

24 March 2023

Our Ref Planning Control Committee/6 April 2023  
Contact. Committee Services  
Direct Dial. (01462) 474655  
Email. [committee.services@north-herts.gov.uk](mailto:committee.services@north-herts.gov.uk)

To: Members of the Committee: Councillor Val Bryant (Chair), Councillor Tom Tyson (Vice-Chair), Alistair Willoughby, Daniel Allen, David Levett, Ian Moody, Morgan Derbyshire, Sean Nolan, Simon Bloxham, Terry Tyler, Tony Hunter and Phil Weeder

Substitutes: Councillors Adam Compton, Amy Allen, Carol Stanier, George Davies, Michael Muir, Nigel Mason and Steve Jarvis

**NOTICE IS HEREBY GIVEN OF A**

**MEETING OF THE PLANNING CONTROL COMMITTEE**

to be held in the

**COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,  
LETCWORTH GARDEN CITY**

On

**THURSDAY, 6TH APRIL, 2023 AT 7.30 PM**

Yours sincerely,

Jeanette Thompson  
Service Director – Legal and Community

**\*\*MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION ON YOUR TABLET BEFORE ATTENDING THE MEETING\*\***

## **Agenda** **Part I**

<b>Item</b>	<b>Page</b>
<p><b>1. APOLOGIES FOR ABSENCE</b> Members are required to notify any substitutions by midday on the day of the meeting.</p> <p>Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.</p>	
<p><b>2. MINUTES - 9 FEBRUARY 2023</b> To take as read and approve as a true record the minutes of the meeting of the Committee held on the 9 February 2023.</p>	(Pages 5 - 14)
<p><b>3. NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.</p> <p>The Chair will decide whether any item(s) raised will be considered.</p>	
<p><b>4. CHAIR'S ANNOUNCEMENTS</b> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.</p>	
<p><b>5. PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from the public.</p>	
<p><b>6. TPO/00204 (2022) LAND REAR OF 30-36 GARDEN FIELDS, GREAT OFFLEY</b> REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER</p>	(Pages 15 - 20)
<p><b>7. TPO/00205 (2022) SOLLERSHOTT HALL, LETCHWORTH GARDEN CITY</b> REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER</p>	(Pages 21 - 26)

8. **PLANNING APPEALS** (Pages  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 27 - 62)
9. **CURRENT ENFORCEMENT NOTICES** (Pages  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 63 - 64)
10. **EXCLUSION OF PRESS AND PUBLIC**  
To consider passing the following resolution:
- That under Section 100A of the Local Government Act 1972, the press and Public be excluded from the meeting on the grounds that the following report will involve the likely disclosure of exempt information as defined in Paragraphs 5 and 7 of Part 1 of Schedule 12A of the said Act (as amended).
11. **CURRENT ENFORCEMENT ACTIONS** 65 - 72  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

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# Public Document Pack Agenda Item 2

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### PLANNING CONTROL COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,  
LETCWORTH GARDEN CITY  
ON THURSDAY, 9TH FEBRUARY, 2023 AT 7.30 PM

#### MINUTES

**Present:** *Councillors: Councillor Val Bryant (Chair), Councillor Tom Tyson (Vice-Chair), Daniel Allen, David Levett, Morgan Derbyshire, Sean Nolan, Simon Bloxham, Tony Hunter and Phil Weeder, Amy Allen and Michael Muir*

**In Attendance:** *James Lovegrove (Committee, Member and Scrutiny Manager), Nurainatta Katevu (Legal Regulatory Team Manager and Deputy Monitoring Officer), Eleanor Hopcraft (Committee, Member & Scrutiny Officer), Peter Bull (Senior Planning Officer), Germaine Asabere (Senior Planning Officer), Anne McDonald (Acting Development and Conservation Manager) and Harriet Sanders (Senior Planning Officer)*

**Also Present:** *At the commencement of the meeting approximately 10 members of the public, including registered speakers.*

#### 51 APOLOGIES FOR ABSENCE

*Audio recording – 1 minute 31 seconds*

Apologies for absence were received from Councillors Alistair Willoughby, Ian Moody and Terry Tyler.

Having given due notice, Councillor Amy Allen substituted for Councillor Willoughby and Councillor Michael Muir substituted for Councillor Moody.

#### 52 MINUTES - 1 DECEMBER 2022, 15 DECEMBER 2022

*Audio Recording – 2 minutes 0 seconds*

The Chair advised that she would take the two sets of Minutes separately to ensure that those present at one meeting could vote.

