



Appeal Decision

Hearing held on 9 July 2024

Site visit made on 9 July 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: **APP/J1915/W/23/3326168**

Barn 2, Gregory's Farm, Mill Lane, Whempstead SG12 0PH

- 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 and Mrs M Stanley against the decision of East Hertfordshire District Council.
 - The application Ref is 3/21/1451/FUL.
 - The development proposed is use of existing building as a single residential dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted under appeal¹ for the change of use of the appeal property to a holiday letting unit in 2017. The main parties agreed at the hearing that this permission has been implemented due to alteration works that have taken place, although the appellants state that the building has yet to be actively utilised as holiday accommodation.
3. At the hearing the Council confirmed that a five year housing land supply could be demonstrated, and provided a Five Year Land Supply Position Statement (March 2024) and Addendum (April 2024) which demonstrates a housing land supply of 5.95 years. No substantive evidence has been put before me to conclude to the contrary.

Background and Main Issues

4. The Council confirmed at the hearing that when determining the planning application, it did not assess the proposal in the terms of a rural workers dwelling as this was not outlined within the description of development provided within the planning application form. Notwithstanding, the accompanying planning statement outlines a need for the appellant to be on site in connection with an agricultural enterprise, and this is further expanded within the appellant's appeal statement.
5. Despite not being a stated reason for refusal, the Council has confirmed within a Statement of Common Ground and again at the hearing, that it disputes, along with the other reasons for refusal, whether there is an essential need for

¹ APP/J1915/W/17/3170539

a rural worker to live on site in connection with the needs of the agricultural enterprise.

6. Accordingly, the main issues are:

- Whether the proposal would provide a suitable location for housing, having particular regard to the accessibility of services and facilities; and if not,
- Whether there is an essential need for a rural worker to live permanently at the appeal site; and
- The effect of the proposal on rural employment.

Reasons

location

7. The appeal building is located within a small group of former agricultural buildings that were previously part of the farmstead of Gregory's farm. The site is accessed via a long private track off Mill Lane, which is part of a network of country lanes.
8. Watton-at-Stone, which contains a number of services and facilities, is around a 2-mile journey via Mill Lane and the A602. At my site visit I also observed the smaller settlements of Dane End and Benington are also located within around a 2-to-3-mile journey from the appeal site. There is also a network of public footpaths and bridleway links near the appeal site, with public footpath 05/038/037/06a providing a footpath to Watton-at-Stone.
9. The appellant's 30-minute isochrome diagram indicates that Watton-at-Stone could be accessible on foot within a 30-minute walking distance. However, I observed at the site visit that the public footpath route traverses undulating unmade surfaces on agricultural land which makes the route challenging in places, as well as increasing the travel time for pedestrians. Additionally, the route lacks lighting which would discourage use by pedestrians during hours of darkness.
10. Moreover, although the appellants referred to two crossing points on the A602 at the hearing, the A602 is busy and fast moving and lacks formal crossing facilities along the route of the public footpath. Moreover, even if Watton-at-Stone is within a 15-minute, and Stevenage a 30-minute bicycle ride from the appeal site, the surrounding network of country lanes are narrow, twisty, undulating, and lack pedestrian refuge in places, or street lighting.
11. Given the character of the surrounding road and footpath network, I find they would not provide a convenient route to services and facilities that would encourage travel by foot or bicycle for day-to-day needs, especially in darkness or inclement weather.
12. Although the nearest bus stop at Whempstead or the virtual bus stop associated with the on-demand bus service 'HertsLynx' is within closer walking distance, part of the route to these bus stops would also be via the narrow country lanes. Given the previously described character of the highway network, the route that future occupiers would need to take to bus stops is also likely to discourage the use of public transport.

13. Therefore, while I acknowledge that the appellants stated at the hearing they would use pedestrian or public transport links, I find that future occupants of the proposal, which may not be the appellants, would be likely to travel to other settlements by private vehicle to meet their general day-to-day needs.
14. Moreover, even if provision for Electric Vehicle (EV) charging points were secured by planning condition, a condition could not go as far as to require any future occupiers to solely utilise EV's. Therefore, such a provision would not adequately mitigate the use of private vehicles.
15. Consequently, I conclude the proposal would not provide a suitable location for housing, having regard to the accessibility of services and facilities. The proposal would conflict with policies INT1, DPS2 and TRA1 of the East Herts District Plan 2018 (LP). These policies, amongst other things, outline the Councils approach to sustainable development and seeks to ensure development is directed through a hierarchy towards locations with access to services and facilities and promote sustainable transport to aid carbon emission reduction. The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) in relation to promoting sustainable transport.

Essential need

16. Paragraph 84 of the Framework seeks to avoid isolated homes in the countryside unless one or more circumstances apply, including where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Planning Practice Guidance (PPG) outlines how the need of isolated homes in the countryside for essential rural workers can be assessed including evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural enterprise; and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.
17. Similarly, LP Policy HOU5 only permits permanent dwellings for rural businesses where it is demonstrated that the dwelling is essential to the needs of the business, the enterprise has been established for at least three years and should remain financially viable, and there is no accommodation within the site or in the locality which is currently suitable and available.
18. The appellant has argued that the appeal site is not within an 'isolated' location as referenced within the Framework. The Framework or development plan does not define 'isolated'. Nevertheless, the word 'isolated' in the phrase 'isolated homes in the Countryside' simply connotes a dwelling that is physically separate or remote from a settlement. In this case, having regard to the proximity of the site to the nearest settlements, and notwithstanding the surrounding former farmstead buildings, I find that the site is isolated in the context of paragraph 84 of the Framework.
19. The appellants have operated their agricultural enterprise since 2018 which includes a flock of sheep, and as I heard at the hearing, haymaking activities. Although the written evidence indicated that the flock consists of 'over 500 sheep', at the time of the hearing the appellants stated that they currently had around 996 sheep, including around 400 breeding ewes. As well as this enterprise, Mr Stanley also undertakes agricultural contracting work, which I

- was informed equated to approximately 6-8 hours a day a 'few' days a week particularly over summertime.
20. Although the written evidence states that the appellants need to be on site at least 2 or 3 times a day, I heard at the hearing this to be actually 3 to 4 times a day. This is in order to provide feed supplements, vaccinations, check on the flocks welfare and security including sheep turn over and dealing with other medical issues such as mastitis and fly strike.
 21. Although some examples of medical issues were provided at the hearing, no detailed information is before me in relation to the numbers of stock that have required treatment immediately or during the night. Consequently, it is not possible to establish the number of animals that would have suffered or died if they had not been monitored overnight. Therefore, I see no reason why periodic visits to the site for welfare matters could not be undertaken without living at the site.
 22. Notwithstanding, I heard that the appellants need to be on site for continuous 24-hour periods during lambing. Although the written evidence states that lambing months are January through to April, at the hearing the appellants stated that the process starts in September, taking into account the gestation period, with future plans to extend lambing.
 23. There is clearly a seasonal need for an agricultural worker to be permanently present on site to cover the main lambing period. I acknowledge that temporary accommodation in the form of a caravan that has been used may not be fit for purpose due to its condition and prevents the appellant's family staying during lambing periods. Nevertheless, this caravan could be replaced with one providing better living conditions. The submitted evidence does not clearly show that a good quality caravan would not be conducive to meet the temporary needs of lambing.
 24. The benefits of improved security has also been put to me as a justification for the proposal. I heard from the appellants at the hearing of the general potential risk to farms from equipment theft. Furthermore, whilst the appellants confirmed that they have had no instances of theft, I heard at the hearing from Jane Dodson, an interested party, that break-ins have occurred in the locality.
 25. Nevertheless, there are existing neighbouring dwellings which, although in independent occupation and could not be relied upon for help, nonetheless would have a perceptible presence similar to the appeal building to deter potential intruders.
 26. The farm machinery is stored in and around the agricultural buildings, and given the long access track, is out of general view of the highway, although I accept would be visible from users of the surrounding footpaths and bridleways. Nevertheless, no substantive evidence has been provided as to why CCTV, alarms and other measures would not provide further suitable deterrents.
 27. The appellants live around 4 miles away and I heard takes 15-20 minutes to reach the site. I acknowledge that the enterprise results in often long working hours for the appellant, and the impact that this can have on family life. However, both the written evidence or that provided orally at the hearing does

not clearly demonstrate why such a travel time would be unreasonable in any likely emergency, result in risk to livestock welfare or result in significantly harmful effects on the agricultural enterprise.

28. Financial information has been provided including three years accounts. I was informed by the appellants at the hearing that the gross profit is formed from approximately a 50/50 split between the livestock, and haymaking. Although not detailed within the accounts, the appellants confirmed that labour costs formed part of 'other direct costs', and although the net profit is split between three partners of the enterprise, the accounts indicate that the business is capable of making a profit, which has increased yearly. At the hearing the Council confirmed that on the basis of the accounts it considers that the enterprise is financially viable, and I see no reason to disagree.
29. The appellants stated at the hearing that they have an intention to extend the lambing period 52 weeks a year and invest in poultry and undertake a butchery course. However, there is little substantive evidence of the ability to develop the proposed enterprise given seasonal use of the land for haymaking and Mr Stanley's contracting work away from the enterprise.
30. No comprehensive business plan for each year of operation, including detailed profit and investment forecasts with supporting land use commentary has been provided to enable me to conclude that 52 week a year lambing is achievable given the acreage of land available and other activities undertaken by the appellants.
31. Moreover, I was informed at the hearing that all the agricultural land associated with the enterprise, including the lambing sheds are rented. Whilst I am informed that there are contracts in place securing the rented land and buildings, and this has been ongoing for many years, these have not been provided to me and there is no guarantee that tenancies would continue. I am therefore unable to establish the likelihood of the land and buildings being within the appellant's control into the future.
32. If the land and building were lost, the enterprise would have no grazing capacity and stocking levels would not be maintained. Such a scenario would clearly significantly impact on any operational need for a full-time worker and resultant long-term enterprise viability. Therefore, given the available evidence before me, the future prospects and viability of the enterprise are uncertain.
33. In terms of the availability of alternative accommodation, the appeal building is well related to the agricultural land currently used by the enterprise. Whilst no evidence has been provided in relation to the availability of other suitable accommodation in the locality, If I were to find a necessity for a rural worker to live at the enterprise, I see no reason why the appeal building would not be appropriate.
34. However, to conclude on this main issue, an essential need for a rural worker to live permanently at the appeal site has not been demonstrated. The proposal would therefore be contrary to LP Policy HOU5. The proposal would also conflict with the provisions of the Framework which seek to avoid isolated homes in the countryside.

Rural employment

35. LP Policy ED2 seeks to support sustainable economic growth in rural areas and to prevent the loss of vital sources of rural employment. The policy supports proposals that consist of a change of use of employment generating uses in the rural area to other employment generating uses, subject to other policies within the LP. However, where a proposal results in the loss of employment in a rural area, the policy requires, amongst other things, evidence to demonstrate that the current employment use is no longer needed or viable.
36. No substantive evidence has been provided to demonstrate that a holiday let in this location is not viable and whilst not currently in use, the appeal property would generate some employment if fully utilised by way of tasks such as cleaning. The appellant estimates this to be around 3 hours per week. Notwithstanding, this would be partially dependent on occupiers' length of stay and the amount of turnovers in a week.
37. Moreover, further employment could also be created through such tasks as property and grounds maintenance, as well as occupiers supporting the local economy and resultant employment in areas such as hospitality and tourism.
38. Nevertheless, at the hearing the Council agreed that a rural worker was a form of employment that supports the rural economy, and this would be an appropriate alternative employment supporting use of the appeal property which would also benefit the rural economy.
39. However, I have found in the previous main issue that an essential need for a rural worker to live at the site has not been demonstrated. Consequently, with no other substantive evidence before me to demonstrate a holiday let is not viable, the loss of the holiday let, would inevitably result in a loss of rural employment.
40. To conclude, the employment associated with a holiday let, whilst modest, would still be of benefit to the local rural economy. Without a demonstrated essential need for a rural worker to live at the site, the proposal would have a harmful effect on rural employment. The proposal would therefore conflict with LP Policy ED2.

Other Matters

41. LP Policy GBR2 relates to the rural area beyond the Green Belt and is permissive of certain types of development, provided they are compatible with the character and appearance of the rural area. Section (d) relates to the replacement, extension or alteration of a building.
42. the appellant argues that alterations of existing buildings to facilitate a change of use would constitute an alteration for the purposes of this policy and has referred me to other examples of decisions made by the Council in this respect. However, it is common ground between the parties that the proposal does not require any internal or external alterations and I have reached the same finding.
43. Moreover, even if a change of use would occur and this constitutes 'alterations' as envisaged within the policy, I have nevertheless found conflict with other policies within the development plan which I give significant weight given their direct relevance to the proposal.

44. The Grade II listed Gregory's Farmhouse lies to the north of the appeal site. From my observations, the significance of this heritage asset arises from its age and architectural features. The setting of this heritage asset is the immediate surrounding area of the building in which it is experienced and contributes to its significance.
45. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the separation distance, and intervening built form and boundaries, I find that the proposal would have a neutral effect on, and thereby preserve, the heritage asset.
46. The proposal would support rural business and rural employment in accordance with the general aims of the Framework. It would also provide social benefits by contributing to the housing needs of the district and supporting the local community by future occupiers' involvement in the community. I also heard from the appellants at the hearing of the importance of attracting young people into farming, and the role the enterprise can play in providing work experience.
47. Nonetheless, any benefits would be modest given the scope and scale of the proposal. Moreover, the holiday use of the building would in any case also provide some benefits, particularly to the local economy and services and facilities by their use by future holiday occupiers.
48. An active use of the building is likely to improve its general appearance and I acknowledge paragraph 84 of the Framework supports isolated homes in the countryside if the development would re-use redundant or disused buildings and enhance its immediate setting. However, given the lack of alterations proposed, general maintenance and its operation as a holiday let would also have a similar outcome and I therefore afford this minimal weight.
49. The appellants have strong links with, and are well integrated in the local community, and I note the letters of support for the proposal. However, if the appeal were to be successful, the proposal could nevertheless be occupied by other rural workers which met any occupation condition that may be imposed, and the appellants community links do not override the identified conflict with the development plan.

