed limit past the site. For these reasons, and given the proximity of the appeal site to local services and facilities within the village, the absence of street lighting or pavement alongside parts of the causeway, is unlikely to discourage or prevent future occupiers from accessing these services and facilities by means other than by private car.



18. I have already concluded that the development would not cause harm to the character and appearance of the area. As such, and for the reasons previously given, the appeal site is a suitable location for the proposed development, with particular regard to the spatial strategy within the development plan. Consequently, the development would comply with policies GBR2, INT1 and TRA1 of the Local Plan. It would also accord with the Framework where it promotes sustainable development and seeks to support the government's objective to significantly boost the supply of homes.
19. As the appeal site lies outside of the settlement boundary of Furneux Pelham, and there is no adopted neighbourhood development plan, Local Plan policy VILL2 does not lead me away from my previous findings.

### **Other Matters**

20. Given that the appeal site is within the rural area beyond the Green Belt and on the basis that it is PDL, there is no policy-based requirement for the development to constitute infill development.
21. Planning permission was refused for residential development on the 'paddock' (application reference 3/19/0379/FUL). However, that site is within the CA, and identified within the CA appraisal to be an important open space to be protected. These considerations do not apply in this case, and as such the two schemes are not directly comparable.
22. If suspected or actual human remains were to be found during any site clearance or excavation works, then this would be a police matter.
23. Notwithstanding the presence of plants throughout the site, the restoration of the land and any associated removal of contaminants, would bring environmental benefits to both the ground and water environment.

### **Conditions**

24. Some of the Council's suggested conditions have been amended for clarity and to meet the six tests within paragraph 56 of the Framework. Further conditions have also been added.
25. The statutory condition which specifies the time-period for the implementation of the permission, is imposed. For clarity, a plans condition is also added which identifies the plans to which the permission relates.
26. Materials and landscaping conditions are imposed to protect the character and appearance of the area and the distinctiveness and significance of the CA. Furthermore, and because the trees and hedgerows within the site could be affected by the initial works, it is necessary for one of the landscaping conditions to be a pre-commencement condition.
27. A condition is also required to ensure that the development would not cause harm to the biodiversity value of the site.
28. To protect human health and the environment from contaminants within the site, a condition is imposed requiring that a remediation scheme be submitted to and approved by the local planning authority. This needs to be a pre-commencement condition, to ensure that any ground clearance or excavation works would not cause harm to human health or the environment.



29. To ensure that the development does not cause harm to highway safety, a condition is needed to secure the provision and retention of visibility splays at the access between the site and the Causeway. However, given the size of the site and its comparative topography with the adjacent road, conditions preventing the occupation of the dwelling before the proposed parking and manoeuvring spaces are provided, or which would prevent the discharge of surface water onto the highway, are not necessary. Furthermore, and because it is covered by other legislation, there is no need for a condition preventing materials from being deposited on the highway during the works.

### **Conclusion**

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

*V Simpson*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan dated 28 March 2022, 04/C, 05/A, 06/A, and site sections 08.
- 3) The development hereby permitted shall not begin until a scheme to deal with contamination of land, ground gas, and controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing;
  - a supplement to the Phase II Geoenvironmental Ground Investigation report prepared by agb environmental dated 29 March 2021, with respect of ground gas production and controlled waters on site. This supplement shall detail all additional investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment; and
  - a remediation scheme detailing; how the remediation will be undertaken; what methods will be used and what is to be achieved; the end point of the remediation and how this will be validated; and any ongoing monitoring.

The development shall subsequently be undertaken in accordance with the approved details.

If during the works, contamination is encountered which has not been previously identified, then development works shall cease until the additional contamination has been fully assessed, and an appropriate remediation scheme has been submitted to and approved in writing by the local planning authority. The development may then be recommenced and undertaken in accordance with the approved details.

Prior to the first occupation of the dwelling, a validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted to and approved in writing by the local planning authority. Such details shall include the results of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria, together with documentation detailing what materials have been removed from the site.

- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a landscaping scheme. The scheme shall identify;
  - details of measures to protect the retained trees and hedgerows within the site, throughout the course of development;
  - if any trees or sections of hedgerow are required to be removed to facilitate the provision of the visibility splays or to prevent harm to highway safety, details of proposed replacement planting;
  - soft landscaping proposals; and
  - an implementation programme.The development shall subsequently be undertaken in accordance with the approved details.
- 5) No development above slab level shall commence until details of the materials to be used on the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out in accordance with the approved details.
- 6) If, within a period of 5 years from the completion of the development, any trees or plants that are planted or retained in accordance with condition 4, die, are removed, or become seriously damaged or diseased, these shall be replaced in the next planting season with others of similar size and species.
- 7) No structure, erection, shrubs, trees, or other vegetation, that would exceed 0.6metres in height, shall be placed or allowed to grow within the visibility splays detailed on drawing number 04/C.
- 8) The development shall be undertaken and subsequently occupied in accordance with the precautionary working methods and low-impact lighting measures identified within table 3 of the preliminary ecological assessment produced by Arbtech and dated 26 February 2022.

*End of conditions*



# 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: 08 March 2024**

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**Appeal Ref: APP/J1915/W/23/3321041**

**Warren Park Heritage and Craft Centre, Unclassified Road U42 North East from Stanstead Hill to Great Hadham Road, Green Tye, Hertfordshire SG10 6FF**

- 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 C Beecham against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0909/FUL, dated 27 April 2022, was refused by notice dated 6 February 2023.
  - The development proposed is the change of use of Barns 2 and 3, and Courtyard Unit 3 from Sui Generis Use to Class E (b, c, e and g) including the provision of 20 additional car parking spaces.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. 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 in this appeal.
3. The Council's delegated officer report, which is a publicly accessible document, shows that the application was assessed against several policies contained within the East Herts Council East Herts District Plan October 2018 (the Local Plan). These policies included TRA1, which relates to sustainable travel. Although there is no reference to policy TRA1 within the decision notice, the appellant has addressed it within their submissions, and this policy is directly relevant to the main issue in this appeal. No parties would therefore be prejudiced by my consideration of this policy.

## Background and Main Issue

4. The appeal site is within the Green Belt. Notwithstanding this, the car parking spaces would be formed within the otherwise developed and well-enclosed appeal site. As such, and based on the evidence before me, both this element of the scheme and the proposed change of use of buildings, would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Therefore, the proposed development would not be inappropriate development in the Green Belt.

5. That being the case, the main issue is whether the appeal site is a suitable location for the proposed development, with particular regard to its accessibility by means other than by private car.

### **Reasons**

6. The appeal site is within an otherwise rural countryside location. It is some distance from the edge of the closest settlements, and over 1 mile from the edge of the built-up area of Bishops Stortford.
7. A series of buildings occupy the appeal site. From both the evidence and my observations on site, these are at least partially, in use for commercial and business purposes.
8. Local Plan policy ED1 supports new employment uses where they are in a sustainable location where access can be achieved by a choice of sustainable transport. Policy ED2 of the Local Plan provides general support for proposals that would support the sustainable growth and expansion of existing businesses in the rural area. However, it requires such proposals to be appropriately and sustainably located. Policy ED2 also provides general support for proposals that would consist of a change of use in the rural area, from one employment generating use to another. Notwithstanding this, both policies ED1 and ED2 also require that proposals do not conflict with other Local Plan policies.
9. Policy TRA1 of the Local Plan seeks to both improve accessibility and promote sustainable transport in the district, and one of the aims of this policy is to minimise the need to travel. In accordance with this aim, the policy requires development proposals to primarily be located in places that enable sustainable journeys to be made to key services and facilities, and, to help aid carbon emission reduction. It also requires that a range of sustainable transport options be available to users.
10. Paragraph 109 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It also guides that significant development should be focused on locations that either, are, or can be made, sustainable, by limiting the need to travel and offering a genuine choice of transport modes.
11. The main parties agree that the authorised uses of barns 2 and 3 include that for car restoration and storage purposes. As such, the use of these buildings could undoubtedly lead to vehicle movements to and from the site. However, no compelling evidence regarding the number of vehicle movements that could be reasonably anticipated, from both the permitted and proposed uses of these buildings and the courtyard 3 building, has been provided.
12. Both the maximum amount of floor space and the specific building which could be used for the sale of food and drink for consumption mostly on the premises, could be controlled via a condition. Notwithstanding this, and even if it is intended that access to the 'café' area be provided only through unit 2, no mechanism has been put before me to ensure that the exterior doors facing barn 3 would not be used. Furthermore, and while it may be intended that the café be ancillary to other business's and enterprises on the site, I have no reason to doubt that such provision would also attract additional custom and vehicle movements to the site.

13. A wide range of users could potentially occupy the buildings if this development were permitted, and different types of businesses or enterprises would likely result in varying levels of associated traffic generation. However, in the absence of details of likely vehicle generation, and given the considerable number of additional car parking spaces proposed, I cannot conclude that the implementation of the proposals would not result in a significant increase in movements to and from the site.
14. Pedestrian and public transport infrastructure and services to the appeal site are very limited. There are no dedicated pedestrian routes along either the unnamed road from which the site is accessed or the sections of the B1004 closest to the site. Furthermore, the evidence indicates that the nearest bus stop and railway station are located on the outskirts and town centre of Bishops Stortford respectively. These are at considerable distances from the appeal site. It is possible that some additional movements to the site would be at least partially via the Public Right of Way (PRoW) network. However, given distance of the nearest settlements; the terrain; the lack of PRoW connectivity to the site itself; and the lack of streetlighting or a dedicated footway on the roads close to the appeal site, pedestrian access is unlikely to be a realistic or favoured option for many.
15. There are cycle storage facilities within the appeal site, and some of the additional movements to and from the appeal site could be via bicycle. However, the nearby road network does not include designated cycle lanes, and as such, and for similar reasons to those outlined for pedestrians, this mode of transport is also unlikely to be frequently or commonly used.
16. Even if the travel plan submitted pursuant to a condition of planning permission reference 3/19/0670/VAR was subsequently agreed by the Council, that document was produced regarding an alternative scheme from that subject of this appeal. In this case, and given the absence of compelling evidence on matters such as; likely staff and customer numbers; where such staff and customers are likely to travel from; and with what frequency, I cannot conclude that a travel plan would be effective in encouraging future users of the proposed development to use more sustainable modes of transport than private car. As such, and even if measures such as lift sharing or the use of a private minibus service were to be promoted, I cannot be confident that these measures would prevent most additional journeys to the site being via private car.
17. For the reasons given, the appeal site is not a suitable location for the proposed development, with particular regard to its accessibility by means other than private car. Consequently, it would conflict with policies ED1, ED2 and TRA1 of the Local Plan. It would also conflict with paragraph 109 of the Framework.
18. Policy TRA3 of the Local Plan relates to vehicle parking provision. As such, this policy is not directly relevant to the main issue in this case.

### **Other Matters**

19. The authorised use of barns 2 and 3 is very restricted. Therefore, I accept that it is likely to be easier to secure tenants for these buildings if their permitted use was to be widened to encompass Class E (b), (c), (e) and/or (g). However,

the level of detail regarding previous attempts to market these buildings is extremely limited, and as such I am unable to conclude that there is no demand for the occupation of these buildings as per their authorised use.

20. The diverse range of small businesses currently occupying parts of the appeal site contribute to the rural economy. They also help to preserve heritage crafts and to increase public awareness and/or appreciation of them. Nevertheless, on the evidence before me, the dismissal of this scheme would not necessarily cause harm to the viability of the small businesses currently operating out of the buildings on the site, or, to the long-term viability of the Warren Park Heritage and Craft Centre as a whole. Furthermore, and even if the appellant were to use part of the income generated from the use of the buildings subject of the proposed change of use, to subsidise the on-site heritage craft enterprises, no mechanism has been put before me to ensure that this would continue. I therefore accord these considerations very limited weight.
21. Policy ED2 of the Local Plan and paragraph 88 of the Framework provide general support for proposals that support the rural economy. Framework paragraphs 85 and 87 also indicate that significant weight should be placed on the need to support economic growth and productivity, and, that planning decisions should recognise the specific locational requirements of different sectors.
22. The implementation of the proposed development is likely to contribute to the rural economy by the creation of additional employment and increased expenditure. However, the extent or amount of any such economic benefit cannot be established from the evidence. Furthermore, and while customers or staff using one business would be reasonably likely to provide custom or support for other on-site businesses, it has not been demonstrated that the proposals necessarily require a countryside location such as that afforded by the appeal site. For these reasons, only medium weight is accorded to the economic benefits that could result from the implementation of the proposed development.
23. Although also relating to land and buildings at Warren Park Heritage and Craft Centre, the proposed development subject of application reference 3/17/2723/ful differs from that in this appeal. Furthermore, that earlier application was determined before the Council adopted the Local Plan. For these reasons, the schemes are not directly comparable.

### **Conclusion**

24. 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 7 February 2024

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

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

**Decision date: 12.03.2024**

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**Appeal Ref: APP/J1915/W/23/3327791**

**170 Stortford Hall Park, Bishop's Stortford, CM23 5AR**

- 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 Wendy Collings against the decision of East Herts District Council.
  - The application Ref 3/22/1107/FUL, dated 25 May 2022, was refused by notice dated 16 February 2023.
  - The development is to increase the amount of classes allowed and the maximum amount of people per class – maximum 6 clients at any one time, up to 5 days a week.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. It has been confirmed that the increase in the number of classes and number of clients attending those classes sought by this appeal has already taken place and been in operation for some time. I have therefore determined the appeal on this basis.
3. Since the appeal was lodged an updated version of the National Planning Policy Framework, December 2023, (the Framework) has been issued. However, the relevant parts the Framework have not materially changed therefore it was not necessary for the parties to be consulted directly. In any event, I note that the date of final comments was after the date of its publication.

### Main Issue

4. The main issue is the effect on the living conditions of neighbouring properties due to noise and disturbance arising from increased frequency of vehicular movements and comings and goings of clients.

### Reasons

5. The appeal site is located in a residential area in the outskirts of the town and comprises is a semi-detached residential property. The area to the front of the dwelling has been paved over and provides parking for 6-7 cars. It is located at the end of a cul-de-sac adjacent to the turning area at the end. The surrounding properties are similar semi-detached properties with a long terrace facing towards the turning area at the end of the cul-de-sac. This built form provides a relatively continuous built frontage around the cul-de-sac with dwellings having off-street parking to the front or side of the dwellings.