Councillor Tom Tyson proposed to approve the Minutes of the meeting held on 1 December 2022 and Councillor Daniel Allen seconded and after a vote, it was:

**RESOLVED:** That the Minutes of the Meeting of the Committee held on 1 December 2022 be approved as a true record of the proceedings and be signed by the Chair.

Councillor Val Bryant, as Chair, proposed to approve the Minutes of the meeting held on 15 December 2022 and Councillor Tom Tyson seconded and after a vote, it was:

**RESOLVED:** That the Minutes of the Meeting of the Committee held on 15 December 2022 be approved as a true record of the proceedings and be signed by the Chair.

**53 NOTIFICATION OF OTHER BUSINESS**

*Audio recording – 3 minutes 59 seconds*

There was no other business notified.

**54 CHAIR'S ANNOUNCEMENTS**

*Audio recording – 4 minutes 4 seconds*

- (1) The Chair advised that, in accordance with Council Policy, the meeting would be recorded
- (2) The Chair drew attention to the item on the agenda front pages regarding Declarations of Interest and reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.
- (3) The Chair clarified the speaking process for public participants.
- (4) The Chair advised that Section 4.8.23(a) applied to the meeting.
- (5) The Chair advised of a change to the order of the agenda and Item 8 would be taken before Item 6.

**55 PUBLIC PARTICIPATION**

*Audio recording – 5 minutes 56 seconds*

The Chair confirmed the registered speakers were in attendance.

**56 22/01464/OP LAND BETWEEN CROFT LANE NORTON ROAD, AND CASHIO LANE, LETCHWORTH GARDEN CITY, HERTFORDSHIRE**

*Audio recording – 43 minutes 50 seconds*

The Senior Planning Officer provided the following update:

- Since the report had been published, there had been an additional seventeen letters of objection from neighbouring residents.
- Hertfordshire County Council Growth and Infrastructure Unit had confirmed changes to the financial contributions required for the development, which had delayed the application.
- There were minor changes to the conditions.
- Condition 2, second line: the word 'internal' was deleted.
- Condition 20 (i), second sentence was deleted.
- Condition 30 (i) was deleted.
- Condition 31 reference M4(3) was deleted.

There were no questions from Members.

The Senior Planning Officer presented the report in respect of application 22/01464/OP supported by a visual presentation consisting of photographs and plans.

The Chair invited Mr Kevin Hinton to speak against the application. Mr Hinton thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The site was a historic conservation area, and the planning application had an effect on the wider community.

- No details had been given on the access point to the site, which included lines and turning circles.
- Croft Lane was the only viable access to the site, however the lane was narrow at 3.8m wide, which meant cars could not pass each other.
- Traffic had increased since Hertfordshire County Council had assessed the site.

There were no points of clarification from Members.

The Chair thanked Mr Hinton for his presentation and invited Ms Clare Newbury to speak in support of the application. Ms Newbury thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The adoption of the New Local Plan had resulted in the allocation of this site for residential development.
- The current application was submitted and established the principle of the application, which was supported by the Local Plan.
- Matters relating to access, layout, scale and landscaping would be addressed as part of the Reserved Matters application.
- An illustrated layout plan had been submitted with the outline application to deliver 42 dwellings.
- The applicant noted the comments from Statutory Consultees and Planning Officers in relation to the detailed policy matters, which would be addressed in the detailed design and development.
- The application was supported by an updated Suite of Technical Assessment Work including an updated transport statement.
- Existing trips along Croft Lane were 13 trips per hour in the AM traffic peak and 11 trips in the PM peak.
- The proposed 42 dwelling development would result in one trip every two minutes in both the AM and PM traffic peaks.
- The scheme would deliver affordable housing to meet the district's needs, public open space, a biodiversity net gain, employment during construction and more use and investment of local community facilities.
- Off-site improvements would be made to encourage walking and cycling.
- Planning contributions had been requested by the HCC growth and infrastructure team, as well as NHDC.

The following Members had points of clarification:

- Councillor Daniel Allen
- Councillor Simon Bloxham

In response to the points of clarification, Ms Newbury advised:

- The percentage increase in peak traffic on Croft Lane was based on a very low trip generation.
- The traffic survey was conducted over several days.

In response to the points raised, the Senior Planning Officer advised that the report covered access and impacts but did not cover means of access. This would be covered in the next application.