Conclusion

50. The proposal would conflict with the development plan, read as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

S Harrington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alison Young	Planning Consultant
Alison Stanley	Appellant
Matt Stanley	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jade Clifton-Brown	Deputy Team Leader
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INTERESTED PARTIES:

Chris Childs	Local resident
Jane Dodson	Local resident

DOCUMENTS SUBMITTED AT THE HEARING:

East Herts Five Year Land Supply Position Statement (March 2024);
East Herts Five Year Land Supply Position Statement Addendum (April 2024);
Official List Entry – Gregory’s Farmhouse.



Appeal Decision

Hearing (Virtual) held on 25 June 2024

Site visit made on 27 June 2024

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/J1915/W/23/3330386

The White Horse, Ware Road, Wareside SG12 7QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) as amended against a refusal to grant planning permission.
 - The appeal is made by Sotira Pilikos against the decision of East Hertfordshire District Council.
 - The application Ref: 3/22/0714/FUL, dated 13 April 2022, was refused by notice dated 16 May 2023.
 - The development proposed is described as change of use from public house (with ancillary accommodation) to single residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Listed building consent was granted on 16 May 2023¹ for internal alterations to strip out toilet facilities and the public bar at the appeal building. These works had not been undertaken by the time of my site visit.
3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990). Also, a variety of views about heritage matters were submitted to the appeal. These included objections to the proposed change of use from the Council's Conservation and Urban Design Team², and a local resident on heritage grounds. In the light of these considerations, notwithstanding that heritage factors were not among the Council's reasons for refusal of the change of use application, it is relevant to assess heritage matters, as per the second main issue below. This main issue was discussed at the hearing.

Main Issues

4. The main issues in this case are:
 - Whether the proposal would result in an unacceptable loss of a community facility;
 - Whether the proposal would a) preserve the Grade II listed building, the White Horse Public House, or any features of special architectural or

¹ Application Ref: 3/22/0715/LBC.

² In their consultation responses dated 28 April 2022 and 5 May 2022.

historic interest that it possesses, and b) preserve or enhance the character or appearance of the Wareside Conservation Area (CA); and

- Whether the proposal would make suitable provision for sustainable transport, vehicle parking, and safe and suitable highway access.

Reasons

Community facility

Need

5. The appeal site comprises the White Horse public house building, several outbuildings, its carpark, and yard and garden areas. It is situated within Wareside parish, which has population of almost 800 people. The White Horse is a Grade II listed building dating from the late seventeenth century. It is situated in the Wareside village CA. One of two public houses in the village, the White Horse has been closed since Spring 2022.
6. Supporting text paragraphs 19.8.4 and 19.8.8 of the East Herts District Plan October 2018 (DP) together set out that public houses play an important role in rural communities, providing a social venue, local employment opportunities and adding to the vitality of a village, and that their loss can substantially impact on the local community.
7. Policy CLFR8 of the DP sets out criteria for assessing proposed loss of community facilities. Within Policy CLFR8, focus falls in this case on criterion (a), namely whether an assessment clearly shows that the public house is no longer needed as a community facility in its current form. DP supporting text paragraph 19.8.3 explains the requirement for proposals for change of use of community facilities to evidence that the facility is no longer viable, and investigation of options to maintain the service to the community.
8. Judging by the appellant's account of running the pub from 2016 to 2022, estate agents' listings of the property in recent years, various local residents' comments, the reported experience of the previous landlord of this pub prior to the appellant's ownership of it, and what I saw on my site visit, the following are aspects of the White Horse as a venue. Its location next to the B1004, at the southern entrance to the village of Wareside, is a short drive from the town of Ware, and Widford and Hunsdon villages. It has on-site car parking for up to around 23 cars. And there is a bus stop next to the pub that provides some further connectivity for customers from Ware and Babbs Green.
9. Also, within this historic Grade II listed timber-framed village pub building are characterful bar areas. It has a kitchen in which a variety of meals, including traditional pub 'classics' and more recently various Greek dishes, have been prepared over the years. Its substantial pub garden space includes facilities for children's play, and opportunities to appreciate the attractive views of the historic pub's exterior, and its village and countryside setting.
10. With these facilities, the White Horse, has at various times over the last couple of decades and before, provided a venue for people of various ages in the local community to drink, eat meals and socialise. Also, it has reportedly been a venue for a range of family parties, and events associated with baby showers, christenings, weddings and funerals. And with its substantial garden space, the

- pub has previously provided a venue for outdoor family and musical events, and firework displays.
11. Also, within recent decades, the White Horse has apparently hosted local events and group meetings including for a food club, quiz team, drama group, pool and petanque teams, golf society and church and has sponsored local sports teams. Also, it has apparently catered for groups of walkers using the network of walking routes in the locality, cyclists, local estates' shoot breakfasts and dinners, and local business events and parties. Furthermore, the White Horse has provided employment, including for some local people, and helped support other local businesses in its supply chain, including food producers and suppliers.
 12. In these ways, the White Horse at Wareside has, at various times over the last couple of decades and before, helped meet a range of social, leisure, cultural and economic needs for communities in Wareside village and parish. Also, it has catered for people visiting the locality from the surrounding area including Ware, for rural recreational purposes.
 13. This is within the context of a mix of community facilities in Wareside village that also includes another pub the Chequers Inn, Wareside Village Hall and Holy Trinity Church. The White Horse differs as a venue from these other facilities in several ways. It has its own distinctive character, with its individual listed building architecture. Also, it has a large, lawned pub garden, with attractive rural views beyond, and associated scope for events and family play and interaction, and volume of outdoor custom on milder days. This space differs in amount and character to the smaller amount of paved roadside space with picnic benches in front of the Chequers. This distinctiveness is reflected in several residents' emphasis of their past enjoyment of the family appeal of the White Horse's beer garden, with associated contribution to social cohesion within the local community.
 14. Also, the White Horse differs from these other facilities in the village in the prominence of its 'gateway' location at the southern entrance to the village, with its carpark which is visible from and adjacent to the B1004. And unlike the Village Hall and Church, the White Horse provides pub architecture, atmosphere and, when it was open, pub experience and opening hours. As such, in its use as a pub, the White Horse has contributed to the overall mix and vitality of the village's community facilities, and brought its own distinctive attributes as a venue to that mix.
 15. Also, the appeal property was designated as an Asset of Community Value (ACV) in 2022. Judging by the listing of the White Horse as an ACV, and the volume and passion of objections to the appeal proposal, seeking to preserve the property's use as a pub, the White Horse is still perceived as a valued community facility in Wareside and the local area.
 16. The level of local community patronage of the White Horse pub has apparently considerably reduced during its operation by the appellant between 2016 and 2022. As set out in my viability analysis later in this decision, friction between some members of the local community and the appellant appears to have been a factor in this reduction. However, this does not negate the identified substantial local event and social use of the pub in recent decades, or the volume of expressions of enthusiasm from local residents for the continuation of the venue to provide this in the future.

17. As such, the apparent deterioration in relations between some local residents and the most recent operator of the White Horse does not erase the longstanding needs of the local community that the pub has served, or the likelihood of those needs continuing to exist in the future. Also, for reasons set out in the below viability analysis, I see potential for future rejuvenation of the pub's trade, and patronage of it by the local community. Even with the local village school's recent closure, I expect that with a parish population of around almost 800 and, its proximity to population in Ware, a range of community needs would likely exist for the White Horse, as a pub to potentially meet in the future. That a community group has not come forward to put in an offer to buy the pub since its ACV designation does not negate these identified needs.
18. Furthermore, while Covid had some dampening economic effects in relatively recent times, including on the hospitality sector, it also amplified the need for outdoor leisure, and opportunities for interaction to tackle social isolation. These are among important community needs which, as a pub restaurant in an attractive village location with generous pub garden space, the use of the White Horse as a public house would help meet in future.
19. For the above combination of reasons, I find that the White Horse's use as a pub has made and would potentially make a valuable contribution to the community's ability to meet its day-to-day needs for social facilities, local employment, and recreational and cultural facilities and services, thus adding to the vitality of village and parish life. As such, there is a need for the White Horse pub in Wareside as a community facility. I therefore find that it is not clearly shown that the White Horse is no longer needed as a community facility in the form of a village public house. As such, the proposal does not satisfy criterion (a) of Policy CLFR8 of the DP.

Viability

20. The appellant's Financial Summary and Account indicates the White Horse running at an operating loss after a number of years of trading. Pressures during the appellant's time of operating the pub from 2016 until it closed in 2022 have included Covid. Also, during this most recent period of the pub's operation, there has apparently been a fall-off in local trade from the village, with a resident describing villagers as having 'voted with their feet' and used the other pub in the village, the nearby Chequers Inn, in more recent years.
21. From what I have seen and heard in this case, this reduction in village trade apparently arose from factors including some residents' unhappiness with the pub's food concept/offer, and personality clashes. Also, community opposition to rear extension proposals at the White Horse for a restaurant, enlarged kitchen and toilet facilities, and extended carpark has reportedly played a part. Thus, apparent friction between some members of the local community and the most recent pub operator has been a factor in more recent trading difficulties.
22. Several aspects of the period of Greene King's previous involvement with the White Horse have been commented on by several parties, regarding the financial performance of the pub in that period, and previous sale of the pub. However, as no detailed documentary evidence from Greene King is presented on these matters, I attach limited weight to these considerations.
23. The White Horse has been advertised for sale over several years recently, with submitted marketing brochures indicating use of at least three estate agency

platforms, including one that focuses on pubs. Also, another estate agent described their more recent marketing of the property, at the hearing. Judging by the evidence of various parties, there has been some variation in the property's asking price during the marketing period. As agreed in the Statement of Common Ground as having been confirmed, the property has been viewed by a number of prospective purchasers over several years. The majority of interest in the pub has, judging by the estate agents' accounts, reportedly been from people seeking residential use/development of the property.

24. That said, according to a more recently engaged estate agent, an offer to purchase the White Horse as a pub was made by a 'potential restaurateur', albeit funding issues apparently contributed to sale of the pub not being completed. Also, a number of people with knowledge of the village and pub have made written submissions in this appeal case, emphasising their interest in purchasing the White Horse to run it as a pub. The explanation they have given for why their interest has not resulted in them making offers for the pub relate to procedural matters around viewing, following up a viewing, and questioning of the asking price.
25. As such, while the marketing of the White Horse pub by the appellant's estate agents has not resulted in a sale thus far, there has nevertheless been a number of expressions of keen interest in purchasing the pub, from people with local area knowledge, who see the White Horse's potential to operate successfully as a pub in the future.
26. Also, the following factors further indicate the White Horse's potential to operate successfully as a pub in the future, and help meet identified community needs. The appellant's evidence and some local residents' comments together indicate that within the last couple of decades, the customer base for this village public house, serving food has included the following mix of people. This has included car-borne trade from outside the village, for example from the nearby town of Ware. It has also included local village residents including families, and various local teams, groups and business parties, albeit with an apparent reduction in local trade during the appellant's operation of the pub. Also, it has attracted cyclists, and visiting walkers.
27. Given the following attractions of this historic village pub, I anticipate that a mix of these types of customers would potentially be part of a future customer base for the pub. And, also that there is realistic potential to further increase the customer base of the public house.
28. The White Horse has its own traditional character and attractive location. With its historic timber framework, fireplaces and timber flooring, the pub's interior provides a number of cosy bar spaces for drinking, eating and socialising. Also, its attractive historic village pub exterior includes plastered walls, gable chimneys, old tile roof, and characterful arrangement of windows and pub sign, which contribute to its distinctive 'kerb appeal'.
29. Furthermore, the White Horse provides a country pub building with traditional charm, and a distinctively large and useable lawned garden space with attractive rural views at this gateway location in Wareside village and CA. This is a short journey time from Ware and other residential areas. This substantial pub garden adds to the potential for the community to come together to socialise, for example for events, family play and interaction in the future. Also,

the White Horse has its own off-road parking area for around 23 cars. These attributes are noticeable at the appeal property's prominent gateway location on the B1004 road from Ware, at the southern entrance to the heart of this charming village.

30. Thus, while there are a village hall, church and another pub in the village, and other pubs in other towns and villages within a five mile radius of the appeal property, the White Horse has a distinctive set of selling points that I expect would help it 'hold its own' commercially within this mix of venues in the area.
31. The property is a short walk or drive from the residences of the around almost 800 residents of Wareside parish. The village's mix of historic cottages and more modern family accommodation of varying sizes, including some semi-detached and larger detached properties indicates some diversity of local resident customer base from which to draw. Furthermore, the visitor economy potential of the public house is indicated by the following. With stretches of the Harcamlow and Hertfordshire Ways in the locality, the White Horse can be accessed by users of the area's network of attractive rural walking routes.
32. Also, judging by descriptions in various marketing brochures advertising the premises for sale, the White Horse has, among other things, space for around 60 covers, a high grade commercial catering kitchen and plenty of storage facilities. And is a desirable village pub-restaurant, set in around an acre of land in an affluent village location.
33. This combination of factors points to future scope for walkers, cyclists, weekend break visitors and other 'staycation' and tourist visitors in the area to use the pub. Furthermore, the expressions of passionate local community support in the village for retention of the public house use, including for various social and community activities and meetings, and the asset of community value listing further indicate likely future customer interest in the White Horse. Together, these factors indicate that as a public house the White Horse has been and has potential to in future be a valued community facility for socialising, recreation in the form of dining and drinking out, community meetings and events.
34. Thus, I am not persuaded that the White Horse's current closure and apparent trading difficulties at some times in the past reliably indicate a lack of future pub potential. Also, given the abovementioned attractions of this historic village pub, I expect the potential for future custom at the White Horse to be greater than the appellant's CAMRA Public House Viability Test analysis suggests.
35. I recognise that past proposals to enlarge restaurant, kitchen, toilet and carpark facilities at the White Horse have been investigated and refused planning permission. That said, this does not automatically preclude potential for exploring whether there might be scope for sympathetic evolution of this listed building, to help bring in additional custom, in the future. In any case, even in its existing form, the abovementioned combination of attractions of, and expressions of community enthusiasm for the White Horse as a pub, indicate the potential for the retention and reopening of the White Horse as a viable pub, to positively and distinctively contribute to the diversity and vibrancy of Wareside's hospitality offer. Therefore, I anticipate that future use of the White Horse as a public house would likely be economically viable.

Community facility conclusion

36. In conclusion, it is not clearly shown that the White Horse is no longer needed as a community facility in its form as a village public house. Furthermore, I anticipate that future use of the White Horse as a public house would likely be economically viable. Therefore, the proposed change of use would result in unacceptable loss of a community facility. As such, the proposal would fail to satisfy criterion (a) of Policy CLFR8 of the DP, and conflicts with this policy.

