

ITEM NO:	<u>Location:</u>	Land at Green End and north of The Cottage, Green End, Weston
	<u>Applicant:</u>	Mr T Wilson
	<u>Proposal:</u>	One 4 x bedroom detached dwelling with detached triple garage and new access.
	<u>Ref. No:</u>	16/02119/ 1
	<u>Officer:</u>	Richard Tiffin

Date of expiry of statutory period: 01 November 2016

Reason for Referral to Committee

Called in by Cllr Jarvis on being advised of the recommendation

1.0 Relevant History

1.1 There is no recorded planning history for this site.

2.0 Policies

2.1 **North Hertfordshire District Local Plan no.2 with Alterations 1996 (Saved Policies):**

Policy 2 'Green Belt';

Policy 3 'Settlement within the Green Belt'

Policy 55 'Car Parking Standards';

Policy 57 'Residential Guidelines and Standards'.

2.2 **Supplementary Planning Guidance:**

'Vehicle Parking Provision at New Development.

2.3 **National Planning Policy Framework (NPPF):**

Section 6 'Delivering a wide choice of high quality homes';

Section 7 'Requiring good design';

Section 9 'Protecting Green Belt land'

Section 11 'Conserving and enhancing the Natural Environment'.

Section 12 'Conserving and Enhancing the Historic Environment'

2.4 **Proposed Submission Local Plan 2011-2031:**

Policy CGB1 'Green Belt';

Policy T2 'Parking';

Policy D1 'Design and Sustainability'.

Policy HE1 'Heritage Strategy'

3.0 Representations

3.1 **HCC Hertfordshire Ecology** - No objection subject to informatives and objections

3.2 **HCC Archaeology** - No response.

3.3 **HCC Highways** - No objection subject to conditions.

3.4 **NHDC Environmental Protection** - No objection.

3.5 **Weston Parish Council** - Support as follows:

"This application was unanimously supported. The Council recognised the 'special circumstances' of a tenant farmer needing to move out of their farmhouse to make way for another tenant but not relinquishing all their responsibilities for work on the farm and therefore needing a home nearby. It was noted that there had been a cottage on the site in the past, some more elderly residents remember it, and that the applicant had organised and financed a public display of the plans in the village. There were no adverse comments from this event.

The Council recognised the sensitivity of the site but considered that the design and positioning of the proposed dwelling took account of this."

3.6 **Local Residents** - The occupiers of The Cottage, Green End; Fairclough Hall Farm and Swaynes cottage have all written in support of the proposal advancing that allowing a long standing member of the Weston farming community to stay in the village amounts to special circumstances.

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site is open land between the village of Weston and the small collection of dwellings known as Green End along the Clothall Road. The land is washed over by Green Belt designation and within the Weston Conservation Area.

4.2 Proposal

4.2.1 The application is seeking full planning permission for a single 4 bedroom residential property, triple garage and new access.

4.3 Key Issues

4.3.1 The key issues for consideration in this instance are as follows:

- principle of development in the Green Belt
- sustainability
- impact on heritage assets, principally the Weston conservation area
- highway issues
- biodiversity
- other matters
- conclusion (planning balance)

Principle of development

4.3.2 Section 9 of the NPPF sets out Green Belt policy. Paragraph 87 states that new development within Green Belts is inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. Paragraph 88 goes on to state that when considering planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

4.3.3 Paragraph 89 sets out that there are some exceptions when new development within Green Belts can be acceptable. These exceptions are:

- buildings for forestry and agriculture;
- the provision of appropriate facilities for outdoor sport, recreation and for cemeteries, as long as it preserves the openness of the Green Belt;
- the extension or alteration of an existing building providing that the works are

- not disproportionate over and above the size of the original building;
- the replacement of a building;
- limited infilling within villages and limited affordable housing for local community needs under policies set out in the Local Plan;
- the re-development or previously developed (brownfield) sites.

4.3.4 The applicant in this case is making both cases. On the one hand it is argued that there are very special circumstances in this case such as to override the normal presumption against inappropriate development in the Green Belt:

"In this instance it is considered that the site does not harm the openness of the Green Belt and the circumstances surrounding the applicant's reason behind the proposal and village support/consultation are considered to give rise to very special circumstances"

It could be assumed therefore that the applicant is of the view that the proposal constitutes 'inappropriate' development in the Green Belt. However, the planning statement then goes on to also express the view that the exception at bullet point 5 of para 89 of the NPPF applies, such that renders 'infill' in villages appropriate development:

"Having regard to the Wood v Secretary of State for Community and Local Government 2014 case this policy was referred to and it was considered that whilst the proposed application for a single dwelling was outside the settlement boundary it formed part of the village and it felt like part of the village. As such it was concluded that the limited infilling in village's policy was appropriate. This view is appropriate to this application"

4.3.5 In my view the determination of this application, insofar as it relates to Green Belt policy, rests on the applicant's case for very special circumstances not whether the site represents an infill plot as defined by paragraph 89 of the NPPF. I will address the question of infill first.