6. The existing use, a pilates studio, operates out of a log cabin at the end of the garden of the property. It was originally granted permission to operate as such in 2016 and is subject to conditions that restrict the use to a maximum of 4 classes a week (one a day) for up to four people in each class. The appeal seeks to increase the use to two classes a day, for up to 5 days a week to a maximum of 10 classes with the maximum number of clients per class increased to 6. The Appellant confirms that this increased use is already taking place and two classes a day are held between 09.00 and 15.30 hrs with a 45 minute gap between them to avoid any overlap between clients and traffic. It is also confirmed that occasional private classes also take place.
7. I have been referred to an earlier appeal decision in 2015 which related to the use of the log cabin as a pilates studio for a maximum of 11 times per week with a maximum of six clients at any one time<sup>1</sup>. It was dismissed on the basis that it would result in a level of associated movements and noise at odds with the quiet character of the area and which would adversely affect the living conditions of neighbouring occupiers, contrary to Policies ENV1 and ENV24 of the East Herts Local Plan Second Review 2007.
8. Since that time, a new local plan, the East Herts District Plan 2018 (EHDP) has been adopted though the relevant policies, DES4 and EQ2, take a similar approach to the above policies in seeking to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land and ensure that environments are not harmed by, amongst other things, noise and disturbance and that development operates in a way that minimises the direct and cumulative impact of noise on the surrounding environment. I have also been referred to the Bishop's Stortford Town Council Neighbourhood Plan (1<sup>st</sup> Revision) 2021-2033. However, the Council has not cited conflict with any relevant policies in their decision and I would agree that none are relevant to the main issue identified above.
9. The changes now sought result in a more than doubling of the number of classes in any week and an increase in the maximum number of clients from 16 to 60. This represents a very significant increase in the number of people visiting the site. In particular, whilst the numbers attending individual classes is not significantly increased, the total number of classes would be more than double the current permitted number of classes. There are also further private individual classes.
10. The resulting increase in the frequency of classes means that there is a corresponding increase in the times at which any related disturbance takes place. Whilst noting that the classes would take place between 09.00-15.30 hours, thus avoiding the times when the comings and goings of the residents themselves are most likely to be concentrated, it does mean that there is the potential for additional disturbance at times when residents might expect to enjoy a reasonable level of peace and quiet, commensurate with the relatively tranquil area in which the appeal site is located.
11. Comments from neighbours are mixed, with support and objections. The supporting comments, including from residents of properties at the end of the cul-de-sac facing towards the appeal site, note that the increased level of use has not resulted in any disturbance or adverse effects and the classes take place when most people are at work. However, the occupier of the attached

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<sup>1</sup> APP/J1915/W/15/3039146



semi-detached property has objected noting that they work from home on a regular basis for the majority of the week. The living room windows of this neighbour are directly adjacent to the driveway on the appeal site which extends across the whole of the site frontage with no dividing or screening feature or 'buffer' between the two properties. This relationship can be distinguished from the other neighbours which all have a level of separation from the appeal site. Notwithstanding the lack of objection from the Council's Environmental Health section, the increased level of use has undoubtedly had an impact.

12. The Inspector dealing with the previous appeal noted in that case that the number of comings and goings generated by the use would be significant in the context of the low level of existing activity in the area, particularly given the movement of people and vehicles being concentrated in the short intervals between certain daily sessions. It was concluded that the level and pattern of activity would be at odds with the tranquil character of the area. The situation before me is somewhat different in that the gap between classes would be increased and classes would not take place during the evening. However, the overall level of activity would be similar and remains at odds with the tranquil character of the area. This would be the case despite the current permitted use which in comparison occurs only once a day.
13. In respect of parking, I note that a proportion of current clients walk or cycle to the premises. Whilst this is not something that could be controlled by condition, it does seem to indicate that it is unlikely that there will always be the same number of cars visiting the site as clients. In any event, I note that the maximum number of vehicles that can be accommodated on the site is six, in addition to the Appellant's own car, such that the on-site parking would be adequate.
14. Taking into account all the above factors, I find that the increased level of use has a harmful effect on the living conditions of the residents of neighbouring properties such as to render it unacceptable. It thus conflicts with EHDP Policies DES4 and EQ2.
15. I have taken into account the policies of the Framework which in particular seek to support sustainable development by enabling working from home and encourage uses which provide a local service that contributes to the local economy and wellbeing of the local community. Whilst these are positive benefits of the development, they do not outweigh the harm identified above.

### **Conclusion**

16. I conclude that the appeal should be dismissed.

*P B Jarvis*

INSPECTOR



# Appeal Decision

Site visit made on 13 March 2024

**by David Smith BA(Hons) DMS MRTPI**

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

**Decision date: 26 March 2024**

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**Appeal Ref: APP/J1915/W/23/3319338**

**Land at Crane Mead, Ware, SG12 9FF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Unique Floors Limited against East Hertfordshire District Council.
  - The application Ref is 3/22/1548/FUL.
  - The development proposed is a new three storey residential block comprising one 2 bed four person dwelling and two 1 bed two person dwellings per floor with a total of 9 apartments. The scheme will also include cycle and bin storage, creation of private balcony space as well as shared amenity space from the new block to the river lea, landscaping hard and soft planting, car parking including visitor parking.
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## Decision

1. The appeal is dismissed and planning permission refused.

## Main Issues

2. These are:
  - The effect of the proposed development on the character and appearance of the area, including a non-designated heritage asset (Weir Keepers Cottage);
  - The effect on land designated as Local Green Space;
  - Whether the proposed development would be suitably located having regard to the risk of flooding; and
  - The effect on biodiversity.

## Reasons

### *Character and appearance*

3. The appeal site is an undeveloped and unkempt piece of land adjacent to the towpath that runs along the River Lee Navigation. There is a footpath along its western side that links to the towpath. It is situated between two blocks of flats at Loxley Court and Coopers Court. The area of Crane Mead has an industrial history but over recent years much of that activity has been replaced by residential development.
4. The scale of the proposed three-storey block would be consistent with its surroundings. The design takes its cue from the adjoining buildings with pitched roofs, an irregular plan form and the use of light red and yellow bricks. Whilst not especially inspiring or redolent of a waterfront location, this approach is an appropriate one due to its similarity with the immediate

- neighbours. Furthermore, there would be a reasonable space around the proposal compared to the other high-density buildings nearby.
5. However, the detailed execution of the facades would be disappointing. In particular, the fenestration in the front gable would be small and mean and so would give rise to a poorly proportioned elevation. The side walls would be prominent in views along the footpath but they would be mundane with little articulation or visual interest.
  6. More significantly, the proposal would be much closer than Loxley and Coopers Courts to the River Lee Navigation. There are other waterside buildings near it and a decent sized area would be kept between the building and the waterway as amenity space. However, the alignment of the proposed building would noticeably and oddly protrude beyond the adjoining buildings. It would be seen in this context rather than in relation to the bend in the river. In view of this, and notwithstanding the comparable design, the proposal would not sit at all comfortably between the flatted buildings on either side.
  7. The Ware Neighbourhood Plan identifies Weir Keepers Cottage at Tumbling Bay as a non-designated heritage asset as it makes a positive contribution to the historic setting of the River Lee Navigation. This modest building has recently been renovated. Whilst attractive in appearance, its main significance is due to the long-standing linkage with the adjacent weir and the Navigation.
  8. The proposal would bring about a change to the wider setting of the cottage, even though it would be on the opposite bank. Some views of it across the appeal site would be obstructed. However, glimpses would still be possible and this vista is not so special that it should be retained at all costs. Indeed, because of their separation, the proposed building would not spoil the setting of the cottage or dilute the appreciation of its associations with the water. As its significance would not be harmed, there would be no conflict with Policy W3 of the Neighbourhood Plan or with Policy HA2 of the East Herts District Plan.
  9. Nevertheless, the proposal would harm the character and appearance of the area due to its siting and aspects of the detailed design. As it would not be of a high standard of design and layout to reflect and promote local distinctiveness, there would be conflict with District Plan Policy DES4. It would also be at odds with Neighbourhood Plan Policy W2 which seeks to reflect the character of Ware through high quality design.

#### *Local green space*

10. Policy W13 of the Ware Neighbourhood Plan includes the appeal site within a larger area of land alongside the River Lee Navigation which is designated as Local Green Space. Appendix 1 contains analysis of the value of this area which is said to make a vital contribution to the open vista along the Lea Valley between the Town Bridge and Hardmead Lock. The appeal site adds to its attributes in this respect and is also a green wedge of undeveloped land between the blocks on either side. This provides a pleasing contrast to the surrounding built form.
11. The National Planning Policy Framework explains that the designation of Local Green Space allows communities to identify and protect green areas of particular importance to them. This is what has happened through the Neighbourhood Plan. District Plan Policy CFLR2 establishes that development

will only be permitted if it is consistent with the function, character and use of the Local Green Space to which it relates. The substantial three-storey building proposed fails that test as it would significantly reduce the important open character of the land and fill the gap that it creates. All of its existing qualities would be irrevocably lost contrary to the intentions of local policy.

12. The Framework observes that policies for managing development within a Local Green Space should be consistent with those for Green Belts. This is reflected by Policy W13. However, given that the proposal falls foul of the policy in the District Plan there is no need to undertake a separate exercise to assess this.
13. To sum up, the proposed development would significantly harm the function, character and use of the Local Green Space between Crane Mead and the River Lee Navigation. It would not accord with Policy CFLR2.

#### *Risk of flooding*

14. Because of its proximity to the River Lee Navigation, the appeal site is at risk of fluvial flooding. There is nevertheless no record of it having flooded since 1968 and the Environment Agency's flood maps indicate that the risk of flooding is low. It benefits from flood defences. However, the land lies within flood zones 2 and 3a which are defined in the Planning Practice Guidance (PPG) on *Flood risk and coastal change* as having a medium and high probability of flooding.
15. The Framework establishes that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. In this respect, greater attention should be given to national policy than past events. Because of its location, the proposal should be subject to a sequential test as stated in District Plan Policy WAT1. This aims to steer new development to areas with the lowest risk of flooding from any source.
16. Details about the sequential test are included in the PPG. It should show that there are no reasonably available, lower-risk sites that are suitable for the proposed development. However, no such exercise has been undertaken and there is nothing to indicate that no part of the District is within flood zone 1. As a result, the proposal would not accord with the expectations of either national policy or Policy WAT1.
17. In response to the Environment Agency, the appellant produced an Addendum to the original Flood Risk Assessment. However, even if compensatory floodplain storage could be achieved, this does not alter the failure to first undertake a sequential test. The PPG confirms that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.
18. In conclusion, because of the absence of a sequential test, there can be no confidence that the proposal would be in an area at the lowest risk of flooding for development of this kind. To accept the proposed flats here would be wholly contrary to the intentions of both local and national policy. Therefore, the proposed development would not be suitably located having regard to the risk of flooding and would conflict with Policy WAT1.

#### *Biodiversity*

19. At the time of the survey for the Preliminary Ecological Appraisal the appeal site comprised short, improved grass with a small area of semi-mature shrubs

and trees. It was therefore generally of low ecological value with no signs or evidence of protected, priority or rare species. The Appraisal makes various recommendations and concludes that these would result in a biodiversity net gain. Landscaping would be undertaken.

20. However, vegetation has been cleared from the site. A local resident indicates that a small copse was removed in 2020. Furthermore, the site is now overgrown with scrub, brambles and signs of natural regeneration. Policy NE2 of the District Plan generally expects all proposals to achieve a net gain in biodiversity as measured by a locally approved metric. It is unclear what the 'baseline' for assessment should be and no formal calculation of the overall implications for wildlife and habitats has been undertaken. Given the specific requirements of Policy NE2 this amounts to a further objection to the proposal.
21. It has not been clearly shown that the effect on biodiversity would be a positive one and the proposed development would not comply with Policy NE2 in this respect. Furthermore, it has not been demonstrated how negative impacts would be minimised and biodiversity net gain achieved in line with Policy W12 of the Neighbourhood Plan.

### **Other Considerations**

22. The latest position statement indicates that the Council can demonstrate a housing supply of 5.57 years against its five-year requirement of 5,560. The appellant's only observation in this respect is that most of the housing is not deliverable until after 2026 and is subject to planning approvals being given.
23. The bulk of the supply (4,765 homes) has planning permission and can be expected to be delivered within five years. The Council has provided evidence, including information from developers, about the progress being made in respect of eleven allocated sites where there is no planning permission. It has taken a pragmatic approach and expects that 1,126 dwellings will be delivered from these sources by 2028. The appellant does not suggest that "clear evidence" of delivery has not been provided. Even if there is slippage then the supply requirement is comfortably exceeded.
24. In any case, as the appeal site is within an area at risk of flooding and is Local Green Space these provide clear reasons to refuse the development proposed. Therefore, even if there were no five-year housing land supply, the presumption in favour of sustainable development at paragraph 11 d) of the Framework would not apply. Nevertheless, the indications are that the supply of housing in East Hertfordshire exceeds Government expectations.
25. The proposal would create nine additional residential units which the appellant is ready to implement. These would be located within the urban area of Ware and would conform with District Plan Policy DPS2 which seeks to direct development in the District to sustainable locations. It would also contribute to the figures for windfall development and the town of Ware is expected to accommodate a proportion of this as set out in Policy WARE1.
26. None of the other matters raised in representations, including parking provision, congestion and the impact on adjoining occupiers, amount to objections to the scheme for the reasons given in the report to Committee.

### **Final Balance**

27. The proposed development would add to the supply of housing and its location within Ware would be in line with the spatial strategy for the distribution of new housing across the District. However, there are significant objections in terms of the adverse effect on the character and appearance of the area and on an area of Local Green Space. Due to the absence of a sequential test, it has not been shown that the proposal would be suitably located having regard to the risk of flooding from the River Lee Navigation and biodiversity enhancements have not been demonstrated. The housing supply position does not provide a compelling reason to set these objections aside.

### **Conclusion**

28. Therefore, the proposal would not accord with the development plan as a whole and the material considerations in favour do not outweigh this finding. For the reasons given, the appeal should not succeed.

*David Smith*

INSPECTOR



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# Appeal Decision

Site visit made on 16 October 2023

**by R Aston BSc (Hons) DipTP MRTPI**

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

**Decision date: 25 March 2024**

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**Appeal Ref: APP/J1915/Y/23/3320291**

**Shem Nichols, The Street, Aspenden, Buntingford, Hertfordshire SG9 9PG**

- 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 Simon Bailey against the decision of East Hertfordshire District Council.
  - The application Ref: 3/22/2123/LBC, dated 27 November 2019, was refused by notice dated 6 February 2023.
  - The works proposed are the siting of an air source heat pump at the rear.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. As the proposal relates to a listed building in a conservation area, I have had special regard and paid special attention to the requirements of sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in my determination of this appeal.
3. The application form confirms the proposal was installed in October 2019 and I was able to observe it in place at my visit. In accordance with the provisions of the Act an appeal against the refusal of works to a listed building that have taken place should not be regarded as being retrospective and is for regularisation. I have determined the appeal on this basis.
4. In the banner heading above I have used the description of the proposal from the Council's decision notice as it does not contain superfluous wording and is more accurate. However, I have deleted the term retrospective for the reason given above. I have also deleted the description of the site address used on the application form as it is not necessary to accurately identify the appeal site's address.

## Main Issues

5. The main issues are whether the proposal preserves the special architectural and historic interest of Shem Nichols, a Grade II listed building, and its setting and whether the proposal preserves or enhances the character or appearance of the Aspenden Conservation Area (the ACA).



## Reasons

### *Shem Nichols*

6. Shem Nichols was listed in 1984 and dates from the late 17th century. It is timber framed on a stuccoed sill, plastered with varied basketwork pargetting above a black weatherboarded apron. The listing refers to a steep old red tile roof, but I observed the building sat under a thatched roof. This appears to have been the original roof material and the new roof was installed by the appellant although no details of the consent for those works are before me. The building has been extended to the rear with a single storey rear breezeblock extension under a slate roof, constructed in the late 1990s. Internally the building contains exposed joists and framework and in the early 20th century was home to Shem Nichols, a Cooper.
7. The special interest of the listed building, insofar as it relates to this appeal, is primarily associated with the architectural and historic value it possesses as a repository of past building traditions and technologies. Further, the modest rear garden provides an intimate setting to the building complementing its historic function as a rural worker's dwelling and allowing a close appreciation of its architectural interest and significance.
8. The air source heat pump is located at ground floor level next to the rear elevation of the extension and is therefore only visible from within the rear garden. Whilst the appellant has suggested that the proposal would not harm the listed building because it would not be more widely visible, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
9. A rectangular metal box sitting on black plastic feet, with white metal housing and central black fan blades set behind a black grille, it has two grey electrical socket boxes located behind the unit and is attached to the rear elevation of the extension, with thick black wires providing power and an isolator switch for the unit. Black insulated piping underneath a narrow metal grille with black plastic cable ties at regular intervals, runs along the external side and rear wall of the building at ground level to connect the unit to its internal hot water cylinder.
10. Externally, with an immediate backdrop of the rear elevation, the unit's size and appearance sits in jarring visual contrast with the traditional materials and appearance of the building, in particular its yellow finished plaster, weatherboarding and thatch. Whilst at ground level and notwithstanding its black colour, in juxtaposition to the weatherboarded apron of the building the pipework, insulation and metal grille is harmfully discordant in its appearance and extent.
11. Internally, the hot water cylinder is positioned at the top of the cellar stairs and planed timber batons and copper piping have been fixed directly onto the exposed framework and plaster. The cylinder and its fixings are also visible from the rear garden through an original ground floor window. Further, an irregular hole has been made through the lath and plaster to connect the piping from the cylinder to the unit. This has resulted in some minor damage to the historic fabric of the building.