Heritage assets

37. The CA centres around the historic heart of Wareside, culminating in the convergence of the lane leading to Tatlingtown and the B1004 main road through the village, onto which the appeal premises face. A number of pretty, listed buildings are clustered in this historic heart, including the White Horse, which occupies a gateway location at the southern entrance to the CA. This cluster of listed buildings reflects the CA's evolution through the seventeenth to the nineteenth centuries.
38. The White Horse is one of two public house buildings in Wareside village. Dating from the late seventeenth century, the White Horse is a two-storey building with attics and cellar. It is a timber-framed building with internal and external gable chimneys, old tile gambrel roof, plastered walls, and characterful combination of sash, casement and dormer windows. Its charismatic historic architecture and location is emphasised by its prominence at the southern entrance to the CA, alongside the B1004 road from Ware. This listed building's longstanding presence here articulates the history of there being a village public house at this gateway location in the CA. Also, as a quintessential village community attribute, the White Horse's historic function as a public house contributes positively to Wareside's historic identity, and announces this at the southern entrance to the CA.
39. Consequently, the listed building embodies historical, communal, evidential and aesthetic values, which contribute to both the building's special interest and the significance of the CA.
40. Given the above, the CA's heritage significance, insofar as it relates to this appeal, lies in its illustration of the village's architectural evolution and historic community character through the seventeenth to nineteenth centuries, as manifested in its characterful mix of historic buildings, and community facilities. The special interest of the White Horse listed building, insofar as it relates to this appeal, is primarily associated with the legibility of its historic public house architecture, and its historic public house function and identity in this Hertfordshire village.
41. Under the appeal proposal, the historic fabric of the listing building would remain, and its pub sign could be retained by planning condition. Thus, its historic public house architecture would endure. However, the proposed change of use of the White Horse from public house (with ancillary accommodation) to single residential dwelling would end its historic role as a prominent gateway public house in the CA. With this change to a solely residential property, and likely associated increased domestic paraphernalia in its external areas, the White Horse would discordantly read as no longer an operational historic village pub facility. This would be noticeable to local residents and visitors. Judging by stated previous community enjoyment of, and desire for future pub use of the

- White Horse, this would result in a sense of erosion of historic village identity which would be keenly felt within the local community.
42. This erosion of legibility of historic public house function and identity at this prominent gateway location in the historic heart of the village would harm the special interest of the White Horse listed building, and so harm the character of the CA. Therefore, I find that the proposal would fail to preserve the special interest of the listed building and the significance of the CA. I give this harm considerable importance and weight in the planning balance of this appeal.
 43. Paragraph 205 of the National Planning Policy Framework (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. Given the scale and substance of the proposal, I find the harm to the listed building and CA to be less than substantial, but nonetheless of considerable importance and weight. Under such circumstances, Framework paragraph 208 advises that this harm should be weighed against public benefits of the proposal, including any contribution to securing optimal viable use of listed buildings.
 44. The proposal would likely stimulate a fresh source of finance and enthusiasm, arising from residential occupation of the whole building, to contribute to future upkeep of the historic fabric of the listed building. Also, it would contribute additional residential space within the existing building to the local supply of housing accommodation. Albeit this would be tempered by socio-economic detriment from loss of the pub use and community facility, and associated reduction in local employment opportunity and village vitality.
 45. As established earlier under the first main issue, future use of the White Horse as a public house would likely be an economically viable use of the property. I accept that the proposed change of use of the White Horse to solely residential would also likely be an economically viable use of the appeal property. However, given a) my finding of likely viability of future pub use in this case, and b) the identified harm to designated heritage assets that would result from the appeal proposal, I find as follows. The future use of the White Horse as a public house would be the one likely to cause the least harm to the significance of the designated heritage assets. As such, future use of the White Horse as a public house would be the optimum viable use of the listed building, and the proposed change of use would not. Thus, optimum viable use of the listed building is not a benefit that would be realised by the appeal proposal.
 46. Also, within this context, it is not conclusively shown that the proposed change of use would be the minimum necessary intervention to secure the fabric and special interest of the listed building in future.
 47. Given the single dwelling scale of the proposal, the benefit of the proposed development would be limited and not outweigh the less than substantial harm to the listed building, and the character of the CA. Accordingly, I attach limited weight to the benefits of the proposal, and find that its public benefits do not outweigh the great weight given to the conservation of designated heritage assets and the less than substantial harm to their significance identified.
 48. I therefore conclude that the proposal would fail to preserve the special interest of the Grade II listed building, and the character of the CA. This would conflict with Policies HA1, HA4 and HA7 of the DP, which together seek to ensure that

proposals conserve and where possible enhance the historic environment. Furthermore, this would fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act, and the Framework in respect of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.

Transport, parking and highway access

49. It is undisputed that the proposed single dwelling use would have policy compliant parking provision. Also, it would utilise the existing crossover and entry point onto the public highway that has previously been used by patrons of the pub. And, given the anticipated decrease in vehicle movements that would result from the change of use from public house (with ancillary accommodation) to single residential dwelling, traffic generated by the site would be reduced.
50. Furthermore, at the hearing the Council confirmed that following further consideration, and in the light of agreement between the parties that boundary treatment and highway verge provision could be suitably addressed by planning condition, the second reason for refusal regarding highways and transport has been resolved. For the above reasons, I agree on this point, and find that the proposal would not adversely impact on highway safety or the free flow of traffic.
51. Therefore, I conclude that the proposal would make suitable provision for sustainable transport, vehicle parking, and safe and suitable highway access. As such, it would not conflict with DP Policies TRA1, TRA2 and TRA3, which together seek to achieve promotion of sustainable transport, safe and suitable highway access, and adequate vehicle parking.

Planning Balance and Conclusion

52. As set out above, I have determined that the public benefits of the proposal are insufficient to outweigh the less than substantial harm that would be caused to the significance of heritage assets. Accordingly, I confirm that overall the benefits of the proposal are insufficient to outweigh the totality of harm that I have identified in relation to the main issues.
53. Going forward, the White Horse is likely to require fresh energy and product innovation to sustain its future operation as a public house. While I do not expect this would be easy, judging by the potential identified above, and the strong community passion expressed for it to remain as a pub, I find that it would be premature and unjustified to 'call time' on the White Horse's role as a charismatic country pub in this attractive East Hertfordshire village location, a short journey from the town of Ware, through the appeal proposal.
54. The proposed development would be contrary to the development plan and Framework and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Karen Crowder-James
Sotira Pilikos
Ray Wilson

Contour Planning Ltd
Appellant
Prestige & Village Estate Agents

FOR THE LOCAL PLANNING AUTHORITY:

Diane Verona

Principal Planning Officer

INTERESTED PARTIES:

William Dunn
Claire Fennelow

Local resident
Local resident



Appeal Decision

Site visit made on 4 June 2024

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/J1915/W/23/3328900

3 East Riding, Tewin Wood, Tewin, Hertfordshire AL6 0PA

- 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 and Mrs Adamson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1180/FUL.
 - The development proposed is the erection of 1x new dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. As a part of their submission the appellant has provided a Proposed Site Ecology Plan. This plan shows the additional trees that would be planted on site as a part of the proposed development and, therefore, it would not involve a fundamental change to the application. A Preliminary Ecological Assessment (PEA) and Biodiversity Net Gain Assessment (BNG) have also been submitted with the appeal and provide further clarification in relation to the reasons for refusal, so I am satisfied that they would not result in a fundamental change to the application.
3. The Council has had the opportunity to comment on these details as part of the appeal process and, as such, I am satisfied that no prejudice would occur were I to consider the information in my determination of the appeal. Nor would my acceptance of the additional information cause procedural unfairness as it does not give rise to the need for re-consultation of interested parties. I have proceeded on this basis.
4. During the late stages of this appeal the Council brought to my attention that it published a new 5 year housing land supply position statement. As this is of relevance to the appeal before me, and the appellant has been given the opportunity to comment on this matter, I have accepted this late evidence and considered it, as well as any comments received, as a part of my assessment.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including its effect on protected trees; and
 - biodiversity.

Reasons

Character and appearance

6. East Riding comprises detached houses of various designs which are normally set back from the road. Mature boundary hedges and trees provide a leafy and attractive setting for dwellings and are prominent features within East Riding, thereby making a positive contribution to the visual quality of the road and verdant character of the area.
7. The appeal site comprises an area of land which is part of the garden of No 3 East Riding. There is a substantial number of trees within the site which are covered by a Woodland Tree Preservation Order (TPO). Given its tree coverage, the site makes an important contribution to the natural environment and to the pleasant character of the road.
8. The proposed development would introduce new residential built form within the site with the associated loss of a significant number of trees. The Arboricultural Impact Assessment Report advises that all trees proposed to be removed are category C trees, most of them with at least 10+ years of life expectancy, with some having at least 20+ years.
9. Even though most of the trees that would be lost cannot be easily seen due to their location, they have value as a part of the collective unit. As such, regardless of their individual merit and condition, or of the outcome of any tree works application, their loss would weaken the visual quality of the green infrastructure within the site as a whole, and harm the character of the area.
10. The Proposed Site Ecology Plan shows that ten additional trees would be provided within the site as part of the proposed development. However, a substantial amount of green infrastructure would be lost through the development and, additionally, any replacement planting would take time to reach maturity and make a similar contribution to the street scene. As such, I am not persuaded that the additional planting would successfully mitigate for the tree loss associated with the proposal.
11. The appellant asserts that the woodland designation is incorrectly applied, as this classification is inappropriate for use in gardens. However, the TPO is in place and therefore this is not a matter for my consideration.
12. The appeal proposal would therefore be harmful to the character and appearance of the area. Given the scale of the loss of protected trees and the contribution which they make to the area, the magnitude of harm would be significant. The proposal would therefore conflict with Policies DES3, DES4 and HOU2 of the East Herts District Plan 2018 (DP). Collectively, these policies seek to protect existing landscape features of value, retain existing site features such as mature trees and support a high standard of layout to reflect and promote local distinctiveness. Furthermore, the proposal would be contrary to the Framework, where it supports development that is sympathetic to local character and seeks to conserve the natural environment.

Biodiversity

13. The PEA concludes that there are no ecological features that would preclude the proposed development and provides a number of recommendations to improve the ecological value of the site, as well as a precautionary approach to

be taken during construction. The BNG assessment sets out that the proposal would generate a net gain of area-based habitat units and of linear-based habitat units.

14. There is no evidence before me to contradict the findings of these reports and, as such, the weight of the evidence leans in the direction of the appellant. On this basis, the proposal would not have a harmful effect on biodiversity, in accordance with DP Policy NE3. This policy supports development that enhances biodiversity.

Planning Balance and Conclusion

15. The proposal would be acceptable in relation to other matters, including living conditions of the nearest neighbours. However, these are neutral factors that neither weigh for nor against the development.
16. As set out above, the proposal would be harmful to the character and appearance of the area given the scale of the loss of protected trees and the contribution which they make to the area. The magnitude of harm would be significant.
17. The Council can currently demonstrate a 5 year housing land supply of deliverable housing sites, which is not disputed by the appellant. Even so, the proposed development would contribute to meeting the Council's identified housing need and the Framework's objectives of boosting the supply of housing. The site is located near bus stops that serve larger settlements capable of providing access to services and facilities. The appeal site is small, so it could be built out relatively quickly. Ecological enhancements would be delivered and there would be some economic benefits accrued from the construction process, as well as longer term expenditure in the local economy. However, given that the scheme is for a single dwelling, these benefits attract limited weight in favour of the proposal and do not outweigh the harm that I have identified.
18. 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. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR



Appeal Decision

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/J1915/X/22/3305228

Penrhyn, London Road, Spellbrook, Hertfordshire CM23 4BA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr I Hussain against the decision of East Hertfordshire District Council.
 - The application ref 3/22/1222/CLPO, dated 12 June 2022, was refused by notice dated 9 August 2022.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended (the Act).
 - The development for which a certificate of lawful use or development is sought is construction of garage with brick walls and pantile roof.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Mr I Hussain against East Hertfordshire District Council, and by East Hertfordshire District Council against Mr I Hussain. These applications are the subject of separate decisions.

Preliminary Matters

3. In the appeal form the appellant stated that it was essential for the Inspector to enter the site to see the height of the ground immediately adjacent to the garage. However, at the site visit scheduled for 16th April 2024 neither the appellant nor a representative for him were present to provide access to the land. Neither did he nor a representative attend a revised visit scheduled for 30th April 2024, or a third on 4th June 2024. I have therefore determined the appeal without a site visit, on the basis of the written evidence put before me.
4. The appellant has constructed a garage, similar to that proposed but with a higher roof, for which planning permission has been refused, and an appeal has been dismissed.
5. The appellant's LDC application, as submitted, was for confirmation of whether a garage similar to that constructed, but with a lower roof, would have been lawful at the time the application was submitted.
6. The Council amended the description of the proposed development to, "Proposed alterations to single storey detached garage to reduce the height" and determined the application on those terms. However, I have not seen any evidence that that change was made with the appellant's agreement.

7. As the Council's description of development is distinctly different to that applied for by the appellant, and would not determine whether the resulting garage building as a whole was lawful, I have considered the application on the basis of the appellant's description of development, as stated on the application form.

Main Issue

8. The main issue is whether the decision of the Council to refuse the application for an LDC was well founded.

Reasons

9. Appeals relating to a LDC are confined to the narrow remit of determining whether the Council's refusal was well founded. The planning merits of the proposal are not for consideration.
10. Appellants are required to provide evidence that is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'. The burden of proof is with the appellant to demonstrate that the proposed development would have been lawful on the date the application was made (the relevant date).
11. Section 191(2) of the Act states that operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development, or require planning permission, because the time for taking enforcement action has expired, or for any other reason); and, (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
12. I have not seen any evidence of any enforcement notice being in force on the relevant date, and there is no dispute that the proposal amounts to development for which planning permission is required.
13. The primary consideration is therefore whether, at the relevant date, the development would have been granted planning permission by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), on the basis that it would have constituted 'permitted development' under Class E of Part 1, Schedule 2 of the GPDO.
14. Among other things, Class E of Part 1 of Schedule 2 sets out that the provision of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse, and within its curtilage, is permitted development. But development is not permitted if any of the criteria set out in paragraph E.1 are met.
15. The criterion in dispute between the parties is: E.1.(e)(ii), which states that, "the height of the building, enclosure or container would exceed ... (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse".
16. There is no definition of 'height' in the GPDO itself, but the 'Permitted development rights for householders - Technical Guidance' 2019 (the Technical Guidance) defines it as "... the height measured from ground level". A qualifying note states, "... ground level is the surface of the ground immediately adjacent to the building in question, and would not include any addition laid on

top of the ground such as decking. Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.)”