4.3.6 In arguing that the site is an infill plot the applicant's planning statement cites two cases - a planning appeal and a Court of appeal judgement. In quoting the rationale of the cited appeal Inspector, the applicant's appeal statement offers the following definition of infill:

"it was considered that the site constituted a small gap in an otherwise built up frontage and would therefore not represent inappropriate development within the GB..."

I agree with this characterisation of 'infill' presented by the applicant. It is abundantly clear however that this definition can not reasonably be applied to the application site. The site is part of a large space between the small collection of houses at Green End and the main village of Weston. There is no built-up frontage linking the two - indeed this clear physical separation is an essential characteristic of 'Ends' and that which distinguishes them from the principal villages around which they orbit. If a built up frontage was present as suggested, then the historic annotation 'End' would no longer be relevant. Moreover, the name 'Green' would also be nothing more than an historic footnote to a pattern of rural development long since eroded. Fortunately however the place name 'Green End' is still faithfully represented in the relationship between this loose collection of dwellings and the main settlement of nearby Weston. Accordingly, it should be obvious that there is no built up frontage and as such there can be little doubt that it is stretching the term 'infill' beyond credible boundaries to describe this space as such. Moreover, it is the character of the space which gives it its special historic value and established designation as a conservation area. Building within it as proposed would undoubtedly also harm this special character as I go on to discuss below.

4.3.7 In view of the conclusion that the application can not be regarded as an infill plot, it falls to consider whether there are any **'very special circumstances'** such that might allow the Authority to set aside the normal presumption against inappropriate development in the Green Belt. The planning system operates in the public interest and as such it is my view that any claim to 'very special circumstances' must establish that the benefits of setting aside the normal Green Belt presumption are such as to deliver clear public advantages compared to the current situation. In a recent call-in appeal relating to a solar farm in the Green Belt near Knebworth, the Secretary of State reiterates the importance of protecting the Green Belt and consequently the gravity of any very special circumstances argument that might override the designation:

"The Framework provides that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

While I am sympathetic to the argument for supporting this proposal at a personal level and can see that the approval of this application might benefit a long-standing member of the Weston community, I have little trouble concluding that this is not the same as advancing very special circumstances framed in the public interest which clearly outweigh acknowledged harm to the Green Belt designation.

Summary: The proposed development is not infill and therefore represents inappropriate development in the Green Belt, the harm occasioned by which is not clearly outweighed by the presence of very special circumstances identifiable as being in the wider public interest. The application site would remain within the Green Belt following adoption of the Submission Local Plan.

Sustainability

4.3.8 The NPPF sets out three interrelated aspects of sustainability - the **social, environmental** and **economic**. Sustainable development is that which is not fundamentally at odds with any or all of these aspects. For example, development which might be regarded as yielding some small social advantage, but is demonstrably **environmentally** harmful, might not be judged as sustainable development in the round. The application proposal might confer some social benefit in providing a long standing member of the Weston community somewhere to live - accommodation which might otherwise be unaffordable. However, this personal social benefit would be transient in nature as the property is not offered as affordable housing to be administered in perpetuity by a Registered Social Landlord (a housing association for example). Weighed against this transient social advantage, the proposal might occasion permanent environmental harm to both the openness of the Green Belt (see above) and to the character of the Weston conservation area (see below). In the exercise of any planning balance this environmental harm might be judged, on balance, to render the proposal unsustainable and therefore contrary to the thrust of the NPPF.

4.3.9 Other environmental and social considerations might include access to services - harm being proportional to distance from such services. However, given the sites reasonable proximity to Weston (a category A village in the emerging plan), I would not be minded to raise this as a concern of significant weight in the planning balance.

Impact on heritage assets, principally the Weston conservation area.

4.3.10 The application site is in the Weston conservation area and I have touched upon the value of the site in this context at 4.3.6 above when discussing the Green Belt issues. I have also sought a view from the Council's Conservation Officer and the pertinent part of his response is set out below.

4.3.11 ***"Whilst acknowledging that 'The Cottage', 'The House' and Darnalls Hall Farm are located approximately half way between White Cottage (which I regard as being at the northern end of the main village) and Green End, the space either side of this small grouping, ensures that Green End remains distinctly separated from the 'main village' and that Darnalls Hall Farm ensures that this small grouping has a predominantly agricultural character. I suggest that contrary to the inference in the submitted DAS that the application site is a 'small gap in an otherwise built up frontage' I consider that this is in fact a large gap in an agricultural/edge-of-village transition area. By reason of the proposed dwelling's position, the building would erode the character of the green swathe between Gamekeepers Cottage and Darnall's Hall Farm and which is essential to maintaining the established character that is Green End. Furthermore, the visuals at Appendix 2 of the submitted DAS also do not convey the full extent of building proposed (triple garage not shown).***

This leads me to conclude that an IN-PRINCIPLE OBJECTION is justified on the basis that the proposal is contrary to the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy HE1 part a.) of the NHDC Local Plan 2011-2031 Proposed Submission (October 2016) and the aims of Section 12 of the NPPF. Although the level of harm would, in my opinion, be less than substantial and whilst acknowledging the positive responses to the pre-submission public consultation exercise and the positive support received via representations to the scheme (including the Parish Council) I find the degree of 'public benefit' (namely providing well-established local residents with a retirement home) would not outweigh the harm occasioned to the Weston Conservation Area."