12. The building has been extended to the rear and as the unit is a further and incongruous addition in proximity to the original elevation, and unduly prominent from within the rear garden, it detracts from the ability to appreciate the significance of the building's special architectural interest from within its immediate setting to the rear.
13. For these reasons, the proposal fails to preserve the special architectural and historic interest of the listed building and its setting, thus, it fails to satisfy the requirements of the Act, the National Planning Policy Framework (the Framework) and development plan policies insofar as relevant.

#### *Aspenden Conservation Area*

14. Despite the harm that is being caused to the listed building, I must assess harm to the conservation area as a whole. The significance of the ACA is mainly derived from its range of historic buildings spread intermittently on both sides of The Street, the architectural and rural quality of which is enhanced by a recreation ground, extensive tree cover and two small streams, with the principal stream running parallel to the street on its southern side. It has the Grade I listed 11th century St Mary's church as a prominent focal point and contains both individual and groups of listed buildings ranging from the 15th century to the 18th century. It also contains more modern residential development.
15. The buildings vary considerably in age and design with the character of The Street derived mostly from the rural character and spacious, wooded setting. On the northern side of the road at this point there are smaller dwellings, generally sited closer together in groups and set back from the highway, with some behind flint walling. These are interspersed by larger detached dwellings on larger plots. Dwellings on the southern side sit at a lower level and are set back from the highway.
16. Despite my findings in relation to the listed building the proposal is not visible apart from within the rear garden area of the property. This limits any experience of it to that area and from limited parts of the adjoining dwelling, Shems Barn. The combination of its location and size results in a neutral effect on the character and appearance of the ACA, as a whole and preserves its significance.

#### *Balancing exercise*

17. The Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. I find the harm to the listed building to be less than substantial in this instance but nevertheless of considerable importance and weight.
18. Energy options in a historic settlement may well be limited, and the proposal avoids the burning of fossil fuels which allows the appellant to reduce their carbon footprint and contribute to efforts against climate change. This is a public benefit but is limited given the scale of the proposal. The fact that it is the most suitable size for the property and was installed by an approved trader is a technical consideration and of little weight in terms of the listed building considerations.

19. Whilst the appellant refers to the unit being less obtrusive than an original oil burner and external oil tank, no details are before me so I cannot be certain that the effects of those on the special interest of the building would have been greater. Moreover, I observed the former location of the oil tank was adjacent to the side boundary, sited deeper into the garden and is likely to have been screened by planting. On the evidence before me it would have been likely to have lesser effects than the air source heat pump before me.
20. Despite the installer considering this to be the most appropriate location for the unit there is no detailed justification or reasoning before me that alternative, and less prominent locations were considered. The appellant has also suggested a wooden box to house the unit, but I must determine the appeal on the evidence before me and details of any such mitigation do not form part of this appeal. Because I could not therefore be conclusive regarding its potential effects it would not be appropriate to impose a condition to secure such mitigation. Overall, the less than substantial harm I have identified is not outweighed by the public benefits cited.

### **Conclusion**

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

*Richard Aston*

INSPECTOR



# Appeal Decision

Site visit made on 12 March 2024

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

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

**Decision date: 09 April 2024**

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**Appeal Ref: APP/J1915/W/23/3323512**

**Greens Farm, East End, Furneux Pelham, Hertfordshire SG9 0JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by G Watson & Son against the decision of East Hertfordshire District Council.
  - The application Ref is 3/22/2613/FUL.
  - The development proposed is replacement of existing outbuilding with new annex and garden store/workshop.
- 

## Decision

1. The appeal is allowed and planning permission is granted for replacement of existing outbuilding with new annex and garden store/workshop at Greens Farm, East End, Furneux Pelham, Hertfordshire SG9 0JU in accordance with the terms of the application, Ref 3/22/2613/FUL, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

## Main Issues

3. The main issues are:
  - a) the effect of the proposed development on the character and appearance of the area,
  - b) whether the proposed development would be ancillary to the existing dwelling, and
  - c) whether the proposed development would be adaptable to climate change.

## Reasons

### *Character and appearance*

4. The appeal site is set towards the eastern end of the dispersed and linear village of Furneux Pelham which, in the general vicinity, is characterised by detached homes in generously sized plots with a cluster of working farm buildings set to the immediate rear of the site. Beyond these buildings, the area is otherwise open to gently rolling fields.

5. The site itself comprises a small, broadly rectangular, parcel of land that sits adjacent to Greens Farm. It is bounded by hedges and trees of varying size and maturity to all sides. The proposed annex and garden store building would be set within this parcel following a loose 'building line' between Greens Farm and Farmcroft next door.
6. The proposed building has a low profile, is clearly subordinate to the main dwelling at Greens Farm and is effectively screened to all sides by existing buildings and landscaping. Even without the screening, the proposed building would still be neat and diminutive in its context. For these reasons, I conclude that the proposed development would not be harmful to the character and appearance of the area and would comply with policies GBR2, DES4 and HOU12 of the East Herts Local Plan 2012 (EHLP). These policies, amongst other things, promote a high standard of design and layout to reflect and promote local distinctiveness.
7. It has been nominated by the Council that the land is in agricultural use. This is not disputed by the appellant. However, I am mindful that this piece of land is very small in modern agricultural terms, and unlikely to contribute greatly to any rural enterprise. Moreover, it is in proximity to the main dwelling and, from my site visit, appeared to have more of an affiliation with this home, than to the remainder of the agricultural land beyond. I have noted that the appellant owns and operates the farm and that the proposed building would facilitate this for the foreseeable future, in conjunction with other family members, being mindful of the appellants health. Given these matters and given that I have not found any harm to the character of the area, any loss of productive agricultural land would be minimal.

*Ancillary use*

8. Policy HOU13 of the EHLP sets out the requirements for residential annexes to be permitted. In summary these must have a clear functional link to the main dwelling, not dominate the existing dwelling and be appropriate in design terms with sufficient vehicle parking.
9. The proposed building is modest in size. It features a single bedroom, bathroom and living area in addition to a garden workshop, shed and log store. The level of living accommodation provided is 54 square metres which, although comfortably above the minimum Nationally Described Space Standard, is far from excessive in terms of overall size or scale; particularly when considered in the context of the 'parent' dwelling at Greens Farm. In any case, this is not a test of the policy requirement.
10. The proposed building would be set in an area which is only accessible via the garden to Greens Farm. The annex would, in the configuration proposed, have no direct access to the highway with parking provision being available to the side, on the existing driveway. Although the parcel of land in question is separated from the main dwelling by a low fence and hedges, it is nevertheless very close to it. There is a clear functional link between the two. As such, I conclude that the proposed annex would be ancillary to the main dwelling and the development complies with policy HOU13 of the EHLP. This is subject to a condition to ensure the building is not severed from Greens Farm and is occupied in connection with it.

### *Climate change adaptability*

11. The appellant submitted a Sustainability Statement (SS) with the appeal. The Council has not directly commented upon this; however, it had the opportunity to do so. The SS provides examples of sustainability measures which could be incorporated into the development in order to achieve compliance with policies DES4, CC1, CC2 and WAT4 of the EHLP. These policies all address matters relating to climate change and sustainability measures that can be incorporated into development.
12. However, the SS does not specify which of these example measures are to be implemented in the development. Even so, given the small scale of the proposed development, it could comply with the provisions of these policies to render it sufficiently adaptable to climate change. Therefore, subject to a condition, the development can comply with policies DES4, CC1, CC2 and WAT4 of the EHLP.

### **Other Matters**

13. I have noted that the main dwelling, Greens Farm, is a grade II listed building. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of this heritage asset. Given the small scale of the proposed development, context and its subordinate nature; there would be no material harm to the setting of this nearby listed building.

### **Conditions**

14. I have imposed the recommended conditions of the Council, with modifications and corrections, to accord with the Planning Practice Guidance. Condition 1 is a general time limit condition. Condition 2 is to accord with the approved plans for certainty. Condition 3 is imposed to ensure a satisfactory external appearance and to ensure the development of the site is not detrimental to the appearance of the area and being mindful of this rural location and the proximity to the heritage asset. Condition 4 is imposed to restrict the occupancy of the annex such that it remains ancillary to Greens Farm and does not result in the creation of a new dwelling and to comply with policy HOU13 of the EHLP.
15. I have imposed a further condition, number 5, relating to sustainability measures and to comply with EHLP policies DES4, CC1, CC2 and WAT4. Both parties have been consulted on this condition.

### **Conclusion**

16. For the reasons given above, I conclude that the proposed development would not be harmful to the character and appearance of the area, would be ancillary to the existing dwelling and, with a condition, can be adaptable to climate change. The development, therefore, complies with the policies of the development plan, read as a whole, and material considerations do not indicate that a decision should be made other than in accordance with the development plan. The appeal is allowed.

*Nick Bowden*

INSPECTOR

### **Schedule of Conditions**

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans – 350 001, 350 002, 350 003.
3. Prior to any above ground construction works being commenced, the external materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
4. The outbuilding shall only be used for purposes incidental to the enjoyment of the dwellinghouse known as Greens Farm. The building shall not be used as an independent residential dwelling.
5. Prior to any above ground construction works being commenced, details of the sustainability measures to be incorporated into the design of the building shall be submitted to and approved in writing by the Local Planning Authority. These sustainability measures shall thereafter be implemented in accordance with the approved details.

### **End of Schedule**



## 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: 27.03.2024**

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**Appeal Ref: APP/J1915/D/23/3331929**

**Lorne Croft, Wellpond Green, Standon, Ware, Herts SG11 1NJ**

- 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 L Petrie against the decision of East Herts District Council.
  - The application Ref 3/23/1069/HH, dated 7 June 2023, was refused by notice dated 3 August 2023.
  - The proposed development is the erection of a single storey garage and gym building.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council's decision notice infers that the site is in the Green Belt. However, having fully reviewed all the submitted documentation, it is clear that the site lies in the 'Area Beyond the Green Belt'. I have therefore determined the appeal on this basis.
3. At the time of my site visit, I saw that a driveway had been installed along the southern boundary giving access to a large hardstanding in the south-east corner of the appeal site. It is unclear whether these works relate to the development before me, therefore, I have proceeded on the basis that the appeal relates to the proposed development as indicated on the submitted drawings.
4. A revised National Planning Policy Framework (the Framework) was published in December 2023. However, the relevant policies have not materially changed therefore I have not sought further comments from the parties.

### Main Issues

5. The main issues are the effect of the proposed development on:
  - the character and appearance of the area; and
  - ecology and biodiversity, having particular regard to the site's location within the Nags Head Field Local Wildlife Site.

## Reasons

### *Character and appearance*

#### Existing

6. Wellpond Green, which is referred to in the Standon Parish Neighbourhood Development Plan 2017-2033 (SNP) as a 'hamlet', is located in a rural area to the east of the larger village of Standon. It consists of a number of predominantly large, detached dwellings set within extensive grounds generally accessed off the main village lanes. It has a somewhat dispersed built form set within an open 'green' setting with many mature trees and established vegetation.
7. Lorne Croft lies towards the northern edge of the hamlet, accessed via a small track off one of the main routes running through the village. It comprises a large two storey dwelling, to the immediate south-east of which is located a large, detached outbuilding containing a pool and other ancillary uses. Two further outbuildings lie to the north of these, one just to the north of the dwelling and the other some distance away towards the northern boundary of the appeal site. These buildings are all sited towards the western side of the extensive appeal site with the central and eastern parts being open and undeveloped.
8. I have been referred to an earlier appeal decision<sup>1</sup> for a proposed dwelling in the north-east part of the appeal site in which the Inspector describes the 'precise' appeal site in that case as having an open and verdant character. The current site in question, which lies in the south-east corner of the appeal site to the south of the above, can be similarly described as having an open character. Whilst there is some established vegetation around its perimeter, this is not particularly dense and adds to its natural character.

#### Proposed

9. Policy GBR2 of the East Herts District Plan (2018) (EHDP) which relates to the 'Rural Area beyond the Green Belt', sets out a number of types of development that will be permitted provided they are compatible with the character and appearance of the area. The policy and supporting text explain that these rural areas are highly valued, particularly for their open and largely undeveloped nature, and contribute to the countryside resource.
10. Of the types of development included, the relevant ones with regard to the proposal and the submitted evidence are: (d) the replacement, extension or alteration of a building; and (e) limited infilling within previously developed sites in sustainable locations. However, (d) does not apply as the proposal is for a new building, not a replacement, and the proposed location of the building is some distance from the existing dwelling and could not reasonably be described as an extension to it. In respect of (e) the EHDP does not clarify a definition for such sites, but the Framework Glossary (Annex 2) includes a definition for previously developed land which is that occupied by a permanent structure including the curtilage, the exception in respect of residential gardens only relating to built-up areas. Whilst the appeal site would accord with this definition, it also states that it should not be assumed that the whole of the curtilage should be developed.

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<sup>1</sup> Ref APP/J1925/W/20/3252844, dated 25 November 2020



11. The EHDP does not include a definition of 'infilling' in the context of Policy GBR2. However, whilst the supporting text to EHCP Policy VILL3 (which relates to Wellpond Green as it is not identified as a Group 1 or 2 village) states that these villages are viewed as the least sustainable locations, the policy itself allows for limited infill development where identified in an adopted Neighbourhood Plan. Such development is also subject to requirements which seek, amongst other things, that development relates well to the village, is of an appropriate scale and in keeping with its character. Policy SP9 of the SNP allows for limited infill provision for housing in Wellpond Green and states that the definition of 'infill' requires that any new property contributes to the character of the street scene.
12. The proposed outbuilding would be of considerable size, its footprint appearing to be larger than that of both the existing dwelling and the large outbuilding which adjoins it. Although it would be of relatively low single storey height, it would nevertheless appear as a disproportionately large building introducing a substantial built form into the currently open garden area towards the eastern boundary of the appeal site, some distance from the existing buildings. In such a location it would not be within nor contribute to the 'street scene'.
13. Whilst there is a large, detached dwelling and outbuilding on the property immediately to the south, these buildings appear as part of the wider group to the south of the appeal site. The proposed building and hardstanding area to the front, which would extend built development north of this, would encroach into the open areas beyond that group. Its separation from the existing buildings on the appeal site would serve to exacerbate its visual encroachment into these open areas. The gravel drive would be less visually imposing due to its surface finish and location but nevertheless would result in the loss of further natural areas.