17. In the *McGaw v the Welsh Ministers*¹ Court of Appeal judgement, where the building abutted a boundary wall, the surface of the ground immediately adjacent to the building was considered to be the land immediately beyond the wall, in the neighbouring garden, rather than the wall itself, or the narrow gap between the building and the wall. In coming to that judgement, Sir Timothy Lloyd stated, “‘ground’ must be open, not under a built structure”². Even if those comments are considered *obiter*, and not directly part of the precise matter at issue before the Court, they accord with the approach of the Technical Guidance in excluding additions laid on top of the ground.
18. In the case before me, the plans show the garage proposed would abut the boundary with the neighbouring garden. From its eastern, southern and northern sides the building would be a height of 3.28m. On its northern side, the plans show a patio between the garage and the house, which is shown 0.78m higher than the garage floor, and level with the rear of the house. The plans appear to depict a narrow gap between the patio and the garage, but one that is smaller than that considered in *McGaw v the Welsh Ministers*, and not sufficiently large to constitute the ground immediately adjacent to the building for the purposes at hand.
19. The appellant’s case is that the patio is the highest point of the land immediately adjacent to the proposed garage building and that, measured from its surface, the proposed garage would be 2.5m in height. He states there is no requirement for ground to be defined as earth, and refers to ‘concrete ground’. That is not necessarily consistent with the Technical Guidance and Sir Timothy Lloyd’s comments in the *McGaw v the Welsh Ministers* judgement.
20. The patio is not open ground, and could be considered a built structure, or at least an addition laid on top of the ground. The appellant advises that the patio retains the natural profile of the ground, and that earth has been removed and replaced with concrete. However, comments from the adjoining neighbour suggest it is a recently constructed raised structure, that the ground immediately adjacent in the neighbouring garden demonstrates that, and that the garage would exceed 2.5m in height above the highest immediately adjoining ground level in the neighbouring garden.
21. The appellant also states that the land naturally slopes from the front to the rear of the property, but the plans provided depict all ground levels as flat ground, even those beyond the house and garden. They clearly show stepped level changes and a retaining wall, but provide very limited information in and around the location of the proposed garage. I am therefore able to rely on the plans only to a limited extent insofar as they relate to ground levels in the vicinity of the proposed garage.
22. Without the benefit of a site visit, photographs or a survey plan showing the levels of the land and its context, it is therefore difficult to say whether, or the extent to which, the patio is or reflects the ground level. There is a reasonable

¹ *McGaw v the Welsh Ministers & the Council for the City and County of Swansea* [2020] EWHC 2588 (Admin), [2021] EWCA Civ 976

² Paragraph 24

prospect that the patio is a built structure, or an addition laid on top of the ground, and therefore not the highest level of the ground immediately adjacent to the proposed building.

23. The appellant has referred to another LDC decision made by the Council relating to a development elsewhere. I am not bound by decisions of the Council, but that case relates to Class A rather than Class E of Schedule 2 Part 1 of the GPDO and concerns a development to be constructed on an existing patio set lower than surrounding land levels. That case is therefore distinguishable from the development proposed in this case.
24. It has therefore not been demonstrated that it is more likely than not that the highest adjacent ground level would have been the adjacent patio. With the evidence before me, there is a realistic prospect that the highest surface of the ground immediately adjacent to the proposed garage would have been the land immediately beyond the boundary, in the neighbouring garden.
25. Consequently, the height of the proposed garage would have exceeded 2.5m from the highest surface of the ground immediately adjacent to the building, and the development would therefore not have met the requirements of Schedule 2, Part 1, Class E of the GPDO. It would therefore not have constituted 'permitted development', and planning permission would not have been granted by Article 3(1).
26. Therefore, although the development would not have been a contravention of any of the requirements of an enforcement notice then in force, it would have been development without planning permission. Enforcement action could therefore have been taken at the relevant date. Consequently, the development would not have been lawful under Section 191(2) of the Act.

Conclusion

27. For the reasons given above I conclude the Council's refusal to grant an LDC in respect of construction of garage with brick walls and pantile roof was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Peter White

INSPECTOR



Appeal Decision

Site visit made on 11 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/J1915/W/23/3328566

Land east of Upper Green Road, Tewin, Welwyn, Hertfordshire

- 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 Mrs Cheryl Cook against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1555/OUT.
 - The development proposed is described as erection of 4no three bedroom detached bungalows together with creating two new vehicular accesses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. Whilst the submitted proposed block plan shows how the site might be developed, I have treated details other than access as indicative and not formally as part of the scheme.
3. My attention has been drawn to an appeal decision¹ relating to the site, which was dismissed. The primary difference between the proposal and the previous scheme is the description of development, with the previous proposal for 3no affordable houses and 1no market house and new vehicular access.
4. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in 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 Issues

5. The main issues are:
 - i) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt;

¹ APP/J1915/W/19/3226976

- iii) the effect on the character and appearance of the area; and
- iv) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate Development

6. The appeal site is a relatively flat undeveloped parcel of land on the east side of Upper Green Road which lies within the designated Green Belt. The site lies immediately adjacent to terraced properties and a small cluster of dwellings lie to the north of the appeal site, separated by a wedge of undeveloped land either side of the public footpath. Opposite the appeal site are dwellings set back from the highway. The appeal site frontage is bound by mature vegetation which contributes to the verdant appearance of the street scene in the locality.
7. The Council's development strategy, as set out within Policy DPS2 of the East Herts District Plan (EHDP), sets out a hierarchy of locations where new development will be focussed, including limited development in the villages of the district.
8. Tewin is a Group 2 Village, as defined by EHDP Policy VILL2. This policy supports limited infill development and small-scale development identified in an adopted Neighbourhood Plan. It is understood that there is no Neighbourhood Plan which encompasses the appeal site.
9. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions as set out in paragraph 154 of the Framework.
10. The appellant submits that the appeal site forms part of the village and suggests that it represents an infill plot, which in their view establishes that the proposal would accord with the development plan and Framework.
11. The EHDP does not define infill, nor is there a definition in the Framework. Whilst my attention has been drawn to other Council's definition of infill, whether the proposal would represent infill is a question of planning judgement based on an assessment of the site and its surroundings.
12. Although the site is well related to the existing settlement boundary, I am not convinced that the proposal constitutes infill development. The appeal site would be separated from the cluster of dwellings to the north by an undeveloped area of land. I understand this is to allow access to the remainder of the land, that does not form part of the appeal site, and a public footpath. Whilst I do not disagree that infill generally refers to development between existing development, to my mind despite the site having built form either side the proposal would not result in the completion of a gap between an otherwise continuous and contiguous frontage.

13. I concur with the appellant that infill is not necessarily limited to a single dwelling. However, irrespective of the detailed design, scale and form of development, given the width and extent of the appeal site it appears relatively substantial, and by no means limited.
14. I recognise that there is a disagreement over whether or not the appeal site lies within the village. This is a matter of judgement having regard to the location of the application site and its relationship to other existing development adjoining and adjacent to it. Even if I were to accept the appellants assertion that the appeal site is within the village, for the reasons outlined above it does not constitute infill development.
15. As the appeal site is not identified for development within an adopted Neighbourhood Plan, nor can it be regarded as infill, the proposal is not, supported by Policy VILL2 of the EHDP. The proposed development would also be contrary to EHDP Policy GBR1 which states that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
16. In support of their view that the appeal site should have been considered to be part of the village, and accepted as an infill development, the appellant has drawn my attention to a number of proposals and appeal decisions including sites at Spellbrook² and Little Hallingbury³. While the full details of the other cases are not before me, I recognise that there may be some similarities. However, the site locations differ, I therefore cannot draw any direct comparisons to the appeal scheme before me. In respect of the site at Bricket Wood⁴ from the evidence before me this related to a different description of development. As a proposal for nine supported housing units used by people with learning disabilities, including a staff facility, I do not consider the proposal to be comparable to that before me. Similarly, it is understood that the proposal at Orchard Road⁵ related to a smaller quantum of development which limits the equivalence of the case to the current proposal.
17. In respect of the proposal at the junction of Tewin Hill⁶, north of the appeal site, the Inspector did not conclude whether the appeal site was within the village as it had been established that the proposal would be inappropriate development for the purposes of the Framework and development plan policy.
18. The appellant refers to the appeal site forming part of a larger site known as Site 8 which was considered by the Council in 2005 for the purpose of the Local Plan Inquiry. From the evidence before me the site was omitted due to sufficient housing coming forward. This previous assessment of the site therefore carries no more than limited weight in the determination of the appeal before me.
19. For the reasons stated above, I conclude that the proposal would not represent limited infilling in a village. It would therefore comprise inappropriate development in the Green Belt that would, by definition, be harmful to the Green Belt. It would fail to meet the exceptions set out in paragraph 154 of the Framework. There would also be conflict with Policy GBR1 of the EHDP which,

² Planning ref.no. 3/18/0959/FUL

³ APP/C1570/W19/3241822

⁴ APP/B1930/W/20/3249093

⁵ Site between 28-40 Orchard Road planning ref. no. 3/24/0018/OUT

⁶ APP/J1915/W/19/3226976

amongst other things, requires that planning applications within the Green Belt are considered in line with the provisions of the Framework.

Openness

20. Openness is an essential characteristic of the Green Belt. There are spatial and visual aspects to the assessment of the openness of the Green Belt. The appeal site forms part of a larger parcel of land which is enclosed by tall, mature vegetation.
21. The outline proposal does set the quantum of development proposed for the site. The appellant has indicated 4no single storey properties. Irrespective of the height of the proposed dwellings, and the presence of vegetation, the bulk and mass of the dwellings would erode the openness of the Green Belt in both visual and spatial terms.
22. I acknowledge the case made by the appellant, that the site is not wholly open as it is related to existing residential development to each side and the presence of substantial vegetation, including trees and a substantial hedgerow fronting the road. However, even though I am only considering the access as part of this appeal, it is apparent from the indicative drawings submitted that each of the dwellings would likely occupy a notable footprint and be of fairly considerable width. Therefore, the openness of the appeal site would be curtailed by the proposal such that I find that the openness of the Green Belt would be reduced by a significant degree.
23. Accordingly, for the reasons stated the development of the site would significantly harm openness.

Character and appearance

24. The terraced properties to the south of the appeal site do not have direct vehicular access from Upper Green Road. However, vehicular accesses along Upper Green Road are commonplace. With vegetation present to the frontages of many dwellings Upper Green Road has a verdant appearance.
25. Landscaping is reserved for subsequent approval. Some vegetation would be required to be removed, and engineering works to the raised roadside verge, to facilitate vehicular access to the site would result in some urbanisation of the land. However, I am satisfied that the insertion of two vehicular access points would not appear unduly conspicuous within the street scene.
26. For the reasons stated, I conclude that the proposed access drives would not be harmful to the character and appearance of the streetscene. Accordingly, the proposal would comply with policies DES2 and DES4 of the EHDP. Collectively, these policies seek to respect or improve upon the character of the site and surrounding area, including, amongst other things in terms of landscaping.

Other Considerations

27. The Framework advances that substantial weight be given to any harm to the Green Belt. Very special 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.

28. The appellants have set out a series of benefits which are argued in support of the case for approval, and I have considered and taken them all into account. In particular, the development would result in additional dwellings which would make a positive contribution to local housing supply, including adding to the variety of house types. The Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirements of an area and are often built out relatively quickly.
29. The appellant submits that there is a shortfall of bungalows both nationally and in East Hertfordshire. I have no evidence before me to contradict this assertion. The proposal is further advanced as being designed for the elderly and impaired for local people to purchase. However, I have not been presented with a robust mechanism that would secure it as such and therefore this is a point that carries no more than limited weight.
30. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
31. It is not disputed that the appeal site is well related to the settlement which provides for a variety of services, including a village shop with post office, public houses, café, bowls club and village hall and that future occupiers could assist in supporting these facilities. It is also noted that Tewin has public transport links, albeit infrequent. I note the intended environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures for the dwellings to be constructed to Passivhaus standards and be as near to zero carbon as possible. However, these factors carry limited weight in favour of the development.
32. Views of the appeal site may be limited due to the presence of mature landscaping to its boundaries. Landscaping is reserved for subsequent approval and whilst the securement of biodiversity net gain is supported by the Framework this would not overcome the harms identified.
33. Limited information has been supplied regarding the site's former use. Having regard to the Framework's definition of previously developed land, I have little evidence to substantiate that the appeal site comprises such.
34. The appellant asserts that the site has become neglected due to vandalism. I have no evidence before me to contradict this assertion. However, I am not satisfied that the proposal is the only means of securing the land from anti-social behaviour and its long-term maintenance. This is therefore a neutral factor in the determination of the appeal.
35. There is no robust evidence before me regarding the assertion that there are no other suitable sites in the defined village boundary or abutting it that could provide for any form of residential development. I therefore attribute this little weight.
36. I acknowledge that the proposal would make a direct and indirect contribution to the local economy through an increase in spending power, and through increased employment opportunities and the purchase of materials during construction. These are matters to which I attach moderate weight.

37. I note the absence of objections from consultees on highway safety grounds and based on the evidence before me I have no reason to form a different view in this regard. I have no reason to doubt that the dwellings would satisfy the sustainable design and construction requirements of the development plan policies at the reserved matters stage.
38. I have had regard to the concerns of interested parties including, but not limited to, pressure on services, highway concerns, precedent for future development, effect on wildlife, loss of view and privacy. The Council did not conclude that these concerns would amount to reasons to justify withholding planning permission. I have been provided with no substantive evidence which would prompt me to disagree with the Council. I am, therefore, satisfied that these matters could be appropriately considered and controlled at reserved matters stage and/or through the imposition of planning conditions.
39. Support for the proposal from residents is noted, however, this does not overcome the harms I have identified.
40. I note the evolution of the proposal from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me. Whilst the appellant has raised concerns regarding the Council's processing of the application, I can only deal with the planning merits of the case.
41. Taking all these considerations into account, I conclude that cumulatively the benefits and arguments in favour of approval merit moderate weight in favour of the appeal proposal.