I agree with the concerns expressed by the Councils Conservation Officer and conclude that this amounts to further harm in environmental terms such that must be weighed in the planning balance.

Highway issues

4.3.12 The highway authority has raised no objection subject to conditions.

Biodiversity.

4.3.13 The Councils ecological advisor has not objected but has recommended informatives and conditions relating to bats, reptiles, birds and the detail of any soft landscaping. The scheme was supported with the submission of an extended phase 1 ecological survey.

Other matters

4.3.14 There would be little material impact on neighbours resulting from a dwelling in this location - testament itself to the conclusion that this is certainly not an infill site. The Councils Environmental Protection Team have commented that ground contamination is unlikely but have requested that if permission were to be granted a condition requiring that provision be made for electric vehicle charging be imposed. While the scheme is below the threshold for consultation with the Local Lead Flood Authority (LLFA) I am not aware of any problems in this regard. The erection of one dwelling would not invite planning obligations. However, HCC has requested that fire hydrant provision be made should permission be granted - this could be achieved by condition.

4.3.15 At the time of writing this report I have not received any feedback from the Councils archaeological advisor. In the event that Members determine to take a different view to officers in this case, I would recommend a precautionary condition requiring the submission of a scheme of investigation (WSI).

4.4 Conclusion

4.4.1 The application proposal is clearly not *'infill'* by any reasonable definition, including that offered by the applicant and quoted at 4.3.6 above. Accordingly, it must be regarded as inappropriate development in the Green Belt which should only be considered favourably in the light of *'very special circumstances'*.

4.4.2 The application is recommended for refusal principally on the grounds that new dwellings in the Green Belt clearly represent *inappropriate* development. While I have some sympathy with the argument presented in mitigation, namely that the applicants are long standing residents and want to stay in the village, this private aspiration can seldom if ever amount to the *very special circumstances* necessary to build a new dwelling in the Green Belt. To conclude otherwise would be to soften the Councils approach to the application of Green Belt policy to a degree which would encourage similar applications based on the favoured status of individuals and then only for the transient period of their lifetime, after which such dwellings would simply become new open market dwellings in the Green Belt. This is an approach and interpretation I would strongly advise against.

4.4.3 In addition to the above, the application site currently forms part of the Weston conservation area and is important as a space, the character of which is central to that designation. The erosion of this acknowledged character, occasioned by the construction of large house with triple garage, would amount to harm to the heritage asset with no counterbalancing *public benefit* as required by the NPPF at paragraph 134, even if this harm is considered less than substantial:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

As I indicate above in respect of the Green Belt consideration, the provision of a home for a long standing member of the community is no doubt laudable at one level but can not, in my view, be elevated to the necessarily weighty status of a wider public benefit, not least because this would then be a clear invitation to consider similar proposals by the same measure going forward.

4.4.4 In any consideration of the overall planning balance there can be little doubt in my view. The *environmental* harm to both the Green Belt and the designated heritage asset in this location would be clear. The *social* and *economic* advantages of providing a long standing member of the community a home for a necessarily limited period of years are not disregarded but certainly can not be accepted as public benefits sufficient to outweigh the identified harm or to represent *very special circumstances* necessary to allow inappropriate development in the Green Belt.

5.0 Legal Implications

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That planning permission is **REFUSED** for the following reasons:

1. The application site is within an area designated in the North Hertfordshire District Local Plan no.2 with Alterations as Green Belt, within which there is a presumption against inappropriate development, such as that proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such circumstances. Moreover, it would harm the fundamental aim of Green Belt policy which seeks to maintain the openness of the area. As such, the proposal would not accord with the provisions of Policy 2 of the District Local Plan no.2 with Alterations 1996 and fails to comply with paragraphs 87, 88 and 89 of the NPPF.
2. Whilst acknowledging that 'The Cottage', 'The House' and Darnalls Hall Farm are located approximately half way between White Cottage and Green End, the space either side of this small grouping, ensures that Green End remains distinctly separated from the 'main village' and that Darnalls Hall Farm ensures that this small grouping has a predominantly agricultural character. This is in fact a large gap in an agricultural/edge-of-village transition area. By reason of the proposed dwelling's position, the building would erode the character of the green swathe between Gamekeepers Cottage and Darnall's Hall Farm - a swathe which is essential to maintaining the established character that is Green End. Although the level of harm could be said to be less than substantial and acknowledging the positive responses to the pre-submission public consultation exercise and the positive support received via representations to the scheme (including the Parish Council), it is nevertheless concluded that the degree of 'public benefit' (namely providing well-established local residents with a retirement home) would not outweigh the harm occasioned to the Weston Conservation Area. Accordingly, the Authority considers the proposal contrary to the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy HE1 part a. of the NHDC Local Plan 2011-2031 Proposed Submission (October 2016) and the aims of Section 12 of the NPPF.

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.