#### Conclusion

14. Therefore, the proposal is not for a new property, nor would it comprise 'infilling' within any existing built form or group of buildings on or adjoining the site, but would introduce built development within an open, undeveloped part of the appeal site. As set out above, its built form and extent would detract from the existing open character of the site and surrounding rural area. It would therefore conflict with EHDP Policies GBR2, VILL3, DES2, DES3, DES4 and HOU11 which, in addition to the above aims, seek to ensure that development conserves or enhances landscape character, and that outbuildings are of a scale, form and siting appropriate to the setting of the existing dwelling and surrounding area and generally appear as a subservient addition. It would also conflict with SNP Policy SP13 which seeks to ensure that development is responsive to its context and setting.

#### *Ecology and biodiversity*

15. The Council has stated that the site is located within the 'Nags Head Field' Local Wildlife Site (ref: 33-022) (LWS). However, the appellant has shown that the appeal site is approximately 400m from the land of the (former) Nags Head Public House and its associated fields. In these circumstances, I sought further clarification from the Council which confirms the exact location of the above LWS. From this, it is clear that the appeal site does lie within the LWS, which, despite its name, is not directly related to the site referred to by the Appellant. The LWS is an old hay meadow that supports grassland with a high diversity of

grass and herb species surrounded by old, mixed species hedges with a number of native trees.

16. Given the extent of the proposed development and the current natural and undeveloped appearance of the wider site there is the potential for there to be a significant impact in this regard. The proposal is not accompanied by a detailed ecology assessment or similar prepared by a suitably qualified person, nor is there any information or other survey work which identifies the biodiversity value of the site or the impact that the proposal would have on it. Whilst I note that the proposal is accompanied by a detailed planting scheme, including a number of native species as well as other biodiversity features, in the absence of any assessment as noted above, it is not possible to conclude that the proposal would provide an appropriate level of mitigation and / or compensatory measures as necessary.
17. I therefore find that it has not been demonstrated that the proposal would not be harmful to the ecology and biodiversity interests of the site and in particular to the LWS. It would thereby conflict with EHDP Policies NE1 and NE3 which seek, amongst other things, to ensure that proposals avoid impacts on sites of nature conservation value and aim to enhance biodiversity and create opportunities for wildlife, demonstrating how the biodiversity value will be improved. It would also conflict with Policy SP6 of the SNP which seeks to protect sites of wildlife interest.

### **Other Matters**

18. I note that the gym area within the proposed building is intended to meet the specific needs of a member of the family, although no detailed information has been provided in this regard. I have had regard to Section 149 of the Equality Act and the Human Rights Act but find that a refusal of permission is proportionate having regard to the harm that arises as set out above.
19. The Appellant also suggests that the building would provide secure storage but there is little information to support such a need and this factor provides little justification to outweigh the harm identified.
20. I have also had regard to other relevant parts of the Framework but find that the proposal conflicts with its environmental objectives, in particular to recognise the intrinsic character of the countryside, to ensure development responds to its context and to conserve and enhance the natural environment by protecting and enhancing sites of biodiversity value.

### **Conclusion**

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

*P B Jarvis*

INSPECTOR



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## Appeal Decision

Site visit made on 1 March 2024

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

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

**Decision date: 5<sup>TH</sup> March 2024**

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**Appeal Ref: APP/J1915/D/23/3335999**

**8 London Road, Hertford Heath, Hertfordshire SG13 7RH**

- 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 Sean O'keefe against the decision of East Herts Council.
  - The application Ref 3/23/1558/HH, dated 10 August 2023 was refused by notice dated 6 October 2023.
  - The development proposed is the demolition of an existing outbuilding, the removal of conifer hedging and the construction of a single storey rear extension along the northern boundary.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The National Planning Policy Framework 2023 (the Framework) was amended on 19 December 2023. The amendments made did not have a material bearing upon the main issues in this appeal, and it was therefore not necessary to seek comments from the main parties upon it. Where I have referred to the Framework, it is that of the December 2023 version.

### Main Issues

3. The main issues are the impact of the proposal upon (i) the character and appearance of the host property and that of the area and (ii) the living conditions of the occupiers of No. 6 London Road by reason of daylight and outlook.

### Reasons

#### *Character and appearance*

4. The appeal property forms part of a terrace of properties in a mainly residential area which includes a mix of house types. Attached to it on one side is a property divided into apartments and with a car sales and repair garage beyond it, while on the other side is a dwelling. The mix of building styles, with a preponderance of two storey properties with double pitched roofs, adds distinctly and positively to the character and appearance of the area.

5. The host property has a rear amenity space where the boundary with No. 10 London Road extends outwards in a straight line from the house, but where the boundary with No. 6 London Road is at an angle, extending close to, and in front of, the rear elevation of the latter property. The rear amenity space of No. 6 London Road is therefore limited. There is a conifer hedge along this boundary with a height of some 3.2 metres. The host property includes a detached, single storey, outbuilding in its rear amenity space. Elbow Lane runs past the rear amenity spaces of the terrace.
6. The proposed development, which would include the demolition of the existing outbuilding and the removal of the conifer hedging, is for a single storey, double pitched annexe for an office, a double bedroom and a shower/wc, to be constructed along the skewed boundary with No. 6 London Road. It would be linked to the host property with a building of lesser height than the main annexe and would have a natural timber stained cladding, contrasting with the proposed black stained timber cladding for the main part of the annexe and where the latter part would have a zinc roof.
7. While the proposal would be relatively extensive in its linear form, by its limited height when compared to the host property and by its siting to the rear of the property, it would appear as a subservient addition to it.
8. It would not be visible from London Road itself, nor would it affect the front elevation of the property which adds distinctively to the character and appearance of the area. Few if any glimpses of it would be seen from Elbow Lane and while the loss of the conifer trees might be noticeable, I have no evidence before me to suggest that they are protected. Moreover, there is already an existing outbuilding in the rear amenity space. Overall, the proposed development would not cause harm to the character and appearance of the host property or that of the area.
9. Therefore, I conclude that the proposal would accord with policies HOU11, DES4 and VILL1 of the East Herts District Plan 2018 (DP) which require a high standard of design for all development, including extensions, appropriate to the character and appearance of the existing dwelling and its surrounding area.

#### *Living conditions*

10. The rear amenity space to No. 6 London Road is sited on the north side of the proposed annexe, while the rear elevation of the property itself is to the northwest of it.
11. The boundary is marked on the appellant's side by a line of conifer hedging with a height of approximately 3.2 metres. The proposed annexe at its highest point would be of a similar height.
12. On my site visit, I was able to note that there is a gap in the conifer hedge which allows limited additional light to a rear window in No. 6 London Road.
13. However, the proposed development would be single storey which would limit any material loss of daylighting. Even if there were any such loss, as the rear elevation is to the north-west of the proposed annexe, any such adverse impact would be likely to be limited to that part of the day towards the evening, rather than for the whole of the day and so would be acceptable in planning terms.

14. On balance, therefore, when considering and comparing the impact of the proposed development and the current situation, I find that there would not be a significant deterioration in daylighting to the adjoining property and its rear windows.
15. Despite the above, the proposed development by its skewed position, would be very close to the rear elevation of No. 6 London Road. I appreciate that there is already an outbuilding along the boundary and on the appellant's land, but this is sited further down the garden boundary, while the proposed development would be located along virtually all of the boundary. I appreciate too that the occupiers of the adjoining property have not objected to the proposed development. However, I must also consider the impact of the development upon possible future occupiers of the neighbouring property.
16. Furthermore, the proposed annexe would be no nearer to the rear elevation of the adjoining property than the conifer hedge and would have a similar height. In addition, I was able to see on my site visit that there is a fence of some 2.5 to 3 metres high, very close to the ground floor windows of the adjoining property, between it and the conifer hedge.
17. The impact of the hedge and the proposed development would not be the same. When comparing the two, the hedge has a softer, greener, impact and with a gap in it and some movement, whereas the proposed development would have a more static effect with a feeling of greater, unchanging overbearing permanence.
18. For these reasons, I consider that the proposed development would have an unacceptably overbearing impact upon the outlook for the occupiers of No. 6 London Road.
19. Therefore, I conclude that the proposed development would not accord with policy DES4 (c) and policy VILL1 of the DP which require development to avoid significant detrimental impacts upon the amenity of occupiers of neighbouring properties and land.

### **Conclusion**

20. I have concluded that the proposed development would be subservient to the host property and would assimilate satisfactorily into the character and appearance of the dwelling and the area. I have also concluded that the impact in terms of daylight would not be significant. However, its impact in terms of the outlook from the rear of the adjoining property would be too enclosing and overbearing.
21. For this latter reason, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

*S. Hartley*

INSPECTOR



## Appeal Decision

Site visit made on 6 March 2024

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

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> April 2024

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### **Appeal Ref. APP/J1915/D/23/3336160**

#### **10 Henderson Place, Epping Green, Hertford SG13 8GA**

- 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 Steve Beastall against the decision of East Hertfordshire District Council.
  - The application ref. 3/23/1821/HH, dated 26 September 2023, was refused by notice dated 21 November 2023.
  - The development proposed is *"Demolition of existing garage and side projection and construction of part single part two storey rear and side extension. Construction of front porch and rear patio. Alterations to fenestration including rear Juliette (sic) balcony."*
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matters**

2. The description of the proposed development in the heading above is taken from the Council's decision notice. It is more accurate than the one provided on the application form.
3. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan includes the East Herts District Plan 2018 (DP). The National Planning Policy Framework is a material consideration in planning decisions. The revised versions of that document published in December 2023 do not materially differ from earlier versions, insofar as the planning policy context around the main issue in this appeal is concerned.

### **Main issue**

4. The appeal site is located within the Green Belt. The Council found that the proposed development would not infringe the relevant local and national policies aimed at protecting Green Belt land. I see no reason to disagree. Thus, the sole main issue is the effect of the proposed development upon the character and appearance of the host dwelling and the surrounding area.

### **Reasons**

5. The appeal property is a 2-storey detached house that is sited towards the end of a short row of detached houses located along Henderson Place, a narrow
-

- lane in Epping Green. The surroundings of the appeal site are otherwise resolutely rural in character. There are clear views of the front of the house from the lane.
6. The attractive front façade of the main 2-storey part of the house is symmetrical being balanced around a central first floor advanced gable which overhangs an open porch below. A single storey wing containing a double garage and utility room is attached to the northern gable end. This wing would be demolished under the appeal scheme and be replaced by the part single, part 2-storey rear and side extension.
  7. Although matching bricks and slates would be used, what is proposed would be a major alteration as the 2-storey addition would be of significant bulk and mass being over 6 m wide. This would represent a percentage increase in the width of the dwelling's main 2-storey front elevation of about 60%. Despite its lower ridge height and position 1.3 m back from the existing front wall face, I share the Council's concern that the 2-storey extension would appear as an insufficiently subservient addition to the dwelling as required by DP Policy HOU11 criterion (a) and would distort the symmetrical appearance of no. 10 to an unacceptable degree.
  8. No. 10 has a pitched roof with conventional gable ends. The hipped end to the 2-storey extension would look out of place and further unbalance the property, as would its lower eaves height with the first floor fenestration being set below the lines of the corresponding windows in the existing dwelling. These factors would all serve to add to the unsympathetic form and design of the extension. I would not take issue with the well-judged use of a flat roof at single storey level in itself but the proposed ground floor extension would be as wide as the original rear elevation when viewing from the rear, would wrap around the corner of the 2-storey extension and would overlap the rear walls of that extension and the original dwelling. All this would be unfortunate in design terms and would unduly emphasize the expanse of flat roof.
  9. In all, unlike the obviously subordinate existing single storey wing to the northern side of no. 10, the appeal proposal would visually dominate and radically change the character and appearance of the existing dwelling, particularly when seen in public views from the front. The resulting building would take on an unduly bulky, unbalanced and disjointed appearance which would detract from its simple and balanced architectural character and disrupt its pleasant setting in the row of dwellings along Henderson Place.
  10. Whilst the appellant says several similar extensions have been approved in the vicinity and that his proposal is consistent with these precedents, I have only been presented with details for 11 Henderson Place where extensions were approved under application ref. 3/18/1829/HH. In that case, the appellant focusses upon the comparative floor area increases of nos 10 and 11. The appeal scheme and the approved scheme at no. 11 would produce percentage increases in floor area of about 34% and 32% respectively.
  11. Whilst those results are very similar, their principal and most relevant use is in determining whether a proposal would amount to disproportionate additions over and above the size of the original building for the purposes of applying Green Belt policy. They have limited relevance in assessing wider design



considerations and in particular whether a high standard of design that is appropriate to the character and appearance of the dwelling and its surroundings is achieved. The scheme approved at no. 11 is materially different to what is proposed at no. 10 in design terms and it is an established planning principle that each scheme should be considered on its own merits.

12. I find on the main issue that the proposed development would harm the character and appearance of the host dwelling and the surrounding area. As the development would not be an example of a high standard of design that reflects and promotes local distinctiveness, would fail to respect the character of the site and the surroundings and would not appear as a subservient addition to the host dwelling, there would be conflict with the aims of Policies DES4 and HOU11 of the DP. There would also be a failure to adhere to the overarching design themes of the National Planning Policy Framework insofar as they relate to achieving well-designed and beautiful places.
13. I have noted that the scheme was prepared after the refusal of an earlier planning application (ref. 3/23/0493/HH) for extensions and that an attempt has been made to address the Council's reasons for refusal of that application. I accept that there would be no adverse impacts on the amenity and living conditions of neighbouring occupiers. Sufficient on-site parking provision would remain available. The larger windows being proposed at the same time for the existing dwelling may allow for solar gain in the home, alongside improvements to outlook and daylighting conditions. I have also taken account of the absence of objections from local residents and the Parish Council. Whilst I give some weight to these other considerations, I have come to the view that they are not sufficient to outweigh the harm that I have described. Any revisions to the plans would need to be considered by the Council in the first instance.

### **Conclusion**

14. My finding on the main issue is decisive to the outcome of the appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

*Andrew Dale*

INSPECTOR



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## Appeal Decision

Site visit made on 15 April 2024

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

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

**Decision date: 24<sup>TH</sup> April 2024**

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### **Appeal Ref: APP/J1915/D/24/3339132**

### **31 Vantorts Road, Sawbridgeworth, Hertfordshire CM21 9NB**

- 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 Darren Jackson against the decision of East Hertfordshire District Council.
  - The application Ref, 3/23/1894/HH, dated 5 October 2023, was refused by notice dated 20 December 2023.
  - The development proposed is described as removal of front bay window, rear conservatory and outbuilding. Erection of part two storey, part single storey rear extension and single storey front extension. Alterations to roof form to incorporate hip to gable roof extensions and loft conversion incorporating rear dormer. Insertion of roof light windows to front and rear, additional windows to side elevations and alterations to fenestration and external materials.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the removal of a front bay window, rear conservatory and outbuilding; the erection of a part two storey, part single storey rear extension and a single storey front extension; alterations to the roof form to incorporate hip to gable roof extensions and a loft conversion incorporating a rear dormer; the insertion of roof light windows to front and rear, additional windows to the side elevations and alterations to the fenestration and external materials at 31 Vantorts Road, Sawbridgeworth, Hertfordshire CM21 9NB in accordance with the terms of the application, Ref 3/23/1894/HH, dated 5 October 2023, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3350/06/44 and 3210/08/43.
  - 3) Prior to the commencement of the development above floor level, details of the materials to be used in the construction of the external surfaces of the development shall be submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
  - 4) The proposed second floor window opening to the right side elevation as shown in drawing no.3210/08/43 shall be fitted with obscure glass to a minimum degree of obscurity level 3 and non-opening up to 1.7m from the floor level of the room it serves, and shall be permanently retained as such.