Planning Balance and Conclusion

42. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, I have found that the development would lead to a loss to the openness of the Green Belt, which would be harmful. In these respects, the proposed development would not accord with the development plan policies.
43. I have examined all the benefits and arguments in favour of the appeal proposal above, and cumulatively these other considerations should merit moderate weight in favour of approval. For the reasons I have explained, the harm to the Green Belt should afford substantial weight. Therefore, the substantial weight to be given to the Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.
44. The Council is unable to demonstrate a five-year supply of deliverable housing sites. In such circumstances paragraph 11 d) of the Framework indicates, in summary, that where the policies which are most important for determining the application are out-of-date, permission should be granted, unless the application of policies in the Framework to protect areas or assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 identifies the Green Belt as such a protected area. For the reasons I have explained above, the harm to the Green Belt should form a clear reason for refusing the development proposed.
45. The development is contrary to the Framework policy approach for the protection of the Green Belt. I have considered all other matters raised,

including the policies of the development plan, but none clearly outweigh the conclusions I have reached that the harm to the Green Belt is not outweighed by other planning considerations.

46. For the reasons set out above, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR



Appeal Decision

Site visit made on 13 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/J1915/W/23/3320496

236A North Road, Hertford, Hertfordshire SG14 2PW

- 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 Edward Pearce against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1870/FUL.
 - The development proposed is new gates (vehicular and pedestrian), brick piers and railings at vehicular/pedestrian access to 5 No. new dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

3. The main issues are:
 - Whether the development would be inappropriate development in the Metropolitan Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development upon community cohesion and inclusion; and
 - If the development is inappropriate development in the Metropolitan 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

4. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless it constitutes one of the exceptions set out in paragraph 154. The appellant refers to the exception at paragraph 154 (g) which sets out that new buildings would not amount to inappropriate development where they would constitute the following:

“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”
5. To determine whether a development amounts to inappropriate development, paragraph 154 (g) requires a comparison to be made between the openness of the Green Belt with and without the proposed development.
 6. The appeal site was formerly a reclamation yard and landscape nursery. It contained a variety of buildings, including means of enclosure and hard surfaced areas. In December 2020, planning permission was granted for the site’s redevelopment. This entailed the demolition of existing buildings and the erection of 5 dwellings and associated works. Applications to vary this original planning permission have arisen since.
 7. The redevelopment of the site is largely complete – there are 5 dwellings in situ, an access and road serving them, together with hard and soft landscaping. Therefore, the site is now a small residential development, and its former reclamation yard and landscape nursery character has been replaced. Given this, for the purposes of comparing effects upon openness, the site’s former use is not the appropriate baseline, but rather it is the existing development – the group of dwellings.
 8. As an existing small residential development, I acknowledge that the appeal site is located within a part of the Green Belt where built development already has an influence. The site does not have the same degree of openness as, for instance, some of the undeveloped fields and woodland in the surrounding area.
 9. Even so, spanning across the access road, reaching a maximum height of 2.1 metres (m) and constructed of a combination of brick and metal, the proposed development would form a quite significant built feature. As it would be positioned on one road and quite closely beside the heavily trafficked North Road, it would form a clearly visible addition to the area. It would create an enclosing effect upon the existing residential development when viewed from North Road. Therefore, the proposal would result in this particular part of the Green Belt becoming more built-up and having an increased sense of enclosure. This would be sufficient to result in a reduction in the openness of the Green Belt.
 10. This reduction in openness would be modest rather than significant, but it would nonetheless result, and it would be harmful. Consequently, the proposal would have a greater impact on the openness of the Green Belt than the existing development, and it thereby fails to meet the exception at paragraph 154 (g) of the Framework. Furthermore, given the nature of the proposal and all of the evidence put before me in its regard, I have no valid reasons to conclude that the proposal meets any of the remaining paragraph 154

exceptions. Therefore, the proposal constitutes inappropriate development in the Metropolitan Green Belt.

The effect of the development upon community cohesion and inclusion

11. The appellant has drawn to my attention examples of properties in the area which are served by gated accesses. During my visit, I was also able to appreciate that along North Road there are a variety of means of enclosure in place. However, I also noted that within Waterford, just a short distance to the north, there were properties with drives and gardens beside the street which had a more open and inviting character. Therefore, although it is a part of the character of the area for some properties to be situated behind gates, it is not dominant, and plenty of other properties do not address the street scene in this way.
12. Policy HBH2 of the Bengeo Neighbourhood Area Plan (NP) sets out that gated communities will not be supported on the grounds that they do not support the principles of community cohesion and inclusion. I am mindful that this content is very reflective of policies within the Framework which set out that development should promote social interaction, including through street layout, and ensure developments are welcoming places to live.
13. I accept that the site is between Waterford and Hertford rather than a part and parcel of either of them. Despite this, given the proximity of Waterford in particular, and the house just to the south of the site, the existing 5-dwelling development is not so cut-off that it is not part of a wider community. The provision of the gates, piers and railings would serve to separate and shut-in the 5-dwelling development from the land beyond its bounds. This would run counter to the promotion of cohesion and inclusion sought-after by the aforementioned policies.
14. The evidence before me that the proposal is necessary on the grounds of safety and security or to prevent problematic parking and vehicular movements from visitors of Waterford Nature Reserve is not substantive. Consequently, I afford these matters limited weight in my decision.
15. For the above reasons, I find that the proposal would fail to support community cohesion and inclusion, and it conflicts with Policy HBH2 of the NP and advice within the Framework as a result.

Other considerations

16. The appellant submits that gates and piers spanning the access road could be erected through the exercise of the permitted development rights afforded by the Town and Country Planning (General Permitted Development) (England) Order 2015. However, in order to constitute permitted development, those gates and piers could only be a maximum of 1m in height. This would be quite considerably lower than is proposed in the appeal scheme. As a result, there would be differences between the effects wrought upon the openness of the Green Belt. As the larger building, the appeal scheme would have a greater effect upon the openness of the Green Belt than that which could be undertaken as permitted development.
17. Consequently, the appeal scheme would be the more harmful development within the Green Belt. Therefore, even though an alternative form of

development could be undertaken, it would be a less harmful development, and it does not weigh strongly in favour of the appellant.

18. The proposal may not harm the landscape, the living conditions of neighbouring occupiers nor result in effects prejudicial to highway safety. However, the absence of harm in relation to these matters is a neutral factor and does not weigh in the proposal's favour.
19. I have already referred to the variety of means of enclosure in the area and that these form a part of the character of the area. In reaching my planning balance and conclusion below, I have had regard to their presence. However, I must determine this appeal on its own merits having regard to the evidence before me now, my own experience and the particular circumstances of the case.

Planning Balance

20. The proposal amounts to inappropriate development in the Green Belt. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. I attach substantial weight to this harm. Further harm would result from the proposal's failure to support community cohesion and inclusion which conflicts with Policy HBH2 of the NP.
21. Against the harm I have identified, the other considerations in this case are not sufficient, either individually or cumulatively to clearly outweigh the totality of 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. As Policy GBR1 of the East Herts District Plan requires that proposals are considered in line with the Framework, it follows that the proposal also conflicts with this policy.

Conclusion

22. The proposal conflicts with the development plan as a whole and the material considerations in this case, including the Framework, 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



Appeal Decisions

Site visit made on 5 March 2024

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

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Appeal A - Ref: APP/J1915/W/23/3325870

Meesden Corner Cottage, Brent Pelham, Hertfordshire SG9 0AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Perrin against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2143/HH, dated 11 October 2022, was refused by notice dated 23 June 2023.
 - The development proposed is the creation of a single storey rear extension and associated sunken terrace and removal of wall and window, a porch to the main elevation, demolition of part of the north extension to be replaced by a new extension, along with a remodelled store room to create a bathroom, the removal of part of a dividing wall between the Piano Room and the store room, and new partition walls within a 1st floor bedroom.
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Appeal B - Ref: APP/J1915/Y/23/3325873

Meesden Corner Cottage, Brent Pelham, Hertfordshire SG9 0AR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Perrin against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2144/LBC, dated 11 October 2022, was refused by notice dated 23 June 2023.
 - The works proposed are the creation of a single storey rear extension and associated sunken terrace and removal of wall and window, a porch to the main elevation, demolition of part of the north extension to be replaced by a new extension, along with a remodelled store room to create a bathroom, the removal of part of a dividing wall between the Piano Room and the store room, and new partition walls within a 1st floor bedroom.
-

Decisions

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

Preliminary Matters

3. Since the applications were determined a revised version of the National Planning Policy Framework (the Framework) has been released. The changes were not material to the appeal and I have reflected the revised Framework as appropriate throughout my Decision.

4. The appeal proposal relates to a Grade II listed building located in the Brent Pelham Conservation Area (the CA). I have therefore had due regard to my statutory duties as set out at s16, s66 and s72 of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act).
5. I have amended the descriptions of development to better describe the proposed works.

Main Issues

6. The main issues are the effect of the proposal on the special architectural or historic interest of the Grade II listed building, 'Meesden Corner Cottage'¹ (Appeals A and B), and on the character and appearance of the area including whether or not it would preserve or enhance the character or appearance of the CA (Appeal A).

Reasons

Existing

7. Meesden Corner Cottage is a Grade II listed building. It is a 17th Century cottage. The original part of the cottage is timber framed, rendered and with a thatched roof and timber casement windows. It has been extended and altered, particularly in the 20th Century, with additions to the north and west. The northern extension is single storey, weatherboarded and has a slate roof. The western extension is two-storeys, partly weatherboarded and partly rendered, and with clay tiled roofs.
8. The significance of the building is largely in its original part, with historic external fabric including render, timber framing and a thatched roof. The front elevation is particularly well composed and attractive, as well as retaining significant historic fabric. Internally, this part of the building retains extensive historic fabric and, largely at least, its original plan form. The two extensions are relatively unassuming and subservient, particularly because the two-storey extension is to the rear, and are legible as more modern additions. There is a distinct change in character between the original part of the building and the extensions. They make a neutral contribution to the significance of the building.
9. The CA covers much of the Brent Pelham village. It includes a range of building types and styles, materials and roof forms, dating from the 14th to 20th centuries. Many of the buildings are either listed or are buildings of local merit, and include a manor house and a church. The significance of the CA derives from its pleasing mixture of building types and styles, many of high architectural and historic interest, and from the organic development and growth of the village over time. The cottage is situated on a corner plot and is well-screened by hedgerows from the surrounding roads, but it is still visible including from the main road running through the village. The building contributes positively to the significance of the CA because it is a building of high architectural and historic interest, and particularly from the attractive front elevation and thatched roof.

¹ List entry No 1101917

Proposed

10. It is proposed to: construct a timber entrance porch with reclaimed slate roof to the main front elevation over the existing front entrance door; demolish the northernmost part of the existing north extension and replace it with an extension that projects further back to the rear; and erect a conservatory extension to the existing west extension with associated sunken terrace and steps within the garden.
11. In terms of internal works: the existing utility room within the retained element of the north extension would be remodelled to provide a bathroom; a new entrance door is proposed within the retained element of the north extension; the ground floor window and most of the external wall at ground floor level in the north elevation of the west extension would be removed to provide access to the conservatory; part of an historic wall within the original part of the cottage would be removed to expose the studwork; and, partition walls and a door would be inserted into one of the bedrooms within the 1st floor of the original part of the cottage to create an independent access point to an existing bedroom.

Assessment

12. The proposed conservatory and sunken terrace are not in dispute between the parties. The conservatory would be a lightweight addition at ground floor level to the rear of the property, to be accessed from the modern west extension. The sunken terrace would only involve a fairly shallow excavation to the existing ground levels and is also to the rear of the property. I therefore agree that these elements would not be harmful.
13. The demolition of part of the north extension would also be acceptable in principle. However, the replacement extension would be out of scale with the existing cottage, particularly from its significant projection to the rear. In addition, the existing extension is timber clad with very limited glazing which, in conjunction with its relatively small size, retains its subservience to the original part of the cottage. However, the proposed extension includes fairly extensive glazing, particularly in the return corner but also to the north elevation. Also, the proposed extension would include a relatively large pitched roof with prominent gable ends. These elements would be out of keeping with the character of the cottage and would emphasise the scale of the extension, exacerbating the harm caused.
14. The proposed extension would also harm the character and appearance of the CA, both because the extension would be visible, albeit heavily screened, from the primary road through the village, and from the intrinsic harm to one of the buildings that positively contributes to the character and appearance of the CA.

Conclusion

15. Therefore, the proposed north extension would harm the special architectural and historic interest of the listed building and the character and appearance of the CA. That there are other elements of the proposal that would be acceptable does not mitigate this harm. The proposal therefore fails to comply with policies HA1, HA4, HA7, HOU11 and DES4 of the East Herts District Plan 2018 (the DP). The policies require high quality design, and that proposals preserve or enhance heritage assets in accordance with the provisions of the Framework.

Other Matters

16. Whilst I note that no objection is raised to the proposed porch, I do not share that view because the front elevation of the original part of the cottage is attractive and well proportioned. The proposed porch would harm this by projecting beyond the original front elevation, harming the existing, unassuming and flat profile, and being an overly dominant addition to this important elevation. It would also have an awkward junction with the bottom of the thatched roof because the porch roof would directly abut the thatch.
17. The proposed internal works are also not in dispute between the parties. I largely agree that they would be acceptable. However, it is proposed to remove significant elements of an internal wall between the Piano Room and store room. Although this might reveal studwork which would retain a visual separation and demarcation of the store room from the main living area of the Piano Room, it would result in the loss of fabric in the building. The wall appears to be historic and no substantiated evidence has been provided of the importance or age of this fabric. In addition, the proposed partition walls within the 1st floor bedroom would harm the current layout by introducing a vestibule type area and leaving a bedroom with an awkward L-shape layout.
18. Had the northern extension not been determinative I would have asked the parties to comment further on those matters before coming to my decision on those aspects of the scheme. Given I shall refuse the proposal because of the northern extension little would be gained by delaying this matter to seek further comment on those other elements of the scheme.

Planning Balance

19. I assess the level of harm to be less than substantial. As set out at Paragraph 208 of the Framework, where the proposed development would lead to less than substantial harm to a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
20. The property is a substantial family home that is currently occupied. There is no indication, or reason to believe, that any of the proposed works are necessary to secure the ongoing viable use of the home. With regard to public benefits, they would be extremely limited, because the proposal would only result in slightly larger house. They would not, therefore, outweigh the harm to both the listed building and the CA that I have identified, and to which I attach great weight.

Conclusion

21. For the reasons above, Appeal A is dismissed.
22. For the reasons above, Appeal B is dismissed.

O S Woodward
INSPECTOR



Appeal Decision

Site visit made on 7 May 2024

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/J1915/W/23/3330239

Woodland Grove, Waterford, SG14 3FQ

- 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 J Johnson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0144/FUL.
 - The development proposed is the erection of a gate.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt
 - The effect of the proposal on community cohesion;
 - The effect of the proposal on highway safety; and
 - Whether any 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.

Procedural Matter

3. The appeal submissions from the Council and Appellant refer to the 2021 National Planning Policy Framework. An updated version was published in December 2023 which replaced the 2021 version and I have considered the proposal against the most recent publication. References to paragraphs of the National Planning Policy Framework reflect the latest version.

Reasons

Green Belt

4. The appeal site comprises a residential estate of eight properties, accessed off Sacombe Road. There is also access into the rear of the estate from Vicarage Lane and Waterford Heath Car Park. The site is located to the east of Waterford and to the north of the main settlement of Hertford and is relatively detached

from the settlements. The appeal site falls within the Metropolitan Green Belt. The proposal would introduce an electric sliding gate across the main vehicular access.

5. The National Planning Policy Framework (2023) (the Framework) attaches great importance to Green Belts and states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 of the Framework identifies the five purposes of Green Belt land, which includes assisting in safeguarding the countryside from encroachment.
6. The Framework goes on to say that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 152) and paragraph 154 states that the construction of new buildings should be regarded as inappropriate. Exceptions to this are listed in paragraphs 154 and 155. However, these exceptions do not refer to the installation of any gates or boundary treatments and therefore, for the purposes of the Framework and the Green Belt, the appeal proposal should be considered as inappropriate development. Policy GBR1 of the East Herts District Plan October 2018 (District Plan), states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework.
7. I therefore find that as the proposal does not fall within any of the exceptions listed in the Framework it is, by definition, inappropriate development within the Green Belt and therefore harmful, to which I attach significant weight. As such, there should be very special circumstances to justify the proposal. I will return to this later on.

Openness

8. Openness is an essential characteristic of the Green Belt. Whilst the proposal would be a relatively small structure compared to dwellings and other buildings, developments of this scale can have an impact on the openness of the Green Belt.
9. The proposed gate would range from 1.6 and 1.8 metres in height approximately and would comprise a relatively open vertical railing design. Given the scale and design, which would allow for views through into the wider area, as well as the backdrop of the existing residential properties and the existing boundary fencing, I find that the proposal would not result in harm to the openness of the Green Belt nor have a greater impact on the openness than existing development. It would therefore preserve openness in this instance.
10. For the above reasons, the proposal would comply with the provisions of the Framework which seek to keep land permanently open and preserve the essential characteristics of the Green Belt.

Community Cohesion

11. Woodland Grove is a small estate of dwellings, detached from the main village of Waterford, but in proximity to some sporadic properties set in a linear form along Sacombe Road. Policy HBH2 of the Bengoe Neighbourhood Area Plan 2019 – 2033 (Neighbourhood Plan) states that proposals for 'Gated

Communities' in the Plan Area will not be supported. It is considered that they do not support the principles of community cohesion.

12. The proposal would result in a gated estate and would therefore be against policy however, I find that the appeal estate is likely to be a fairly self-enclosed development anyway as a result of its location and level of separation from the nearby main settlements. I consider that the presence of the proposed gate would be unlikely to exacerbate this. Furthermore, there are other pedestrian accesses from the existing estate into the surrounding rural lanes and the community nature park which would remain.
13. The Appellant has referred to other examples of properties and estates with gates. Along Sacombe Road some of the individual properties have gates across their driveways, however these are not directly comparable to the proposal before me as they serve individual properties. I note the other examples of gated estates, however I have limited details as to the considerations behind these and therefore I cannot conclude that these set a precedent for this proposal. Nevertheless, in any event, I find that the proposal would not result in undue harm with regards to matters of community cohesion.
14. Accordingly, whilst the proposal would fail comply with part II of Policy HBH2 of the Neighbourhood Plan, I have not found that harm would arise for the above reasons and therefore material considerations outweigh the policy conflict in this regard.

Highway Safety

15. The proposed gate would be set back from the main highway by about 7.5 metres and would operate by sliding across parallel to the existing fencing. The Appellant advises that the gate would be operated by a key fob for the residents, automatic sensors to open the gate between 6am and 6pm, and would be left open on refuse collection days.
16. Whilst I accept that many vehicles visiting the site would be under 7.5 metres in length, there may be occasions where larger delivery vehicles such as lorries require access into the estate. I note that Sacombe Road is a C road however the speed limit is 60mph at this point along the road and therefore vehicles may be travelling at relatively high speeds. Whilst the gates could be arranged to be open or could open as a vehicle approached, having the gates open for long periods of time would potentially undermine the security objectives of having the gates there in the first place. Furthermore, this arrangement could not be sufficiently controlled as part of the application and appeal and there could be occasions where the gates were not set to open resulting in vehicles potentially overhanging the highway.
17. The Appellant has referred to the guidance referring to a shorter distance of 6 metres in the Section 4 Design Standards and Advice Roads in Hertfordshire Highway Design Guide (3rd edition). However, it appears that this relates to individual driveways to allow cars to pull clear of the highway, and therefore is not applicable in relation to this appeal proposal, which relates to a gate across an estate road.
18. Consequently, it has not been adequately demonstrated that the measures proposed would be sufficient to ensure that there would be no detrimental

impact on highway safety as a result of vehicles accessing and exiting the appeal site. Based on the level of evidence before me, I find that the proposal would therefore fail to comply with Policy TRA2 of the District Plan which seeks to ensure that development proposals should be acceptable in highway safety terms, amongst other things.

Very Special Circumstances

19. When considering any planning application, substantial weight should be given to any harm to the Green Belt. Very special 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.
20. I have found that, whilst the proposed gate would comprise inappropriate development, as a result of the design which incorporates open railings allowing views through to the countryside and the overall size, there would not be harm to the openness of the Green Belt arising as a result of its installation. There would however be harm to highway safety for the above reasons.
21. The Appellant has put forward reasons for requiring the gates in relation to crime and the safety of the residents, including safety for pedestrians and children playing on the communal front area from vehicles travelling at speed and via the blind bend, and security from suspicious visitors at night and during the early hours. It has also been highlighted that there was previously a close boarded fence along the boundary of the site. I accept that this previously impacted further on the openness of the Green Belt. However, in relation to matters of safety, I have limited details before me of the level of crime or likelihood in the area, nor why other methods of security, such as CCTV or video doorbells, are not appropriate or sufficient to provide a deterrent. Furthermore, in relation to pedestrian safety it is unlikely that a vehicle would be travelling at speed having slowed to enter the estate and due to the shape and length of the estate road.
22. Accordingly, given my findings above, I have not been provided with sufficient evidence to conclude that there are very special circumstances in this case which would justify allowing the proposal. This would be contrary to paragraphs 152 and 153 of the Framework.

Other Matters

23. I note that under usual Permitted Development (PD) considerations that the gate could be constructed under these rights. However, the PD rights were removed as part of the permission for the estate in order to control all means of enclosure, including gates, therefore the fallback position of PD rights does not carry weight in this instance.

Planning Balance

24. I have found that the proposal would not be acceptable in highway safety terms and that very special circumstances to justify the development within the Green Belt have not been put forward. Whilst I have identified policy conflict in relation to HBH2 of the Neighbourhood Plan, there would not be harm arising in relation to community cohesion. The proposal would provide some benefits discussed above, however for the above reasons I find these carry limited weight in the planning balance. Inappropriate development in the Green Belt

should be given substantial weight and the proposal would conflict with Policy TRA2 of the District Plan.

25. I therefore find that the benefits and other circumstances identified by the Appellant do not outweigh the harms arising from the proposal and the substantial weight attached to Green belt harm, in this instance and the resulting conflict with the relevant local plan policies and the Framework.

Conclusion

26. For the reasons given above, and having had regard to all matters raised, the appeal should be dismissed.

R Norman

INSPECTOR



Appeal Decision

Site visit made on 13 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/J1915/W/23/3330457

Stanstead Lodge, Stanstead Road, Stanstead Abbots SG12 8LD

- 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 Angelika Hinton against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0721/FUL.
 - The development proposed is the installation of 3 x rows of freestanding solar panels along with associated cable connection to dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.
3. The submitted evidence indicates to me that the Stanstead Abbots and St Margarets Neighbourhood Plan (NP) is emerging. I have limited information before me in relation to the NP, but it would not seem to be at an advanced stage in its preparation. The Council's reason for refusal does not rely upon any of the NP's emerging policies and none have been put before me. In such circumstances, the NP is not a matter to which I have attributed any meaningful weight in my determination.
4. The appeal site is within the Metropolitan Green Belt. There is no dispute between the main parties that the development would constitute inappropriate development within the Green Belt, and I have no reason to disagree.

Main Issues

5. In this context, the main issues are:
 - The effect of the development upon the openness of the Metropolitan Green Belt; and
 - Whether the harm to the Metropolitan Green Belt, by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development proposed.

Reasons

The effect of the development upon openness

6. Stanstead Lodge is a large house which is served by a spacious and mature garden which is largely enclosed by trees and hedgerows. The proposed solar panels would be sited on a parcel of land currently comprising of grassland to the south of this garden. There is an existing cricket net adjacent to this parcel of land but, that aside, the land upon which the solar panels would be sited forms a part of a quite extensive tract of grassland with trees to its edges and which exhibits a largely open character.
7. The proposal would introduce built development onto a parcel of land where presently there is none. Reaching over 2.3 metres (m) above the ground level, each of the solar panels proposed would be of quite significant height. The panels would be arranged in 3 rows and would cover an area of 462m², albeit there would be gaps of undeveloped land left between them. Nevertheless, the solar array installation as a whole would represent a quite significant built feature. Given this, and how the existing land the development would be sited upon would change, a reduction in the openness of the Green Belt would result.
8. In coming to this view, I acknowledge that the appellant has assessed and discounted alternative locations for the installation. I have no grounds to conclude that the reasons for the other sites being discounted are not valid. Even so, and for the above reasons, in addition to the harm caused by reason of inappropriateness, there would also be harm to the Green Belt as a result of a loss of openness.

Other considerations

9. Stanstead Lodge is a Grade II listed building. The statutory duty contained within section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings, their settings and any features of special architectural or historic interest which they possess.
10. Stanstead Lodge is a distinctively designed property which includes sash windows, a red tile-covered hipped roof and a semi-circular moulded porch with columns. Such traditional design features and materials exude architectural interest, and they contribute strongly to its significance as a heritage asset. It was once a farmhouse and so the building is also of historic value – it provides evidence of the area's agricultural heritage. Stanstead Lodge's mature garden, which features some large trees and lawns with planted borders, provides the building with an attractive and leafy immediate setting which contributes meaningfully to its significance. Beyond the garden, there is countryside and parkland which also provides a verdant and attractive wider setting to the listed building.
11. The Grade II listed park and garden of Briggens lies adjacent to Stanstead Lodge. The principal significance of Briggens stems firstly from its architectural and artistic interest which results from the features which remain from its original early 18th Century design. Secondly, it provides historic interest given it was designed by Charles Bridgeman a landscaped gardener of that era of national interest. Briggens includes individually listed features including, at its centre, the Grade II listed Briggens House. It is a mansion house which

exhibits distinguished and ornate design details. For this reason, I find its significance principally stems from its architectural and artistic interest. The remains of the historic park and garden the house overlooks, and is associated with, provides it with a verdant setting.

12. The trees and other soft landscaping which run along Stanstead Lodge's garden boundaries would provide effective screening for the panels in views from within the property and the garden. The trenches dug for the cabling would be filled in and could be appropriately re-landscaped in a manner sympathetic to the garden through which they would run. Details of the precise connection point to the house are not before me, it is proposed that this would be submitted to the Council under a separate application for listed building consent. For these reasons, and on the basis of what is before me, I am satisfied that the development proposed as a part of the appeal would preserve Stanstead Lodge's special interest and setting.
13. Between the listed park and garden and the land upon which the solar array would be sited there is a parcel of land which includes mature landscaping. This separation and the screening that exists would assist in limiting the intervisibility between the proposed development, Briggens and the listed buildings contained therein. Consequently, no harmful effects upon the setting of these designated heritage assets would result.
14. It is submitted to me that the proposed solar array would not only be able to provide for all of Stanstead Lodge's electricity requirements but that there would, in addition, be a power excess which would be exported into the grid and used to power other properties and services. Therefore, despite being a small-scale renewable energy project, the proposal would make a valuable contribution to significantly cutting greenhouse gas emissions. Doubtless it would improve the energy efficiency of the existing property, a matter which the Framework sets out should be given significant weight.
15. These would be benefits of the proposal, and I note that the proposal has attracted some public support as a result. These benefits would also be delivered at a time when East Hertfordshire District Council has declared a climate emergency in recognition of the effects that climate change is having upon residents of the district.
16. As a designated heritage asset, Stanstead Lodge is an irreplaceable resource which should be sustained. However, I have no substantive evidence that this would not occur in the absence of the proposal.
17. My attention has been drawn to appeal decisions for solar installations at East Hanningfield and Digswell. At East Hanningfield, a substantially larger solar installation was proposed. The decision sets out that it would provide power for over 16,000 households. Its contribution to combatting the effects of climate change would be substantially different from that at Stanstead Lodge. The two schemes are therefore not comparable.
18. More akin to the appeal before me, the Digswell scheme was a small-scale solar array project. I note that the power generated by the Digswell scheme was less than would be the case at Stanstead Lodge too. Equally, the solar array at Digswell had a smaller land-take, and the panels had a height of only 1.2m which is quite considerably lower than that proposed in my case. Consequently, the particular effects upon the openness of the Green Belt would

differ. Moreover, not all of the evidence that was before the Inspector in the Digswell case is before me. Appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case. For these reasons, whilst I have had regard to them, neither of the submitted appeal decisions are a strong influence upon my decision.

Planning Balance

19. The proposal amounts to inappropriate development in the Green Belt. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. I attach substantial weight to this harm. The development would reduce the Green Belt's openness, which gives rise to additional harm.
20. Whilst the proposal's benefits of cutting greenhouse gas emissions and improving the energy efficiency of Stanstead Lodge are significant, the other considerations in this case are not so significant that they clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development referenced at paragraph 153 of the Framework, do not exist. As Policy GBR1 of the East Herts District Plan requires that proposals are considered in line with the Framework, it follows that the proposal also conflicts with this policy. National planning policy attaches great weight to the Green Belt. Consequently, Policy GBR1 which relates to it is at the heart of the development plan. By conflicting with it, I find that the proposal conflicts with the development plan as a whole.