## **Procedural Matter**

2. I have taken the description of the proposal from the appeal form, as that is what the appellant has used in his statement, and it corresponds with the description given by the Council in its decision.

## **Main Issue**

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

## **Reasons**

4. The host property is prominently positioned at the junction of Vantorts Road with Fairway. It is orientated with its principal elevation facing Vantorts Road and it is therefore in that streetscene that the property is mainly viewed. The houses on this stretch of Vantorts Road, particularly to the south of its junction with Fairway, are set back from the road often behind landscaped frontages, and are very varied in terms of their style, form, proportions and finishes.
5. I observed on my visit that, in many cases, neighbouring houses are of a markedly different size and form. That includes nearby examples of bungalows next to hipped or gabled two storey houses, as illustrated at Figures 2 and 3 of the appellant's statement. Although the roofscape is very varied, seen from the highway differences between neighbouring houses' ridge heights are often less perceptible, owing to the angle of view, and changes in levels.
6. The proposal would include a light-coloured finish throughout, along with extensive glazing, which would give the resultant building a cohesive, contemporary appearance. Whilst the host's ridge height would be raised by around 0.5 metre, and its hipped roof would be changed to a gable, in the diverse context of the area, the resultant increased mass would not appear incongruous.
7. The adjacent bungalow at 33 Vantorts Road ('No 33') has been extended upwards to provide accommodation within its roofspace. Compared to No 33, as a result of this scheme the host would have a similar gabled form, but would have a taller ridge. However, there would be a gap above ground floor level between these two houses due to No 33's flat-roofed garage. Given the varied juxtaposition of built form in Vantorts Road, the scheme would not result in an awkward relationship between these neighbouring properties. For all the above reasons, it would not have an overly dominant appearance in the streetscene.
8. The scheme would not therefore harm the character and appearance of the area. Amongst other things, and in general terms, Policy HOU11 of the East Herts District Plan (October 2018) ('EHDP') sets out that house extensions should be of a size, scale, mass, form and materials appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area, and that they should generally appear subservient.
9. Given the proposed raised ridge, the scheme cannot be said to be fully subservient to the host, but for the above reasons, the resultant dwelling would have an appropriate appearance which would respect its context. It would not therefore conflict with the overall thrust of that policy; nor with EHDP Policy DES4's requirement for a high standard of design, which respects the character of the area, and promotes local distinctiveness.

10. Turning to the matter of conditions, I have imposed the standard time limit condition and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans.
11. The application form indicates that external materials are specified on the submitted drawings, but no such details are provided there. In the interests of good design, a condition is therefore necessary requiring the submission of those details. Finally, in order to protect the adjacent occupiers at No 33 from overlooking from the proposed secondary bedroom window, my condition No 4 is also necessary.
12. In conclusion, the scheme would not harm the character and appearance of the area, and having regard to all other matters raised, the appeal is therefore allowed.

*Chris Couper*

INSPECTOR



## Appeal Decision

Site visit made on 6 March 2024

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

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> April 2024

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### **Appeal Ref. APP/J1915/D/24/3336925**

### **36 Cozens Road, Ware, Hertfordshire SG12 7HJ**

- 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 Tara Cretten against the decision of East Hertfordshire District Council.
  - The application ref. 3/23/2018/HH, dated 27 October 2023, was refused by notice dated 11 December 2023.
  - The development proposed is "*Demolition of garage. Erection of a two-storey side extension and single storey side extension. Insertion of dormer window to rear with roof light to front.*"
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matter**

2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan includes the East Herts District Plan 2018 (DP). The National Planning Policy Framework is a material consideration in planning decisions. The revised versions of that document published in December 2023 do not materially differ from earlier versions, insofar as the planning policy context around the main issue in this appeal is concerned.

### **Main issue**

3. The main issue is the effect of the proposed development upon the character and appearance of the dwelling and the locality.

### **Reasons**

4. Paired with no. 34, the appeal property is a semi-detached, two-storey house. They lie at the southern end of a row of semi-detached houses on the eastern side of Cozens Road. No. 34 is at the end of this row.
  5. Public footpath 12 progresses eastwards up the field to the rear of the appeal property and the neighbouring houses. Consequently, the rear elevations of these properties are prominent from public vantage points when approaching from higher ground westwards along this public footpath.
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6. No. 34 has been extended on its southern side over 2 storeys. There is an extensive area of open land and public footpath 12 beyond the southern side boundary of no. 34. No. 38 on the northern side of the appeal property has also been similarly extended.
7. Both of those neighbouring extensions, and some others nearby, were not set down from the ridge or back from the front elevation so they are not truly subservient additions. The Council recognised this local pattern of extensions and consequently raised no objections to the similar lack of subservience identified with the proposed 2-storey side extension at the appeal property.
8. However, the remaining gaps, especially above ground floor level, between the pairs of semi-detached houses hereabouts make a positive contribution to the character and appearance of this part of Cozens Road and in some cases provide for views from the street to the vegetation or sky beyond. In this case, the value of the remaining gap between nos 36 and 38 is enhanced by the prominence of those properties when approaching along Cozens Road from the west from the point where it merges with Lower Clabdens. The generous size of the appeal property's front driveway and the degree to which the house is set back from the road do little to deflect from the prominence of the location.
9. The house would be extended sideways over 2 storeys so as to come very close to the common side boundary with no. 38, thus significantly reducing the gap between nos 36 and 38 at first floor level. The plans show that a gap of only 1 m would be left between the opposing gable ends. The slight stagger in the front building line between the 2 properties and the marginally higher land level of no. 38 would be insufficient to avoid the creation of a visually damaging terracing effect within the street scene whereby the 2 pairs of semi-detached dwellings would become less visually distinct. This and the general loss of spaciousness would disrupt the character and appearance of the street scene and conflict with the aims for a high standard of design set out within DP Policy DES4 and more directly with criterion (b) of DP Policy HOU11.
10. That latter criterion indicates that side extensions at first floor level or above should ensure appropriate space is left between the flank wall of the extension and the common curtilage with a neighbouring property, with the general rule being that a space of 1 m will be the minimum acceptable. That measurement does not apply to the gap between the opposing gable ends themselves.
11. The proposed rear roof dormer would plainly not be of limited extent and modest proportions as required by DP Policy HOU11 criterion (d). With no notable recesses from the ridge, sides and eaves of the roof, the virtually flat-roofed dormer would extend over almost the entire rear roof slope and involve the continuation of the rear wall face. The proposed rear dormer would visually dominate the building's rear elevation and roof form. Having the appearance of a bulky large box, it would also leave the house with an awkward asymmetrical side profile. The property would take on a top-heavy appearance, giving the impression of having a full third storey. This would be a step in the wrong direction in terms of design, massing, shape, character, scale and proportion in comparison to the existing house and the semi-detached pair as a whole.
12. It would be apparent from neighbouring back gardens and public footpath 12 that the rear dormer would be out of keeping with the form and scale of the

- host property and amount to an overly bulky addition, particularly as the rear roof slopes of the closest neighbouring houses along Cozens Road remain without any form of dormer. This part of the scheme also conflicts with DP Policy DES4 and more directly with criterion (d) of DP Policy HOU11.
13. Even if matching materials were to be used, the design flaws of the 2-storey side extension and rear dormer window I have referred to above would persist.
  14. The appellant has submitted photographs of a number of side extensions which have resulted in reduced spacing between houses and of various sizeable roof dormers. I saw these properties on my site visit but not all of the extensions and dormers are necessarily good examples to follow. Some of them are also a considerable distance away from the appeal site.
  15. With the exception of 7 Cozens Road, where the erection of side and rear extensions is underway pursuant to ref. 3/22/2102/HH, I do not have the planning history of those other properties before me, so I have no evidence of the Council recently granting planning permission for the examples highlighted and therefore considering them acceptable. They may well have variously come about through historic planning decisions or permitted development rights. They do not justify the appeal scheme in the face of the harm it would cause. The site context for 7 Cozens Road, a prominent corner plot opposite the appeal property, is different to the relationship presented by nos 36 and 38 and insofar as I am aware that scheme did not propose a sizeable roof dormer.
  16. The field behind no. 36 has been selected to form part of the large scale WARE2 development project, now covered under application ref. 3/22/2406/FUL. From the limited details before me, if the application were to be approved and the development eventually go ahead, public open space and tree planting are likely to feature around the line of public footpath 12. The rear dormer may well be viewed from a wide range of public vantage points in this scenario.
  17. I find on the main issue that the proposed development would harm the character and appearance of the dwelling and the locality and conflict with the most relevant DP policies to which I have already referred. Good design is also a cornerstone of the National Planning Policy Framework.
  18. I acknowledge that the appellant wishes to create a family home with modern living space for a growing family and for working from home. The scheme would also address the inadequacies of the damaged and leaking garage and improve the energy efficiency of the house as a whole. I have also taken account of the absence of objections from local residents and the Town Council. Whilst I give weight to these other considerations, I have come to the view that they are not sufficient to outweigh the harm that I have described.
  19. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

*Andrew Dale*

INSPECTOR





## Appeal Decision

Hearing held on 21 February 2024

Site visit made on 21 February 2024

**by H Jones BA (Hons) DipTP MRTPI**

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

**Decision date: 18 March 2024**

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**Appeal Ref: APP/J1915/W/23/3327490**

**The Piggeries, Benington Road, Walkern, Hertfordshire SG2 7HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr M Kirbyshire against the decision of East Hertfordshire District Council.
  - The application Ref is 3/22/2635/FUL.
  - The development proposed is the erection of a rural worker's dwelling to replace existing mobile home.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have been given the opportunity to comment on the revised Framework. I have had regard to the revised Framework in my decision.

### Main Issues

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

### Reasons

*Whether the development would be inappropriate development in the Green Belt*

4. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. The Framework identifies that the construction of a new building in the Green Belt should be regarded as inappropriate, unless it would constitute one of the

exceptions set out in paragraph 154. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are listed at paragraph 155. The Framework goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy GBR1 of the East Herts District Plan 2018 (LP), states that proposals within the Green Belt should be considered in line with the Framework.

5. At the hearing, both parties confirmed that the development would amount to inappropriate development in the Green Belt. I have no reason to disagree with that position.

*The effect of the development on the openness of the Green Belt*

6. The appeal site is situated within the countryside to the east of Stevenage and to the south of Walkern. It is adjacent to and accessed from Benington Road. The site contains various agricultural buildings, areas of hardstanding, a mobile home and a field. The mobile home has a garden area beside it which is enclosed by a low fence and which contains a shed, amongst other items. There are trees, hedgerows and other means of enclosure within the site and to its edges.
7. The proposed dwelling would be set back from Benington Road, sited on a parcel of land which forms a part of the field within the site. This parcel of land is separated from the other parts of the field by metal barriers. Unlike much of the rest of the field, this parcel of land presently has very little grass cover. It also contains a large mound of stones. With accommodation set across 2 floors including 3 bedrooms, a study, a family and dining room and a separate lounge, the proposed dwelling would be a building of quite significant size. This would be the case even though the dwelling proposed now is smaller than that proposed within a previous planning application<sup>1</sup>. Upon completion of the proposal, built development would be introduced onto this parcel of land of a scale far exceeding anything it currently contains. Consequently, a reduction in the openness of the Green Belt would result.
8. At the hearing, the appellant submitted to me that a large garden would not be necessary and is not proposed. The submitted plans do not define a garden to serve the proposed dwelling as such but do indicate a hardstanding and areas of planting beside it. As a family home, I expect some domestic paraphernalia would accompany the dwelling at times. Washing lines, chairs and a table and children's toys being likely examples. Their presence would contribute further to the effects of the development upon the Green Belt's openness. However, I have no reason to conclude that any paraphernalia would be particularly extensive nor spread over a large area. The effects of the paraphernalia would be likely to be far more limited than that of the dwelling itself.
9. The section of Benington Road adjacent to the site is not served by footpaths and during my visit vehicles were travelling along it at quite high speeds. I felt it would be unsafe to spend time on the road, to walk along it to the bridleway adjacent to the site's southern boundary or further afield. This affected my ability to assess precisely in which views beyond the site the dwelling would or would not be visible.

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<sup>1</sup> Planning application reference 3/22/1214/FUL

10. Despite these limitations, many passers-by would be travelling by car and likely quite quickly. Some screening of the proposed dwelling from Benington Road would be provided by the existing landscaping and buildings. Mature trees between the site and bridleway to the south would also provide screening in views from this route. As a result and in the absence of substantive evidence to the contrary, I find that the proposed dwelling would be unlikely to appear very prominently in views from public vantage points beyond the site.
11. Despite my findings on visual prominence, it would nevertheless be the case that the development would lead to a loss of openness of the Green Belt, principally because of its spatial effects.

*Other considerations*

12. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.
13. In the countryside, policy HOU5 of the LP sets out that dwellings for rural businesses will only be permitted in exceptional circumstances and where certain criteria are met. This includes a requirement to demonstrate 3 tests. Firstly, that the dwelling is essential to the needs of the business. Secondly, that the enterprise has been established for at least 3 years, is financially viable and should remain so and thirdly, that no other accommodation within the site/holding or the locality is currently suitable, available or could be made available. Amongst other matters, policy 10 of the Walkern Parish Neighbourhood Plan 2017-2033 (NP) states that single rural homes will only be supported where there is a demonstrable need for them to be located in the countryside.
14. These development plan policies are very reflective of the advice at paragraph 84 of the Framework which states that isolated homes in the countryside should be avoided unless there is an essential need for the rural worker to live permanently at or near their place of work in the countryside.
15. At the hearing, the Council confirmed that its objections did not include an assertion that the enterprise was not established, was not viable or was not likely to remain so. The Council consider that the second test contained within policy HOU5 is met and I have no reason to disagree.
16. Together, the written evidence and the discussions held at the hearing show me that of the various farming activities undertaken, it is that related to calving which would require the most intensive supervision. During the lead-up to calves being born, the birth itself and a period there afterwards, the day-to-day management of the cows and calves would require particular attention and would not be limited to normal working hours. During these times, the appellant's presence on site to assist with the essential care of the animals at short notice would be important. This presence would enable, amongst other matters, close attention to be paid to the heifers for signals of the on-set of the birth process and to the calves to ensure they are feeding and healthy. The proposed dwelling, sited so close to the existing buildings where the cows are housed at times and the proposed nursery field where the new-born calves and

their mothers would be first kept, would maximise the appellant's ability to supervise the animals.