Conclusion

21. The proposal conflicts with the development plan as a whole and the material considerations in this case, including the Framework, 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



Appeal Decision

Site visit made on 14 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/J1915/W/23/3327372

Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ

- 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 C Bullock against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1036/FUL.
 - The development proposed is the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping at Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ in accordance with the terms of the application, Ref 3/23/1036/FUL, subject to the conditions in the attached schedule.

Applications for costs

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

Preliminary Matters

3. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would amount to isolated housing in the countryside, having regard to the relevant policy within the Framework, and whether the proposal accords with relevant policies within the development plan which control housing in rural areas; and
 - The site's accessibility to services, facilities and sustainable transport modes.

Reasons

Rural and isolated housing

5. The site is located within the village of Bull's Green, and it is situated beside residential properties. Bull's Green adjoins the village of Burnham Green. Both villages predominantly contain residential properties but include some, albeit limited, facilities. This includes, very near the site, The Horns pub. The surrounding area includes other villages such as Datchworth and Tewin. All of these villages are located within an area which is largely rural in character.
6. As the site is set amongst the built-up parts of Bull's Green, it forms part and parcel of a village. It is not separated nor detached from the houses and other buildings within Bull's Green and, together with the adjoining Burnham Green, the site forms a part of a consolidated tract of settlement. For these reasons, the site is not within an isolated position. Consequently, the Framework's policy on isolated homes in the countryside set out at paragraph 84 is not relevant to the proposal and, in turn, there is no conflict with it.
7. Bull's Green and Burnham Green are each identified as Group 3 Villages by Policy VILL3 of the East Herts District Plan (LP). This policy permits limited infill development within such villages, but only where it is specifically identified within an adopted neighbourhood plan. In this case, no adopted neighbourhood plan identifying such development applies. As a result, the proposal conflicts with this policy.
8. Policy DPS2 of the LP sets out a development strategy. It accepts limited development within villages. However, given that Policy VILL3 requires that development in Group 3 Villages must be identified within a neighbourhood plan, and as that would not be the case here, I find that the proposal does not constitute the type of limited village development advocated by DPS2. Therefore, I also find that the proposal does not accord with the development strategy set out within DPS2.
9. Consequently, although the proposal would not amount to isolated housing in the countryside in the terms of the Framework, for the reasons I have set out, it would, nevertheless, conflict with the aforementioned development plan policies that control the location of housing in rural areas. Amongst other matters, those policies adopt a particular approach to the direction and scale of housing within the District's villages. There is nothing about this approach I find to be inconsistent with content within the Framework. I return to the weight I attribute to the development plan policy conflicts I have identified later in my decision.

Accessibility

10. As Group 3 Villages, I accept that both Bull's Green and Burnham Green contain a limited array of services and facilities. In order to access the typical range of services that they would likely require frequently, the future occupiers of the proposed development would have to travel further afield. I expect that there would be a reliance upon a private car – likely for any commuting requirements and to access the types of services small villages do not have - such as supermarkets for instance.

11. That said, the local area nevertheless contains various services and facilities. Many of these are not very far away from the site. In the context of the rural area the site is within, the site has some accessibility credentials of merit.
12. Firstly, and very near to the site, is a pub and a bus stop. Although the bus services provided are infrequent and it is not served by a formal shelter, it would nevertheless, at particular times in the week, provide an alternative sustainable travel option. The buses run to bus and railway stations in larger settlements such as Hertford – places with many facilities and onward connection options.
13. Burnham Green has a beautician's, a pub and a playground. Bull's Green is separated from Datchworth by only a small tract of countryside through which Bramfield Road runs. Datchworth contains pubs, a coffee shop, a convenience store, a village hall, sports facilities and a playground. For what is quite a small settlement, I consider this to be a good array of facilities. Although the routes along which these facilities in Burnham Green and Datchworth are not all served by streetlights and footpaths, they are each close enough to the site that, on a pleasant day, prospective occupiers of the development may well choose to walk or cycle to them.
14. Consequently, there would be options available to the future occupiers of the development to access services and facilities without being wholly reliant upon a private car. Furthermore, when a car is to be relied upon, given the number of nearby settlements and the collection of facilities within them, only short trips would be necessary at times. Dedicated cycle storage is proposed within the development which would assist in encouraging cycling as a transport option. An electric vehicle charging point is also proposed, albeit, this is a requirement of building regulations anyway.
15. In the round, and in the context of the rural area it is set within, I therefore find the site's accessibility to services, facilities and sustainable transport modes to be acceptable. The proposal complies with Policy TRA1 of the LP which, amongst other matters, requires that development be located in places which enable sustainable journeys to be made to key services and facilities and seeks to ensure that a range of sustainable transport options are available to development occupiers.

Other Matters

16. My attention has been drawn to two appeal decisions for housing in the Bull's Green/Burnham Green area. In each, the extent to which the proposal would or would not comply with policies DPS2, VILL3 and TRA1 and the site's accessibility credentials, were main considerations. One appeal was allowed and one dismissed. There are elements of my decision which align with, but also diverge from, the conclusions of the Inspectors in those cases. However, importantly, appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case.
17. The appeal site is located within the Green Belt. Policy GBR1 of the LP, states that proposals within the Green Belt should be considered in line with the Framework. 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. One of those exceptions is limited infilling in villages.

18. The site is within a village. Although the site is presently garden land, it nevertheless constitutes a gap off Bramfield Road between the residential properties north and south of it. Siting a dwelling in the position proposed would be reflective of the generally linear settlement pattern in Bull's Green. Furthermore, 76 Bramfield Road itself is located to the site's west. Therefore, the site has existing buildings to its immediate surrounds. With just a single dwelling proposed, the amount of development to be constructed would be modest. For these reasons, the proposal would constitute limited infilling in a village. It would therefore not be inappropriate development in the Green Belt, which is compliant with GBR1 and the Framework.
19. The nearest residential properties to the site are a mix of two storey houses and bungalows some of which have accommodation within their roof spaces. These properties vary in size, scale and design but lightly-coloured render and brick building materials are common, as are feature gables and dormer windows. Reflective of this, the proposed dwelling would have accommodation across two floors, brick and render are proposed, and it would feature dormers and a pronounced front gable. The existing access drive serving No 76 would remain. This would ensure that a substantial gap would be maintained between the proposed dwelling and No 72. Given these factors, the dwelling's design, size and scale would be sympathetic to the area, and it would not appear squeezed into its plot.
20. Garden land would be built-upon. However, the new dwelling would be served by both front and rear gardens and some landscape features which contribute positively to the character and appearance of the area are proposed to be retained. Consequently, siting the development within the existing garden would not be harmful to the area.
21. The proposed dwelling would flank the blank, side elevation of the detached garage associated with No 72. The bungalow at No 72 itself is set farther back into its plot. The proposed dwelling would therefore have an angled relationship with the neighbouring bungalow. The presence of the access drive, which would serve the proposed dwelling and No 76, provides for separation between the site and No 72's plot. These factors would ensure that any effects of the proposal upon the outlook and sense of enclosure of No 72 would be limited.
22. The first floor windows proposed within the dwelling would be orientated in a south-westerly direction. They would therefore be gently angled away from No 72 which is to the site's north and north-west. This would ensure that the privacy of the occupiers of No 72 would not be unduly infringed upon.
23. As the proposed dwelling would be sited to the south side of No 72, and given its two storey nature, I expect that some reduction in light received within the plot at No 72 would be likely at times. This would also be likely to affect the light received by the solar panels, especially the nearest ones on the garage. By reason of their greater separation from the proposed dwelling, the panels on the bungalow itself, and the windows in the elevation beneath them, would likely be less affected. No 72 has an extensive garden to the west of the bungalow, and I expect that much of this would be unaffected. Therefore, the occupiers of No 72 would be the subject of some harmful light level reduction as a result of the proposal, but the extent of it would be moderated. Relevant

Policy DES4 of the LP sets out that significant detrimental impacts on the amenity of neighbouring occupiers should not arise as a result development. The proposal would comply with this policy as any harm which would arise would not be at a significant level.

24. The occupiers of No 72 express concerns with the comings and goings of vehicular movements associated with the development. However, with only a single dwelling proposed, the number of movements that would take place would be limited. The proposed parking spaces are set away from the bungalow at No 72 and would be partly screened by the existing garage. Consequently, the movements to and from the site associated with the development would not be disruptive.
25. Finally, the Council accepts that they cannot demonstrate a deliverable five-year supply of housing land as required by the Framework. The implications of this I discuss further below.

Planning Balance

26. As the Council cannot demonstrate a deliverable five-year supply of housing land, paragraph 11 d) of the Framework applies. There are no policies in the Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed. I must therefore consider whether the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits.
27. In my first main issue, I have identified that the proposal would not comply with the development plan's planned distribution for housing development, as established by DPS2 and VILL3. As these policies govern the spatial distribution of development, they are at the heart of the development plan, and by conflicting with them, I find that the proposal is in conflict with the development plan as a whole.
28. However, despite these findings, in my second main issue, I have also identified that the accessibility credentials of the site are acceptable within the context of a rural area. Therefore, the harm that would arise from the conflict with the aforementioned development plan policies and the siting of development at some odds with the plan's development strategy is somewhat mitigated. Therefore, I attribute a moderate amount of weight to the development plan conflict. Some further harm would result upon the living conditions of the occupiers of No 72, but this would be quite modest.
29. Given the housing land supply position, the proposal would make a modest but, nevertheless, valuable contribution in this regard. As a small site, it is likely that the development would be delivered quite quickly too. Paragraph 70 of the Framework points out that small and medium sized housing sites can make quick and important contributions to housing supply. These very circumstances would apply here.
30. Through the provision of the likes of bat, bird and invertebrate boxes and native planting, the proposal would result in some modest biodiversity enhancements. Some modest economic benefits and support to services and businesses in the area would be derived from the construction and operational phases of the development.

31. Collectively, I attribute a significant amount of weight to the benefits of the proposal. When assessed against the policies in the Framework as a whole, the adverse impacts of the development do not significantly and demonstrably outweigh the benefits of the development. Consequently, the presumption in favour of sustainable development applies.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. I have identified conflict with the development plan taken as a whole. However, the Framework is an important material consideration, and the outcome of the paragraph 11 d) balancing exercise indicates that permission should be granted. In the particular circumstances of this case, I find that the material considerations are sufficient to outweigh the conflict with the development plan.

Conditions

33. Condition 1 sets out the standard time limitation. Condition 2 is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
34. A condition to ensure parking provision is provided is necessary in the interests of highway safety. To promote sustainable means of travel, a cycle storage condition is required.
35. Although some details of external materials, site enclosure, cycle and bin storage are provided, they are imprecise. In the interests of the character and appearance of the area I have therefore imposed conditions in these regards.
36. Conditions requiring a scheme which ensures the protection of landscape features to be retained, defines proposed landscaping and ensures the final detail of the ecological enhancement and mitigation measures is necessary in the interests of the character of the area and the promotion of biodiversity. These conditions require agreement before the development commences as some mitigation must be in place as a pre-cursor to the construction works.
37. Policy HOU7 of the LP requires that all new homes meet the optional Building Regulations standard for accessible and adaptable dwellings. So that the proposal complies with this policy, I have imposed condition 4. This is a pre-commencement condition as matters such as site levels can be relevant, therefore, the scheme must be devised at a very early juncture.
38. Together with its supporting text, LP Policy WAT4 sets out that East Hertfordshire is an area the subject of water resource stress. So that water is used efficiently, the policy requires that residential development meets the optional Building Regulations water efficiency consumption target of 110 litres or less per head per day. I have therefore imposed condition 8.
39. Condition 13 is necessary in the interests of health and safety and condition 14 in order to protect the living conditions of local residents during the construction phase.
40. Although the site is located within the Green Belt, with residential properties nearby, the Planning Practice Guidance is very clear that the unjustified removal of freedoms to carry out domestic alterations to properties will not meet the tests for imposing conditions. In this case, it has not been shown to

me that there is a clear justification for the removal of these freedoms. I have, therefore, not imposed such a condition.

Conclusion

41. For the reasons I have set out, the proposed development would conflict with the development plan as a whole, but material considerations indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

H Jones

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:

P01
P03 B
P04 B
P05 B
P06 B
- 3) No development shall take place until a scheme of ecological mitigation and enhancement measures, inclusive of a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:
 - a) the measures to be deployed to protect radiating and sheltering mammals during the construction and operational phases of the development;
 - b) details of a low-impact lighting scheme for both the construction and operational phases of the development;
 - c) the measures to be deployed to protect nesting birds; and
 - d) details of the provision of 1 bird box, 1 bat box and 1 invertebrate box.

Thereafter, the development shall be carried out in accordance with the approved details.

- 4) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which details the measures to be included to ensure that the dwelling meets the optional Building Regulations requirement M4(2): Category 2 – Accessible and Adaptable Dwellings. Thereafter, the development shall be carried out in accordance with the approved scheme and the measures thereafter retained.

- 5) No development, nor works to trees or hedgerows, shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) details of all existing trees and hedgerows to be retained and the measures for their protection throughout the course of development;
 - b) details of proposed planting including the species, plant supply sizes, planting locations and plant numbers/densities. The planting shall include native species;
 - c) details of all hard surfacing materials to be provided; and
 - d) a timetable/programme for implementation of the scheme of proposed landscaping which details the trigger points for when the planting, seeding and turfing will take place and be completed and when the hard landscaping works will be provided.

Any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Agreed tree and hedgerow protection measures must be implemented before the development commences and must be retained until the completion of the development.

The development shall be carried out in accordance with the approved details.

- 6) No development involving the erection of any sections of the external walls or roof of the dwelling hereby permitted shall take place until full details or samples of the external wall and roofing materials have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 7) No development involving the insertion of any doors or windows shall take place until full details or samples of the materials and finish of all doors and windows have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 8) The dwelling hereby permitted shall not be occupied until a scheme has been submitted to and approved in writing by the local planning authority which details the measures to be included to ensure that the dwelling meets the optional Building Regulations requirement G2 – Water Efficiency consumption target of 110 litres or less per head per day. Thereafter, the development shall be carried out in accordance with the approved scheme and the measures thereafter retained.
- 9) The dwelling hereby permitted shall not be occupied until the driveway and private vehicular parking spaces proposed to serve it have been implemented in accordance with the approved plans.
- 10) The dwelling hereby permitted shall not be occupied until cycle storage has been provided to serve it in accordance with details that have first

been submitted to and approved in writing by the local planning authority.