17. A camera is positioned on an agricultural building within the site which is linked to the appellant's phone. The camera has a very broad field of vision. Therefore, some technology is being used by the appellant to assist with calving. Whilst the appellant explained to me his reservations with the use of technology, I am not satisfied that the potential assistance it would bring has been fully explored. For example, the issue of rain affecting the clarity of the camera's vision could be resolved by the installation of further cameras in more sheltered positions.
18. Following the discussions at the hearing it is clear to me that an all-year-round approach to calving is not being adopted. Instead, spring-time calving is undertaken. I heard some diverging evidence regarding how long the calving period lasts. The Council's understanding was that it is between 6-7 weeks long. The appellant referenced a 12-week critical pregnancy period for the heifers whilst it was confirmed that, on average, calves would be in the nursery field for around 28 days. Regardless, I find that the calving period of the enterprise is seasonal. This is the case even though the size of the enterprise's herd has recently increased.
19. Other principal activities undertaken at the farm such as haylage, the grazing and supplementary feeding of the animals together with their visual checking, would not necessitate the same degree of intensive oversight. Therefore, outwith of the calving period, there would be significant spells in the year where there would not be the requirement for the same degree of animal supervision. Farming activities which would require a less urgent response would be the focus of the enterprise.
20. The land which the appellant farms is also somewhat dispersed. Therefore, although the calves and heifers would be kept close to the proposed dwelling for a period, many of the other farming activities undertaken take place on land which is a quite considerable distance from the proposed location of the dwelling. The dwelling would not be within sight and sound of all of this land limiting the benefit of its siting and occupation.
21. For these reasons, to have the proposed dwelling permanently is not a proportionate response to the needs of the business. The dwelling is not essential to the needs of the farming enterprise.
22. I recognise that crime is of a concern to the appellant and I have been provided with some evidence of rural theft in Hertfordshire. The existing camera already provides a means of surveillance and some deterrent to crime. Opposite the site there are houses, including one within which some of the appellant's family resides. I expect the presence and orientation of these dwellings also provides a deterrent. I have no substantive evidence before me of what other means have been explored to bolster the site's security. I expect that there are a range of actions which could be taken or installations made which would assist in this regard. Consequently, the dwelling proposed is not essential in order to keep the enterprise secure.

23. Planning permission<sup>2</sup> was previously granted for overnight welfare accommodation within an agricultural building at the farm. However, the activities undertaken at the farm at that time differed to those undertaken now. The accommodation proposed was smaller in scale and by reason of being housed within an existing building, its effects upon the openness of the Green Belt are not comparable with that which would result from the appeal proposal. Moreover, the accommodation has been destroyed by a fire. For these reasons, that the Council previously granted planning permission for a form of living accommodation at the farm is not of meaningful weight in my determination.
24. At the hearing, the appellant explained that he had been living within the aforementioned welfare accommodation and that once that was destroyed, the mobile home was brought onto the site around 7 years ago. The appellant also stated that the mobile home has been his only residence for the last 5 years. During discussions, the appeal parties agreed that the mobile home does not have planning permission.
25. In this appeal, it is not my role to determine whether the use of the mobile home is lawful. This can only be formally determined by a lawful certificate application. However, the evidence before me that the mobile home is lawfully occupied is not compelling. In the circumstances, I only ascribe limited weight to its presence. Even though the appellant may have been living within the mobile home all of the time for several years, given my above findings on the operations of the farm, the reasons for him doing so now do not stem from the essential needs of the enterprise. For these reasons, that the appellant has been residing within the existing mobile home does not demonstrate an essential need for the dwelling nor weigh in favour of the proposal to any significant degree.
26. Furthermore, the proposed dwelling would also be larger than the existing mobile home by reason of its length and depth whilst it would also be considerably taller. Given its size, the proposed dwelling would have a greater effect upon the openness of the Green Belt than the existing mobile home. Any betterment derived from the dwelling's aesthetic in comparison to the somewhat utilitarian mobile home would be outweighed by the increased level of harm that would be wrought upon the openness of the Green Belt. Consequently, the appeal scheme would also be the more harmful development within the Green Belt.
27. In regard to alternative accommodation, the appellant's more substantive submissions relate to the lack of and prohibitive cost of family homes to buy within settlements in the local area. I have identified above that the permanent family dwelling proposed is not a proportionate response to the needs of the enterprise and that such a dwelling is not essential to the needs of the business on such grounds.
28. Therefore, any alternative accommodation options could encapsulate a broader range of accommodation. This could include smaller and shorter-term forms of accommodation, including those which would entail the adaptation of an existing building. Such options could have more limited effects upon the openness of the Green Belt. A thorough exploration of such alternatives has not taken place.

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<sup>2</sup> Planning permission reference 3/16/0188/FUL

29. For the reasons given above, it has not been demonstrated that there is an essential business need for the agricultural worker's dwelling proposed nor that there is no other accommodation which is currently suitable, available or could be made available to serve the needs of the business. The proposal therefore conflicts with policy HOU5 of the LP and policy 10 of the NP. It also conflicts with the advice of paragraph 84 of the Framework.
30. In coming to this view, I acknowledge that those keeping and caring for livestock are governed by legal requirements such as the Animal Welfare Act 2006 and the Welfare of Farmed Animals (England) Regulations 2007. However, I am satisfied that in the absence of planning permission for the development that the animals could still be appropriately and responsibly looked after, without conflict with imposed duties and welfare standards.
31. If the appellant were to reside permanently within the proposed dwelling on site rather than off-site for any durations, the need for a commute to work would be avoided. Even so, given the appeal site's isolation from settlements, there would still likely be the need to undertake frequent journeys via private vehicle to access services and facilities. Furthermore, as some of the land farmed is quite far from the appeal site, vehicular trips would still be needed to tend to it. The benefit which would be derived from limiting the need for private vehicular trips would, therefore, be modest. I also have no substantive evidence that the farming enterprise could not grow or expand without the dwelling proposed.
32. Subject to the imposition of conditions as necessary, the development would not harm the living conditions of existing or future occupiers, would preserve existing landscaping features and would result in no conditions detrimental to highway safety. The development would also use water efficiently and be adequately adapted to the threat of climate change. However, the absence of harm in relation to these matters is a neutral factor in my determination and does not weigh in favour of the proposal.
33. Appeal decisions relating to other forms of agricultural workers accommodation have been submitted in evidence. Although I have had regard to these and considered the submissions of both appeal parties in respect of them, I have formed my own view on this appeal based on the evidence before me and taking account of the particular circumstances of the case.
34. The evidence before me indicates that the Council cannot demonstrate 5 years' worth of housing land supply. Paragraph 11(d) of the Framework is therefore engaged. In providing only a single dwelling, the boost to housing supply would be very modest. Furthermore, the dwelling would be occupied by an agricultural worker and would not therefore provide housing for home-seekers more generally. The weight I attribute to the proposal's contribution to housing supply is limited as a result.
35. Consequently, having regard to all of the above, the proposal would constitute inappropriate development in the Green Belt which is, by definition, harmful to it. Further harm to the Green Belt would be caused by its effects upon openness. I attribute substantial weight to this harm.
36. As a whole, the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development referenced at paragraph 153 of the



Framework, do not exist. Having regard to paragraph 11(d)(i) this provides a clear reason to refuse the development. As policy GBR1 of the LP requires that proposals are considered in line with the Framework, it follows that the proposal also conflicts with this policy.

37. Article 8 of the Human Rights Act 1998 provides that everyone has the right to respect for their private and family life, their home and their correspondence. The appellant has submitted that he and his family have been living separately and that the proposed dwelling would provide a means for the family to live together on the site. In dismissing the appeal, this particular means cannot take place. However, it is also the case that living together as a family has already not been taking place and in that sense, circumstances would not alter as a result of my decision. I have attached substantial weight to the harm that the development would cause to the Green Belt. The Article 8 rights are qualified and any interference with them in this instance would accord with the law and be in pursuance of a well-established and legitimate aim: the protection of the Green Belt. The protection of the public interest cannot be achieved by means that are less interfering with their rights. It is proportionate and necessary to refuse to grant planning permission.

### **Conclusion**

38. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

*H Jones*

INSPECTOR



**APPEARANCES**

FOR THE APPELLANT:

Mark Kirbyshire  
Alison Young  
James Dunn

Appellant  
Alison Young Planning Associates  
RSK ADAS Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Maya Cullen  
Rachael Collard  
Neil Button

Senior Planning Officer  
Development Management Team Leader  
Strategic Sites Team Leader



# 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: 12 March 2024**

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**Appeal Ref: APP/J1915/W/23/3322745**

**Land at Half Acres, Stortford Road, Standon, Herts, SG11 1LY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr R Jamieson against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/2704/PIP, dated 14 December 2022, was refused by notice dated 7 February 2023.
  - The development proposed is the erection of a single storey detached dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these stages.
3. The scope of the considerations for permission in principle is limited to location, land use, and the amount of development permitted. If permission in principle were to be granted, all other matters would subsequently be considered as part of a technical details consent application.
4. The main parties have indicated that the most recent revisions to the National Planning Policy Framework have no relevance to this case, and I have no reason to take another view.
5. Drawing number 20449-P002-1st is titled 'feasibility plan'. For the purposes of this appeal, this plan is considered as an indicative plan only.
6. In support of their appeal the appellant has provided a transport statement, which was not before the Council at the time it made its decision. The Council has subsequently indicated that it no longer wishes to defend its reason for refusal relating to highway safety. Given that both the Council and other interested parties have had the opportunity to submit representations in respect of the statement at the appeal stage, no parties would be prejudiced by my consideration of this additional information.

## **Main Issue**

7. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

## **Reasons**

### *Location, land use, and amount of development*

8. The East Herts Council East Herts District Plan October 2018 (the Local Plan) identifies a settlement limit for the paired villages of Standon and Puckeridge. It also identifies land which is within the rural area beyond the Green Belt. Within the supporting text to Local Plan policy GBR2, it is stated that the rural area beyond the Green Belt is highly valued for its open and largely undeveloped nature. It is also indicated that such areas provide a considerable and significant countryside resource, which policy GBR2 seeks to maintain by concentrating development within existing settlements.
9. Policy GBR2 then identifies the types of development that will normally be permitted within the rural areas beyond the Green Belt. One such form of development is the partial or complete redevelopment of previously developed sites in sustainable locations, where appropriate to the character, appearance, and setting of the site and/or surrounding area. Another is where it is for the replacement, extension, or alteration of a building, provided the size, scale, mass, form, siting, design, and materials of construction are appropriate to the character, appearance, and setting of the site and/or surrounding areas.
10. Policy SP9 of the Standon Parish Neighbourhood Development Plan 2017-2022 (the Neighbourhood Plan) similarly indicates that in locations outside of group 1 and 2 villages, or where the development would not constitute limited infill within a specified hamlet, there will be a presumption against development. That is unless it would accord with the National Planning Policy Framework (the Framework), or it would meet a specified rural need, including those forms of development identified within Policy GBR2 of the Local Plan.
11. The appeal site which is outside of the Local Plan settlement limits of Standon and Puckeridge, forms part of the rural area beyond the Green Belt.
12. The elevated and generally level appeal site is separated from nearby buildings and houses by areas of planting and part of a large grassed field. Furthermore, sizeable gaps in shrub/tree plant growth outside but close to the site boundaries, enable good visibility between the appeal site and parts of the surrounding countryside. Despite the low timber fencing along most of the site boundaries; the large low concrete pad within the site; and, the proximity of nearby built development, the site therefore, retains a pleasant and open rural character and appearance.
13. A single-storey dwelling and any associated residential paraphernalia on the appeal site, would be prominent when viewed from surrounding land including the adjacent Public Right of Way. This is, in part, because of the relative elevation and the openness of the site. Notwithstanding the proximity of nearby buildings within the village of Standon, such development would have an urbanising effect which would cause great harm to the rural character and appearance of the area.

14. Based on both the evidence and my observations, the appeal site is within reasonable proximity of a range of services and facilities, which are readily accessible by means other than private car. However, and even if the appeal site was deemed to represent previously developed land, or, the proposal represents the replacement or extension of a building, I have found that residential development on the site would cause harm to the character and appearance of the area. That being the case, the proposal would conflict with the development strategy for the District, as identified within the development plan.
15. For these reasons, the site is not suitable for residential development having regard to its location, the proposed land use, and the amount of development. It would conflict with policy GBR2 of the Local Plan and SP9 of the Neighbourhood Plan. For the same reasons, it would also conflict with policies DES2 and DES4 of the Local Plan and policy SP13 of the Neighbourhood Plan. Amongst other things, these policies require development to conserve, enhance, or strengthen the character and distinctive features of the district's landscape; to retain, protect, and enhance existing landscape features which are of amenity value; and, to be responsive to the local setting.

#### *Other Matters*

16. The junction between Stortford Road and Half Acres (the junction) provides vehicular access to a considerable number of dwellings. A single additional dwelling is therefore unlikely to result in more than a small increase in the number of vehicles using this junction. The safety of the junction is confirmed within the transport statement provided by EAS Transport Planning, and I have no reason to find otherwise. When exiting the junction onto Stortford Road visibility is somewhat restricted. Although visibility could be greatly improved by trimming back hedges and trees on land under the control of the highway authority, I cannot conclude that such benefit is necessarily dependent on this appeal being allowed.
17. Consideration of detailed matters, such as the surfacing of the gravel access track, are beyond the scope of the permission in principle stage. Nor is it possible to attach conditions to any consent granted for permission in principle.

#### *Planning balance*

18. The evidence indicates that the Council currently has a 4.41-year supply of deliverable housing sites. The shortfall in the supply of housing land cannot therefore be considered substantial.
19. The construction of a home on the site would make a small contribution to housing supply within the district. Furthermore, future occupiers would have reasonable access to a range of local services and facilities, and the construction and subsequent occupation of the dwelling would contribute to the local economy and help to support a strong and vibrant community. However, given that only one dwelling is proposed, the benefits in respect of these matters would be small.
20. Details of measures to improve the biodiversity value of the site have not been provided. As such only very limited weight can be attributed to any potential benefits that could result in respect of this matter.

21. That the development would not cause harm to highway safety is a neutral consideration.
22. Nevertheless, the development would cause great harm to the character and appearance of the area, and it would conflict with the policies of the development plan which provide a strategy for development within the District. These policies are broadly consistent with the Framework, and as such the conflict with them attracts significant weight.
23. The Council's lack of a 5-year housing land supply means paragraph 11 d of the Framework applies. In this case, the application of policies in the Framework that protect areas or assets of importance, as identified in footnote 7, do not provide a clear reason for refusing the development. Therefore paragraph 11 d) ii. of the Framework is engaged.
24. The proposals align with the parts of the Framework that seek to significantly boost the supply of homes. Furthermore, paragraph 70 of the Framework indicates that small and medium sites can make an important contribution towards meeting the housing requirement of an area. The development would also contribute towards meeting the Framework objective of building a strong competitive economy. However, given the small scale of the scheme, these considerations each attract only limited weight.
25. Even if I were to agree that the appeal site is previously developed land, the development would not accord with the part of paragraph 124 of the Framework which states that planning decisions should give substantial weight to the value of using brownfield land within settlements for homes. This is because the appeal site is not within a settlement. As such, very limited weight is attributed in respect of this consideration.
26. However, the development would be contrary to the Framework where it requires development to add to the overall quality of the area and be sympathetic to local character including the surrounding built environment and landscape setting. Given the level of harm I have identified, the conflict with the Framework in respect of this matter attracts substantial weight.
27. Therefore, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the proposal does not benefit from the presumption in favour of sustainable development.

### **Conclusion**

28. The proposed development conflicts with the development plan when taken as a whole, and 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



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## Appeal Decision

Site visit made on 23 January 2024

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

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

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**Appeal Ref: APP/J1915/W/23/3324262**

**Old East End House, East End, Furneux Pelham, Hertfordshire, SG9 0JT**

- 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 Jane Crossley against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/0108/FUL, dated 20 January 2022, was refused by notice dated 13 April 2023.
  - The development proposed is the erection of a detached Eco-House.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of a detached eco-house at Old East End House, East End, Furneux Pelham, Hertfordshire SG9 0JT, in accordance with the terms of the application Ref 3/23/0108/FL, dated 20 January 2022, subject to the conditions in the attached schedule.

### Preliminary Matter

2. The appellant submitted a revised elevation drawing with the appeal. However, this only updated the presentation of the proposed works and did not change the nature of the works themselves. I have therefore accepted the drawing and did not need to consult the Council on the changes.