- 11) The dwelling hereby permitted shall not be occupied until bin/recycling storage has been provided to serve it in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 12) The dwelling hereby permitted shall not be occupied until any means of enclosure have been completed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 13) If, during the course of development, any contamination is found it shall be reported immediately to the local planning authority, work shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation measures, including timescales for their implementation, shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescales. Thereafter, a validation and verification report shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 14) Construction works, the related operation of plant and machinery and related site deliveries or site despatches shall only take place between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.



Costs Decision

Site visit made on 14 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Costs application in relation to Appeal Ref: APP/J1915/W/23/3327372 Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ

- 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 C Bullock for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Consistency in decision making is important, and where a Council does not determine similar cases in a consistent manner this can amount to unreasonable behaviour. However, it is also well established that applications should be considered on their own individual merits having regard to their particular circumstances.
4. The Coltsfoot Lane appeal was allowed whilst the Burnham Green Road appeal was dismissed. Although there are some differences between the location of these sites, both are within the Bull's Green/Burnham Green area and near the 76 Bramfield Road site. Some of the views expressed by the Inspectors in these decisions diverged.
5. I find that the Council had due regard to both of those appeal decisions and came to its own conclusion on the present appeal in the light of them. This was entirely appropriate. I cannot agree with the applicant that the Coltsfoot Lane appeal is clearly the more relevant of the two. Appraising the acceptability of the accessibility credentials of a site is a matter of judgement. The Council has provided a detailed appraisal of the appeal site's accessibility credentials and why, in its view, they are deficient. Although in my appeal decision I have concluded that the appeal site's accessibility to services, facilities and sustainable transport modes is acceptable for the development proposed, it was not unreasonable of the Council to have come to the opposing view.
6. The Council have therefore substantiated its views on this matter, even if I have not agreed with them. Furthermore, it can also be seen from my decision

that I agree with the Council in part – there is some conflict with development plan policies.

7. Consequently, I find that the Council appraised the appeal scheme on its own merits with proper regard to planning history in the area. In doing so the Council behaved reasonably. Therefore, an award of costs is not warranted.

H Jones

INSPECTOR



Appeal Decisions

Site visit made on 9 April 2024

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

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal A - Ref: APP/J1915/W/23/3332090

41 High Street, Buntingford, Hertfordshire SG9 9AD

- 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 Steven Finney against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1519/HH, dated 5 August 2023, was refused by notice dated 11 October 2023.
 - The development proposed is the removal of existing conservatory, erection of rear single storey extension and loft conversion.
-

Appeal B - Ref: APP/J1915/Y/23/3332095

41 High Street, Buntingford, Hertfordshire SG9 9AD

- 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 Steven Finney against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1520/LBC, dated 5 August 2023, was refused by notice dated 11 October 2023.
 - The works proposed are the removal of existing conservatory, erection of rear single storey extension and loft conversion.
-

Decisions

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

Preliminary Matter

3. Appeal B relates to part of the Grade II* listed building, named 'Victoria House, 41 43, High Street'¹, namely No 41 High Street. Because Appeal B relates to a refusal to grant listed building consent, both appeals relate to works that would affect the setting of other listed buildings, and the appeal site is within a conservation area, I have had special regard to Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are the effect of the proposal on the:
 - special architectural or historic interest of the Grade II* listed building, Victoria House (Appeals A and B);

¹ List entry number 1101310

- special architectural or historic interest of the Grade II listed buildings, named '35, 37, 37A, High Street'², '39, High Street'³, '2 and 4, Baldock Road'⁴, and '6 and 8, Baldock Road'⁵ in terms of how the buildings are experienced in their settings (Appeals A and B);
- character and appearance of the area, including whether or not it would preserve or enhance the character or appearance of the Buntingford Conservation Area (Appeal A); and,
- living conditions of the occupiers of Nos 39 and 37A High Street, with regard to overlooking and privacy (Appeal A).

Reasons

Victoria House

Significance

5. Victoria House is a former Coaching Inn, from the 15th and 16th centuries. It is Grade II* listed. It is now partly a house (the appeal property) and partly a shop (No 43).
6. The rear elevation of the building has a prominent, large roof with historic tiles. There are two rear projections, both non-original but still historic, the smaller of which is part of the appeal property. To the appeal property, the windows are predominantly timber sash, but in some instances double glazed. The extension to the appeal property is subservient to the original part of the building, due to its relative narrowness and because it reflects the materiality and style of the main building. Although altered, the rear elevation is still relatively attractive and positively contributes to the significance of the listed building. This is with the exception of a small conservatory attached to the rear of the main rear wall, which is an unattractive, modern feature that detracts from the significance of the building.
7. Internally, the appeal property retains significant, important historic fabric, including historic walls to both ground and first floor, and historic timber rafters and support structure in the roof. This fabric positively contributes to the significance of the building. However, the layout has been much altered through the introduction of the rear extension and also through a small side, rear extension directly adjoining the rear elevation of the adjacent building. The layout of the house is therefore of lesser importance to the significance of the building.

Proposed

8. It is proposed to demolish the existing conservatory and erect a new rear extension at ground floor level that would project the full length of the existing rear extension. A separate structure would be erected in the rear garden to provide an outside dining area. There would also be various internal works associated with the new extension and a new loft room.

² List entry number 1101309

³ List entry number 1348022

⁴ List entry number 1347970

⁵ List entry number 1173795

Assessment

9. There is no objection to the removal of the poor quality existing conservatory. However, even though only one-storey, the proposed rear extension would, in conjunction with the existing rear projection, create a full-width extension to the appeal property. It would also be relatively tall for a one-storey structure, accentuated by the proposed balustrading to the roof terrace. It would therefore be too large and bulky. Its height would be disproportionate to the existing rear extension, unbalancing the appearance of the property at ground floor level. The prominent steel balustrading and spiral staircase would introduce an alien form and materiality to the rear elevation, causing further harm. In addition, although open sided, the proposed rear structure would be positioned close to the proposed rear extension and has a large footprint, further overwhelming the existing building.
10. The proposed rooflights would be of acceptable external appearance because they would be relatively small and unobtrusive and because there are existing rooflights to the roof of the existing rear extension to the No 43 part of the listed building. The submitted information states that they could be positioned without the loss of any historic timber rafters. However, whilst some of the rafters might be more modern, no substantiated information or survey work has been undertaken to confirm this, or whether or not the rooflights could be inserted without requiring the removal of historic timber. This cannot be conditioned because it has not been demonstrated that there is any possibility of the rooflights being installed without the loss of important historic fabric. In addition, inserting the rooflights would involve the loss of tiles from the roof.
11. The creation of a loft space would require a new floor and potentially new insulation or other roof material to the under-side of the existing roof. No survey or detailed structural work has been provided to confirm if these elements could be provided without requiring the removal of, or causing damage to, important historic fabric. For example, a tie-beam or other oak support beams to the loft floor. For the same reason as with the rooflights, this cannot be conditioned. Even if material harm could be avoided to the historic fabric, the partitioning of the currently open loft space and covering up of existing exposed historic timber framing would in itself be harmful.
12. Internally, the existing window to be removed and replaced to the rear elevation is a relatively modern double glazed unit. The wall to the bedroom to be removed is a partition wall, and the cupboard is also a modern and lightweight addition. These elements of the proposed works are therefore acceptable. In addition, below loft level, the overall change to the layout of the building would be acceptable, despite the introduction of a substantial, open living room because the layout has already been substantially altered from the original Inn through the rear extension.

Conclusion

13. As set out above, the proposal overall would harm the special architectural and historic interest of the Grade II* listed building. The proposal would therefore be contrary to Policies HA1 and HA7 of the East Herts District Plan 2018 (the DP), which reflect the requirements of the National Planning Policy Framework (the Framework) with regard to the protection or enhancement of listed buildings.

Nearby listed buildings

Setting and significance of the listed buildings

14. Directly to the south of the appeal property is the Grade II listed building, No 39 High Street. It is part of a terrace, albeit of distinctly different buildings, including the appeal property. Part of the first floor of No 39 sits over the most southerly element of the ground floor of the appeal property. The garden to the appeal property therefore partially lies underneath the first floor of No 39. This creates a very close and overlapping relationship between the two properties. The ground floor element of the appeal property is only one-storey, relatively small in footprint, and has articulation through step backs in its footprint. This, in combination with a small closet wing extension to No 39, creates a pleasing composition to the rear that positively contributes to the significance of No 39.
15. Further to the south, is the Grade II listed building, Nos 35 to 37A High Street, also part of the terrace. The rear elevations are appreciated together. There is screening at ground floor level because of a garden wall between Nos 39 and 41. However, there remains some inter-visibility, particularly above ground floor level, or as viewed from windows to first floor level or above. Nos 35, 37, 37A is further away from the appeal property than No 39 and has been more extensively extended and altered to the rear, including a fairly substantial ground floor extension with a terrace and associated balustrading above. Nevertheless, the appeal building is appreciated in the context of the rear of Nos 35 to 37A High Street and contributes positively to its setting.
16. There are further Grade II listed buildings along Baldock Road, at Nos 2 and 4, and 6 and 8. They are houses, from the 17th and 18th centuries. Insofar as is relevant to the appeal proposal, the primary element of their setting is that the rear gardens face towards the garden of the appeal property and the proposed works to the rear. As existing, there is an intimate relationship between the rear garden areas from the proximity of the buildings and that the Baldock Road properties are at right angles to those on High Street. Despite the partial erosion of the breathing space within the gardens by the extensions to the High Street buildings, this area contributes positively to the setting and therefore significance of the Baldock Road buildings. I acknowledge that there are some unfortunate elements in the rear garden areas, such as refrigeration units. However, this doesn't significantly undermine the fundamental relationship.

Assessment

17. The proposed rear extension, due to its bulk and mass, would unbalance the composition of the rear elevation of the appeal property as it relates to No 39. The extension in combination with the large open sided structure would overwhelm the setting of No 39, with the open sided structure to be located directly to the rear of the first floor of No 39. The proposed works would harm the currently pleasing, subservient, and articulated form at ground floor level, in the direct setting of No 39.
18. There would also be some harm to the setting of Nos 35 to 37A from the bulk, mass and footprint of the proposed extension and open sided structure, although this would be to a lesser degree because of the greater separation from the rear of that property, and the intervening existing garden wall providing some screening. For the same reasons, there would also be harm to the setting of Nos 2 and 4, and 6 and 8 Baldock Road.

Conclusion

19. For the reasons above, I have found harm to the special interest and significance of the Nos 35, 37, 37A, High Street, No 39 High Street, Nos 2 and 4 Baldock Road, and Nos 6 and 8 Baldock Road listed buildings in terms of how the buildings are experienced in their settings. The proposal would therefore be contrary to Policies HA1 and HA7 of the DP, which reflect the requirements of the Framework with regard to the protection or enhancement of listed buildings, including their settings.

Character and appearance

20. The appeal property lies in the Buntingford Conservation Area (the CA). As set out in the Buntingford Conservation Area Appraisal and Management Plan, July 2016, the buildings and street scene along High Street are the primary contribution to the significance of the CA. The proposal would not affect the appearance of High Street because the front elevation would be unchanged. There would, nevertheless, be some harm to the character and appearance of the area from the proposed works to the rear, for the reasons as set out above. The rear extension and open sided structure would be visible, albeit obliquely, from Baldock Road, and from private views from surrounding properties.
21. The proposal would, therefore, harm the character and appearance of the area including the CA. It would therefore fail to comply with Policies HA1, HA4, DES4, and HOU11 of the DP. These policies require high quality design and reflect the Framework with regard to the protection of the character or appearance of conservation areas.

Living conditions

22. There are residential properties to the above ground floor levels of Nos 39 and 37 High Street. No 39 has a window to the rear at first floor level that directly overlooks the garden of No 41, ie the appeal property. It also has a further window to the rear, as does No 37.
23. The proposed external dining area underneath the open sided structure could potentially lead to a greater intensity of use of the garden of the appeal property. However, the use of this area would not functionally change and there would not likely be a meaningful increase in noise or disturbance to neighbouring occupiers from the creation of this under cover space.
24. It is unclear if the proposed area on the flat roof of the proposed rear extension is proposed to be used as a terrace, or simply for fire access. However, the extent of balustrading and the over-engineered nature of the spiral staircase indicate that it is likely the intention is for it to be used as a roof terrace. I have given consideration as to whether a condition could be used to limit use of the flat roof for emergency access only. However, this would be difficult to enforce because of the ease of access to the terrace.
25. I therefore consider the effect of the proposal with the flat roof in use as a terrace. This would afford overlooking very close to the existing rear windows at first floor level to No 39. This would create a harmful loss of privacy to the occupants of No 39. Although to a lesser degree, because of the greater distance and more oblique angle, there would also be overlooking at fairly close distance to the rear windows to No 37, also resulting in a harmful loss of privacy.

26. The existing overlooking of the garden of the appeal property by users of the existing terrace to No 37 is not a relevant consideration. This is because, even if this does create a harmful relationship and loss of privacy to the occupants of the appeal property, this would not justify the creation of a harmful relationship in the opposite direction.
27. As such the proposal would unacceptably harm the living conditions of the occupiers of Nos 39 and 37 High Street with regard to loss of privacy. The proposal therefore fails to comply with Policy DES4 of the DP, which seeks to protect living conditions.

Other Matter

28. The appellant alleges that there are numerous breaches of local planning and listed building consent in the nearby area. I have not considered this further because the proposed works must be considered on their own merits.

Planning Balance

29. The harm that I have identified above to the significance of Victoria House would be reasonably significant, and to a Grade II* listed property. I place great weight on this harm, as directed by Paragraph 205 of the Framework. Nevertheless, it would be less than substantial harm. The harm to the settings of the nearby listed buildings and to the CA would be lesser and would also be less than substantial harm. As set out at Paragraph 208 of the Framework, where a development proposal would lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
30. The appeal property is an occupied dwelling of reasonable size and in good condition. There is no evidence before me, or reason to believe, that the proposed works are required to secure its continuing viable use. The public benefits of the proposal are very limited because it would only result in the modest increase in size and useability of the home. The public benefits would not, therefore, outweigh the harm to the significance of the listed buildings and the CA, as set out above. The proposal therefore fails to comply with the Framework and with Policy HA1 of the DP, which reflects the Framework in this regard.

Conclusions

31. For the reasons set out above, Appeal A is dismissed.
32. For the reasons set out above, Appeal B is dismissed.

O S Woodward's
INSPECTOR