### Main Issue

3. The main issue is the effect of the proposal on the special architectural or historic interest of the grade II listed building<sup>1</sup>, with regard to its setting.

### Reasons

#### *Significance*

4. Old East End House is a grade II listed building. It is a timber framed cottage. It has been significantly extended and altered, including a side extension built in different phases that is substantially larger than the original cottage building. The character of the cottage remains most legible from the front and the entrance drive.
5. The cottage was originally a building of modest scale associated with a small subsistence small holding. This was likely the combined Plots 179, 180 and

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<sup>1</sup> List entry number 1101887 and called 'Lower Farm Cottage' in the listing

181<sup>2</sup>. Historic mapping shows that only a small part of the current garden was originally a garden area associated with the house, being the area directly adjacent to the house and road, ie Plot 180. As it stands now, the house has a large garden including outbuildings and a swimming pool, all of which is clearly domesticated, and which includes Plot 179. This loss of the former relationship to agricultural land, combined with the substantial extensions, has eroded the significance of the building in its setting in historic and aesthetic terms.

6. The house was also historically associated with a barn building on the other side of a small courtyard to its west. However, it is now a separate dwelling, with separate access and a separate garden area in the former Plot 181, separated from the appeal property by a substantial and tall hedgerow boundary. Therefore, the former relationship to this building has been severed.
7. The primary significance of the listed building is therefore its intrinsic retained historic fabric within the original part of the cottage. This is best appreciated in its setting to the front as viewed from the courtyard. This aspect of setting therefore provides the greatest contribution to heritage significance. Looking at the significance of setting to the side and rear of the building, despite the visible alternations to the listed building, and the changes to land use and internal boundaries, there is still a sense of a farm cottage surrounded by open space and by adjacent farm style buildings, and because the original outer boundaries to the small holding remain. This aspect of the setting to the building contributes moderately, at most, to heritage value and significance.

#### *Proposal*

8. It is proposed to erect a one storey house with associated vehicular access from the road, using an existing access point. It would sub-divide the plot to create a house with a separate large garden area which would include the existing large shed and swimming pool. Although no details have yet been provided, there would need to be a new internal boundary to separate the garden of the proposed house from the retained garden to the listed property. The outer boundary would remain as existing.

#### *Assessment*

9. The proposed house, access works and associated landscaping would be most apparent when viewed from the large rear garden area. The substantial extensions also sit between the original cottage and the proposed building, reducing intervisibility to the areas of greater historic interest. The proposed works would therefore be seen in the context of the contemporary extension and would not affect the primary setting of the property to the front courtyard. In addition, the proposed house would be one storey and would be set reasonably distant from the listed house. The detailed design and materials could be controlled by condition. The proposed access area is to the far side of the proposed house and would not have any meaningful impact on the appreciation of the listed building or its setting.
10. The existing large garden to the listed building would be divided. However, because both areas would remain as gardens, the green and largely open character of the area would remain substantially the same. The detail of the

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<sup>2</sup> See Figure 4 of the Heritage Statement, dated January 2023



landscaping could be controlled by condition, including the boundary between the gardens, to ensure it would be appropriate for the setting of the building.

### *Conclusion*

11. The proposal would not therefore harm the special architectural or historic significance of the listed building or its setting. It therefore complies with Policies HA1 and HA7 of the East Herts Local District Plan 2018, which require proposals to preserve the historic environment and to sustain the significance of listed buildings. It also complies with Paragraph 203 of the Framework, which highlights the desirability of sustaining the significance of heritage assets, and s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

### **Other Matter**

12. One letter of objection has been submitted. In addition to matters covered above, the objector is concerned regarding the precedent that granting permission might set. However, planning applications and appeals must be considered on their own merits. Concern is also raised regarding the effect of the proposal on nature. No concerns have been raised by the Council regarding the effect of the proposal on biodiversity and the provision of appropriate measures to enhance habitat and biodiversity on the site could be secured by condition.

### **Conditions**

13. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty.
14. The Council suggested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions.
15. In particular, I have amended the condition in relation to noise from the proposed air source heat pump so that it requires the same standards as those set out in Class G of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO 2015). The requirements originally set out by the Council went beyond this requirement, which was unreasonable in light of the GPDO 2015 and because the nearest sensitive receptors are relatively distant from the proposed heat pump.
16. I have also removed the requirement to provide evidence that the water use of the property would meet the Building Regulations 2010 (the Building Regs), because this would duplicate the Building Regs and is therefore unnecessary. Similarly, I have not imposed the electric vehicle charging point condition because this is a requirement of S1, Part 1, Schedule 1 of the Building Regs and is therefore also unnecessary.
17. Conditions relating to landscaping, external materials and boundary features are necessary to protect the character and appearance of the area, and the special architectural and historic interest of the listed building with regard to its setting.
18. The water consumption condition is necessary in achieving a satisfactory efficiency of water consumption in compliance with Policy WAT4 of the LP.

19. The habitat boxes condition is necessary to protect and enhance biodiversity and to comply with Policy NE3 of the LP.
20. The air source heat pump condition is necessary to protect the living conditions of future occupiers of the proposed dwelling, and the existing occupiers of neighbouring dwellings, both with regard to noise pollution.
21. The landscaping condition is necessarily worded as a pre-commencement condition, as a later trigger for its submission would limit its effectiveness.

**Conclusion**

22. The principle of a dwellinghouse in this location is acceptable in land use planning terms. I have found no material harm arises from the proposal. The proposal complies with the Development Plan when read as a whole and there are no material considerations that indicate I should make a decision otherwise. Therefore, the appeal is allowed.

*O S Woodward*  
INSPECTOR

**ANNEX: CONDITIONS SCHEDULE**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21-98-01A and 02.

**Pre-commencement**

- 3) Prior to commencement of development, details of landscaping shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall include: full details of soft and hard landscape proposals, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable. Thereafter the development shall be implemented in accordance with the approved details.

**Pre-specific part of development**

- 4) Prior to commencement of above ground works, the external materials of construction for the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
- 5) Prior to the commencement of above ground works, details of habitat boxes/structures to be installed shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be installed prior to the first occupation of the dwelling and maintained throughout the lifetime of the development.

**Pre-occupation**

- 6) Prior to the first occupation of the development, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development should be implemented in accordance with the approved details.

**For observation**

- 7) The air source heat pump must be installed so as to comply with the Microgeneration Certification Scheme standards, or equivalent standards, and be maintained as such for the lifetime of the development.
- 8) The dwelling hereby approved shall be fitted out so that the potential consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day.

===== END OF SCHEDULE =====



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# Appeal Decision

Site visit made on 31 January 2024

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

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

**Decision date: 13<sup>th</sup> March 2024**

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**Appeal Ref: APP/J1915/D/23/3323561**

**1 Desborough Drive, Tewin Wood, Tewin, Welwyn, Hertfordshire, AL6 0HQ**

- 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 & Mrs M & L Campbell against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/0149/HH dated 26 January 2023, was refused by notice dated 24 March 2023.
  - The development proposed is described on the application form as "Single storey rear extension".
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. The revised National Planning Policy Framework ('the Framework') was published on 19 December 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework documents published in 2021<sup>1</sup> and 2023<sup>2</sup>. As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.

## Main issues

3. The main issues are:
  - the effect of the development on trees protected by a Tree Preservation Order;
  - whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

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

<sup>2</sup> National Planning Policy Framework, Department for Levelling Up, Housing & Communities, 5 September 2023.

## Reasons

### *Appeal site context*

4. The appeal site falls within the Green Belt and contains an attractive detached bungalow set well back from the vehicular highway on a large plot. The area is characterised by detached dwellings of varying age, scale and architectural design set on spacious plots. The appeal site and wider area contains a number of mature trees protected by a Woodland Tree Preservation Order<sup>3</sup> ('TPO'), which give the locale a clear verdant character.

### *The effect of the development on trees protected by a Tree Preservation Order*

5. There are a number of mature and attractive trees in close proximity to the eastern side of the proposed extension that are protected by a TPO. Although the scheme does not propose their removal, it was not accompanied by an arboricultural report that demonstrates the development would not damage their root systems or place undue pressure on them to be cut back in such a manner that would harm their health or visual appearance.
6. The appellant states that the Council's Landscape Officer did not object to the scheme, but that does not alter my view that the development would be harmful for the reasons I have given. I also recognise that the appellant would be agreeable to a suitably worded condition for tree protection, but I would not consider this to be appropriate as it has not been demonstrated that its intended purpose would be capable of being fulfilled.
7. In view of the above, I conclude that it has not been demonstrated that the development would not harm TPO protected trees. The scheme would therefore conflict with Policy DES3 of the District Plan<sup>4</sup>, which seeks, amongst other things, to ensure that development proposals demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value.
8. I also find that the scheme conflicts with Paragraph 136 of the Framework, which seeks, amongst other things, the retention of existing trees wherever possible.

### *Whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt*

9. Policy GBR1 of the District Plan states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 154 of this document states that a local authority should regard the construction of new buildings as inappropriate in the Green Belt, aside from a number of exceptions which include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
10. Although the development would represent a significant addition to the original building<sup>5</sup>, it would nonetheless step down from the main roof ridgeline and have a subordinate character. When taken cumulatively with the modest size of the extension and removal of the existing conservatory, it is my view that the

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<sup>3</sup> Tree Preservation Order 14 (1995) Tewin Wood

<sup>4</sup> East Herts District Plan, October 2018, East Herts Council.

<sup>5</sup> The Council states that it would be 83.3% beyond that of the original dwelling.

overall development falls within the upper limits of what I would consider proportionate to the original dwellinghouse. As a consequence, I find that the scheme would not be a disproportionate addition to the original building, which means that it does not constitute inappropriate development in the Green Belt.

11. In view of the above, I conclude that the proposal would comply with Policy GBR1 of the District Plan which seeks, amongst other things, to ensure that Green Belt planning applications are considered in line with the provisions of the Framework. For the same reason, I also find that it would accord with Paragraph 154 of the Framework.

#### *Other matters*

12. The appellant states that following the scheme's refusal, the Council gave prior approval consent for a single storey rear extension in the same position as the appeal scheme, albeit of a slightly different design. Whilst this represents a clear fallback position, there is no evidence before me that the impact upon the relevant TPO trees was considered during this application and/or whether any mitigation or protective measures were proposed. As a consequence, I have concluded that this fallback position does not justify the harm that would be caused to the TPO protected trees at risk in the scheme before me.

#### **Conclusion**

13. Although I have concluded that there is no harm in respect of the main issue relating to the Green Belt, I am nonetheless satisfied that the harm identified in respect of the main issue relating to trees is sufficient to still justify dismissal of the appeal. As a consequence, I conclude that the proposal conflicts with the development plan when taken as a whole and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.
14. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

*Robert Fallon*

INSPECTOR



# Appeal Decision

Site visit made on 14 March 2024

**by A Edgington BSc (Hons) MA CMLI**

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

**Decision date: 3 April 2024**

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**Appeal Ref: APP/J1915/W/23/3322197**

**Land Adjacent to Hormead Cottage, Great Hormead, Buntingford, Hertfordshire SG9 0NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Andrew Digby against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/0288/FUL.
  - The development proposed is Construction of a detached dwelling on land adjacent to Hormead Cottage (amended scheme).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Drawings were submitted at appeal that were not part of the original application. The Council's statement sets out that copies of those drawings were not received when the appeal was lodged. Nonetheless there is correspondence that indicates that the Council was given an opportunity to comment on those drawings in January 2024, and as such I have taken them into account in my reasoning.
3. Hormead Cottage is described as The Cottage by Historic England in its listing and I have used this nomenclature in my reasoning. The Cottage, situated to the west of the appeal site, was listed in 1967 as a 17<sup>th</sup> or early 18<sup>th</sup> timber framed cottage with thatched roof. It was largely destroyed by fire in 2016, and the rebuilt form lacks the thatched roof and has altered typology. The photographs in the heritage statement highlight that whilst the rebuilt cottage fits within its rural location, it lacks the rural charm of the original. However, it has not been delisted and as such I am required to consider its setting and significance within my reasoning.

## Main Issue

4. The main issue is whether the development would preserve or enhance the character or appearance of the Hormead Conservation Area (CA), with particular reference to protected woodland, and whether the development would have an adverse effect on the setting of the Grade II listed The Cottage.



## Reasons

### *Heritage assets and protected woodland*

#### *Conservation Area*

5. Great Hormead is small rural settlement referenced in the Domesday Book and which may date from Roman times. The earliest map submitted, dated in the late 18<sup>th</sup> century, shows a small cluster of buildings, including a church, nucleated around a crossroads. A map from the late 19<sup>th</sup> century shows limited expansion along the valley bottom and the main east-west road. This map also indicates that the east-west road was heavily lined with trees and also shows significant tree cover within the appeal site and what are now adjacent plots. By the early 20<sup>th</sup> century, the site appears to be part of the extensive garden of The Cottage, and contained mixed tree cover.
6. The maps and CA Appraisal indicate a rural village, based on an agricultural economy, which has retained a large proportion of period and often listed dwellings as well as an informal and open building pattern with long plots leading back from the main road, often vegetated with mature trees as far as the ridge line. This is reinforced by the CA Appraisal which highlights the predominance of thatched cottages and the importance of tree and hedgerows. These often frame or provide a backdrop for the built form and collectively provide a richly treed setting for this rural village.
7. The appeal site is located to the west of the village core, and sits between the plots of The Cottage and Bridge House, both of which are fairly large detached dwellings set well back from the road, but which appear nestled within a scattering of mature trees, including those on the appeal site, when viewed from the road.
8. The CA's significance is therefore derived from the predominance of period buildings and intact historic fabric, and the mature vegetation associated with blocks of open space that punctuates the loose building pattern. The trees and hedgerows that are most important are indicated on the plan contained within the CA Appraisal. Notwithstanding that this is diagrammatic, it is nonetheless apparent that the appeal site has important trees in the northern half of the site and along its western boundary.

#### *Listed Building*

9. The Cottage appears to have limited historic material, and presents as a modern iteration of a typical rural dwelling. It sits comfortably in its rural and sylvan setting but has low historic or architectural value.
10. The map regression shows that there was a semi-circular carriage drive in front of the Cottage from the 19<sup>th</sup> century. Although there is gated access at its eastern extent, this is now within the appeal site. Part of the drive is still evident, and there is some historic value in its spatial layout and relationship with The Cottage and the road, but I give this low weight. The map regression also indicates that at least part of the appeal site was part of The Cottage's extended plot for much of its history. Notwithstanding the 21<sup>st</sup> century changes to The Cottage's fabric and typology, the tall trees on the appeal site provide an attractive backdrop when approaching from the west. However, although the appeal site makes a visual contribution to The Cottage's rural setting, which

contributes to the character and appearance of the CA, I am satisfied that the site makes a limited contribution only to the setting of this listed building.

11. The significance of The Cottage is derived from its spatial relationship with the underlying building pattern as this reflects the settlement's evolution. There is also some historic value to be derived from the remnants of the former carriage drive.

*Woodland Order*

12. The appeal site, together with the plots on each side, is part of a woodland Tree Preservation Order (TPO) which nests within the CA. The purpose of a woodland order is to safeguard woodland as a whole. Planning Practice Guidance (PPG) states that whilst some trees may lack individual merit, all trees within the woodland merit protection. A woodland order also includes any trees that regenerate naturally or are planted and as such promotes regeneration and sustainability.
13. The Council's concerns appear to be not only the direct removal of vegetation to accommodate construction, but that pressure may be brought to bear in the future to remove or severely prune more trees in order to ameliorate living conditions for future occupiers. BS5837:2012<sup>1</sup> notes that development should achieve a harmonious relationship between trees and structures, that can be sustained in the long term. Where the relationship between trees and a development is not adequately considered, this can lead to harm to root systems, the decline of previously healthy trees, trees needing pruning to accommodate the building and construction, and pressure to remove or severely prune specimens to allow light and daylight into rooms and across amenity areas. Based on my experience, I see no reason to disagree with these presumptions.

*Proposals and effects*

14. The development would comprise a large dormer style bungalow and detached garage. These would be located on rising ground beyond the stream that crosses the site near the road boundary. The development requires the creation of a road access in the existing roadside hedgerow and the vehicular access would traverse an area of overlapping Root Protection Zones (RPZs) associated with trees in the northern half of the site. There would also need to be a vehicular bridge over the stream.
15. The building's principal elevation and overall typology would sit comfortably within the prevailing building pattern. However, the creation of a new entrance and associated visibility splays would remove a long section of existing roadside hedgerow which currently contributes to the overt rural and informal setting.
16. The construction of the dwelling and garage would require the felling of a large multi-stemmed sycamore as well as two birch trees, and an area of mixed shrubs, described as mixed box and cotoneaster in the tree survey but which also appears to contain saplings too small to be picked up in the tree survey. The sycamore to be removed has an expected life expectancy of 40+ years. It may be partially obscured in views from the road, but nonetheless it is a dominant tree within the site. I also noticed that group G1, and other trees

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<sup>1</sup> Trees in relation to design, demolition and construction - Recommendations

along the eastern boundary beside the stream appear to have some low growing branches. Ground clearances are not given in the tree survey, but it appeared to me that lower branches would need to be removed in order to provide access.

17. The tree report sets out a very comprehensive plan for mitigating damage which includes the use of cellular construction and piling. Nonetheless, the extent of the area available for construction, which will include significant excavations to the rear of the dwelling, along with storage, appears very tight and impractical and is not entirely convincing. Moreover, even if the constraints of available layout could be adhered to, my concern with regard to pruning of canopies to provide clearance for large vehicles and construction activity remains.
18. As such, whilst I acknowledge that the removal of trees or pruning to accommodate the development would be a small proportion of the total trees within the site, I am unable to conclude that there would not be damage to the retained trees for the reasons set out above.
19. It is also likely that there would be more intensive maintenance across a proportion of the site which would preclude the establishment of new areas of woodland or the establishment of natural seedlings. My reasoning in this regard is reinforced by the habitat management proposals set out in the Biodiversity Net Gain (BNG) report.
20. Moreover, my experience is that many people occupy dwellings in proximity to protected trees without being fully aware of the implications. I appreciate that there may be potential occupiers who wish to live in shady conditions and my previous experience of people who are intolerant of the proximity of trees or shade may be unrepresentative. Nonetheless, the additional maintenance associated with leaf litter, debris and moss growth and having inadequate light in the dwelling or amenity areas is not always welcomed or accepted. Moreover, the movement of trees in stormy weather, particularly when they may not be in prime condition, or have been exposed to more wind stress as a consequence of other trees being removed, may lead to anxiety regarding their stability and additional pressure to fell. Over time those concerns can outweigh the perceived advantages of a wooded setting.
21. In this case, the dwelling's principal elevation would be a few metres from the canopies of Sycamore (12) and Hornbeam (G11), located to the north-west. Both of these trees are shown on the tree survey to be considerably higher than the proposed dwelling's ridge height which could be perceived as overbearing, particularly in stormy weather. The principal elevation would also face slightly to the west of north which would limit light entry even in the absence of nearby trees. The presence of these trees would exacerbate light loss within the dwelling.
22. To the dwelling's rear, the ground rises towards the plot boundary and the overshadowing effect of a very large sycamore (G18), up to 20 metres tall, on this boundary would be aggravated by its elevated position. Moreover, sycamores have dense foliage and this tree alone would be likely to cast extensive afternoon shade over the sunken rear terrace and the dwelling's southern projection at least for part of the year.

23. As such, notwithstanding there would be few trees requiring immediate removal, I am unable to conclude that either in the long or the short term there would not be further works. Even if trees were just pruned, this could have an adverse effect on future health and longevity as a consequence of pathogen entry from pruning wounds and also increase exposure to wind throw for individual specimens, particularly given the condition of individual specimens. Moreover, at least some of the site would be likely to be domesticated to a greater intensity than is now the case and this would be likely to preclude natural regeneration. This would conflict with the purposes of the woodland order. The development would also fail to accord with the guidance set out in the Landscape Character Assessment SPD (LCA SPD), which states for the Hornead Wooded Plateau designation that conflicts with competing uses and activities in woodland areas should be avoided or resolved.
24. The tree report sets out that the development would be obscured from the road by the retained trees. Notwithstanding that the trees within the site appear to be predominantly deciduous, the TPO covers the entire site. In any case, at my visit it was apparent that the tree cover allows glimpsed views across the site's full depth. Moreover, the photograph that illustrates that the site would be screened from the road appears to have been taken from the within The Cottage's plot and looks towards the east, across the site, rather than southwards into the site from the road frontage, as suggested. Moreover, it is the trees in the site's northern half and along its western boundary that are identified as important in the CA Appraisal and that are most likely to be affected by pruning to facilitate access and potential conflict with construction and living conditions.
25. I appreciate that the development would include a further tree planting along the road boundary to compensate for the proposed losses, but it is the spread of trees across the site that gives the CA its sylvan character.
26. I do not dispute that the mosaic of managed and informal vegetation, along with some fruit trees and ornamental shrubs gives the site a garden appearance in some areas and it does not present as a typical woodland. Nonetheless it appears that this was the case when the TPO was made and in any case, the observations in this regard does not alter its protected status or its contribution to the CA.
27. It is also the case that the plots of The Cottage and Bridge House have a very distinct garden appearance but this does not warrant the loss of trees or regeneration potential in an area that is currently less used or developed.
28. The appeal statement sets out that there was no objection from the Council's Conservation Officer (CO). However, the CO's final comments state that *the information provided has not addressed the C&UD concerns and therefore the previously issued comments are still relevant.*
29. It seems highly likely that the development would result in the direct and future indirect loss and degradation of tree cover within the plot, which are identified as important contributors to the character and appearance of the CA. It also seems likely that opportunities for natural woodland regeneration would be reduced. This would diminish the significance of the CA, amounting to less than substantial harm.

Listed building

30. The development would relocate the eastern gate to the Cottage's carriage drive within the visibility splay. The former relationship between The Cottage and the road is not particularly apparent as the full length of the former carriage drive does not appear to be in active use. I conclude that the development would have a neutral effect on the setting of The Cottage.

Mitigation

31. The appeal statement sets out that the development would result in a significant gain in hedgerow units. However, this appears to be based on the presumption that the roadside hedgerow would be enhanced rather than removed and replanted behind the visibility splay. The metric shows only 4 linear metres of hedgerow to be lost which appears incorrect. As such the BNG figures may not accurately reflect the proposed situation.
32. The argument is advanced that the roadside hedge is largely sycamore which has lesser value than the proposed native hedge. However, the ecology report notes that the roadside hedge contains hawthorn, sycamore, elder and ivy, and the BNG report describes it as a native hedge. Whilst I appreciate that sycamore is likely to have been introduced in the 16<sup>th</sup> century, and is not strictly a native species, this does not negate the contribution the sycamore component makes to local diversity or visual contribution to the CA.
33. As such, I am unable to conclude that the development would enhance biodiversity to the extent suggested as a consequence of my concerns in relation to the BNG calculation as well as the likely future loss of trees, and adverse impacts on their future health. Moreover, the intensification of disturbance and activity in a previously lesser used site would be likely to have an adverse impact on the local wildlife populations. I am unable to conclude that this would be outweighed by the addition of trees along the road boundary. In any case, the visual contribution to the CA is made by trees across the site.

Heritage Balance

34. Where there is less than substantial harm to the significance of a heritage asset, Paragraph 208 of the National Planning Policy Framework (the Framework) requires that that harm is weighed against the public benefits of the proposal, including securing where appropriate, its optimum viable use. Paragraph 205 of the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
35. The building of a family home would have a small public benefit, which weighs in favour of the appeal. However, this would not outweigh the harm arising to the CA as a consequence of the likely loss of tree cover and reduction of key characteristics contributing to the significance of the CA. Moreover, the map regression shows that the appeal site has been undeveloped and seemingly part of Hormead Cottage's extended plot for at least part of its history. I see no reason why its undeveloped state should not be its optimum viable use.
36. I conclude that the development would fail to preserve or enhance the character or appearance of the CA, particularly with regard to protected woodland. This would be contrary to S72 of the Planning (Listed Buildings and

Conservation Areas Act) 1990 (the Act). It would also be contrary to Policy DES2 of the Local Plan which requires development to demonstrate that it conserves, enhances or strengthens the character and distinctive features of the district's landscape, having regard to the LCA SPD where relevant. It would also conflict with LP Policies HA1 and HA4 which taken together require the preservation and enhancement of heritage assets, character and appearance, including having regard to local conservation area appraisals.

37. In relation to biodiversity, I am unable to conclude that the development would enhance biodiversity, or safeguard trees, as required by LP Policy NE3 for the reasons set out above.

#### *Other Matters*

38. The appeal statement has indicated that the dwelling would be self-build. However, there is no mechanism before me to ensure that the development would fall within the requirements for self-build housing and consequently this carries very little weight in my reasoning. The argument is also advanced that there is a local need for family housing, but there is no supporting evidence.
39. There is no requirement for the Council's landscape officer to consider the heritage impact of the development. Statutory consultees present their findings to the officer who balances those responses in the overall recommendation.
40. I acknowledge that there would be fewer trees removed than proposed in previous applications, but I have determined the appeal before me. In any case, as set out above, woodland orders are not concerned solely with the protection and retention of existing trees but the protection of the woodland cycle for long term sustainability.
41. PPG sets out that it would be inappropriate for a woodland order to be made on a garden. Nonetheless the order is made and as such the woodland is protected. I note that I do not have a copy of the confirmation before me but given the site's long planning history, which has revolved around the TPO at least in part, it seems to me that if the TPO had not been confirmed this would have been revealed before now. In any case, even if the woodland was not protected by the TPO, my reasoning with regard to the CA, and the great weight required to be attached to the conservation of heritage assets would lead me to the same conclusion.
42. Interested parties have raised other concerns, including the unauthorised removal of trees and highway safety. However, as I have found harm in relation to the main issues it is not necessary for me to consider these issues further.

#### **Planning Balance and Conclusion**

43. The Council does not have a five year housing land supply. Paragraph 11d) of the Framework sets out that where the policies which are the most important for determining the application are out-of-date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or the application of policies in the Framework provides a clear reason for refusal, particularly in relation to designated heritage assets.
44. In this case, the policies that are most important for determining the application, are LP Policy DES2 which is concerned with good design and local



distinctiveness, and LP Policies HA1 and HA4 which are concerned with heritage assets. There is nothing before me to indicate that these policies are inconsistent with the Framework and therefore in accordance with Paragraph 225 of the Framework, I conclude that they are not out-of-date and that they carry full weight.

45. Moreover, even if I gave these policies lesser or no weight, the guidance in the Framework gives clear reason for refusal with regard to designated heritage assets.
46. Although the development would contribute one dwelling to local housing supply, I have concluded that this is insufficient to outweigh the harm to the CA. The development would therefore be contrary to the Act, the local development plan and the Framework and there are no material considerations of such weight to lead me to conclude otherwise. The appeal is dismissed.

*A Edgington*

INSPECTOR





## Appeal Decision

Site visit made on 4 January 2024 by T Bennett BA(Hons) MSc MRTPI

**Decision by Martin Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 15 April 2024**

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**Appeal Ref: APP/J1915/D/23/3325134**

**96 Thornbera Road, Bishops Stortford, Hertfordshire CM23 3NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Baris Ozaydin against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/0924/ASDPN, dated 10 May 2023, was refused by notice dated 29 June 2023.
  - The development proposed is creation of additional storey to increase the height of the dwelling from 7.4 metres to 10 metres.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

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

### Preliminary Matters

3. Under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse by the construction of additional storeys, subject to limitations and conditions set out in paragraphs AA.1 and AA.2. An application for a determination for prior approval in respect of development permitted under Part 1, Class AA must also be made by the developer.
4. In setting out the conditions, paragraph AA.2 (3)(a) requires before development that the developer applies to the local planning authority for prior approval as to (i) the impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light, and (ii) the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principal elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.
5. Paragraph AA.3 (3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions specified in paragraphs AA.1 and AA.2.

## **Main Issue**

6. The main issues are whether the proposal would be permitted under the requirements of Schedule 2, Part 1, Class AA of the GPDO, and whether prior approval should be given, having particular regard to the resulting external appearance of the dwellinghouse.

## **Reasons for the Recommendation**

*Whether the proposal would be permitted under the GPDO*

7. Under paragraph class AA.3(2)(a) it states that an application must be accompanied by a written description of the proposed development including details of any works proposed.
8. The application form and description details that the proposed roof height will be 10 metres. However, the existing and proposed side elevations of the submitted drawing 010/01 indicate a roof height that is higher, by approximately 0.4 metres than that which is detailed on the front and rear elevations. Due to this conflicting information, it is not clear what the proposed dimensions would be. However, in this case, the discrepancies do not prevent an assessment to be made as to whether the proposed development complies with the criteria set out in Schedule 2, Part 1, Class AA.
9. Paragraph class AA.3(3) applies where an application to the local planning authority of prior approval is required by paragraph AA.2(3)(a). It confirms that a local planning authority may refuse an application for prior approval where, in its opinion, the proposal does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in paragraphs AA.1 and AA.2.
10. Paragraph class AA.1(g)(ii) states that in the case of a terraced house, the height of the highest part of its roof should not exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row within which it is sited. Although the application form states that the proposal would comply, the submitted drawing is a screenshot and not a scaled drawing. Furthermore, it only shows the adjoining property and not the rest of the properties within the terrace. It therefore fails to satisfactorily demonstrate that the proposal would meet these requirements.
11. Paragraph class AA.1(h) states that the internally measured floor to ceiling height of any additional storey should not exceed the lower of: (i) 3 metres, or, (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse. Although the application form again states that the proposal would comply, the submitted drawings do not include a section drawing or other measurements to demonstrate compliance with this limitation. The submission therefore fails to satisfactorily demonstrate that the proposal would meet these requirements.
12. For the above reasons, the prior approval application should be refused due to failure to satisfy paragraphs AA.1(g)(ii) and AA.1(h) of the GPDO.

*Whether prior approval should be given*

13. I have had regard to the appellant's submissions in respect of the matters relating to the prior approval. However, since the proposal would not be permitted development, it is not necessary to consider any further the effect on the impact on the amenity of any adjoining premises or the external appearance of the dwellinghouse.

**Other Matters**

14. The Council previously granted prior approval for an additional storey on the appeal property which has now expired. The appellant contends that the same plans were submitted for the previous prior approval. However, I do not have the full details of that application and in any case, it is imperative that the appeal is based on the documentation I have before me, which I have found to contain insufficient information.

15. I have also had regard to the submissions regarding the provision of additional space for the appellant and his family, and the construction management information detailed in the grounds of appeal. However, given that the proposal is not permitted development, these submissions do not have any bearing on this determination.

**Conclusion and Recommendation**

16. For the reasons given above, the appeal should be dismissed.

*T Bennett*

APPEAL PLANNING OFFICER

**Inspector's Decision**

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

*Martin Seaton*

INSPECTOR