Councillor David Levett commented that he was concerned about the absence of a specific number of dwellings included on the application and requested a condition be included to cover this.

Nurainatta Katevu, Legal Adviser, advised that that application covered the acceptability of site development, not the quantum of dwellings. If the application came back in Reserved Matters, the quantum could be considered by the Committee.

Peter Bull advised that section 4.3.9 of the report clarified issues relating to numbers.

Councillor Simon Bloxham commented that he was concerned about the consequences of this application, especially safety and advised that he wanted to push for refusal.

Peter Bull advised that this was an outline application and access was not being considered. He highlighted that no objection had been received from HCC Highways on this application and therefore it would be unreasonable to refuse the application on these grounds, as it would risk the Council losing on appeal.

Councillor Daniel Allen commented that while he had concerns regarding the increase in traffic, there were no legal grounds for this application to be rejected.

Councillor Tom Tyson commented that concerns regarding access would fall under Reserved Matters.

Councillor David Levett commented that as there were no technical or legal grounds for refusal of this application, he would support it in this instance, so that the Committee could further consider the application at the Reserved Matters stage.

Councillor David Levett proposed and Councillor Michael Muir seconded and after a vote, it was:

**RESOLVED:** That application 22/01464/OP be **GRANTED** planning permission subject to the completion of a satisfactory S106 agreement and the reasons and conditions set out in the report of the Development and Conservation Manager.

**57 22/01810/FP LAND ADJACENT TO UNIT 3 ON THE WEST SIDE OF, CADWELL LANE, HITCHIN, HERTFORDSHIRE SG4 0SA**

*Audio recording – 77 minutes 15 seconds*

The Senior Planning Officer provided the following updates:

- Two items in the report were updated before being presented to the Committee.
- Proposed amendments to the conditions had been circulated to Members and included as addenda to the report prior to the meeting. These amendments had been agreed with the agent of the applicant.
- The Environmental Health Officer highlighted that there had been no noise assessments submitted in support of the application and in light of objections, it would be prudent to restrict the night-time activity at the site.
- This could be done with a condition requiring the submission of a noise management plan for approval prior to use or restricting the hours of use to daytime hours 07.00-23.00 with a noise impact assessment if night-time use is required.

The Senior Planning Officer presented the report in respect of application 22/01810/FP supported by a visual presentation consisting of photographs and plans.

The following Members asked questions:

- Councillor Val Bryant
- Councillor Tony Hunter
- Council David Levett



In response to the questions, Harriet Sanders advised:

- Condition 3 detailed the restriction to access hours.
- Lighting conditions would be considered.

The Chair invited Ms Suzannah Russell to speak against the application. Ms Russell thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The location displayed very minimal coverage for security and screening for existing hedging.
- The containers would not be obscured from the nearby playing field, which would degrade the appearance of the field.
- There would be no secure fencing around the perimeter of the site, which could lead to climbing on the containers and graffiti.
- There was concern for the vulnerability of lone workers at other units on the site, with the site being unsupervised.
- There was regular traffic congestion at the site.
- The containers would take up car parking space for other site users.
- There were concerns about noise, the unlimited access, lighting at the site, waste, and surveillance.

There were no points of clarification from Members.

The Chair thanked Ms Russell for her presentation and invited Mr Pete Turness to speak in support of the application. Mr Turness thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- Hitchin Motor Care were the only occupiers of the site, and occupied three spaces under a historic lease.
- Container storage was a relatively new innovation and Customer parking generally occurred adjacent to a customer's container.
- Working from a rented container would be prohibited.
- There were currently 9 occupied containers at the site, and more was required for the Applicant's own use.
- The application aimed to target long-term tenant and intended to impose strict terms and conditions.
- Trading on-site would not be an option, with significant monitoring and security.
- Highways had chosen not to restrict parking in Cadwell Lane and Wallace Way.
- The application would be a natural progression of the site.

The following Members asked points of clarification:

- Councillor David Levett
- Councillor Daniel Allen
- Councillor Val Bryant

In response to the points of clarification, Mr Turness advised:

- The joining of containers would be avoided, and there was no plan to have more than one entry into each container.
- A Palisade fence would be put around the site.
- Vehicles over 3.5tons were not anticipated to use the site.
- The large concrete blocks on the site were owned by Recycling Lives.
- The proposed time restrictions would not have an impact on the business.

- Site access would be through a keypad, and terms and conditions would restrict the hours of use.

Councillor Michael Muir commented on the noise from the site, and that time restrictions were needed on the site.

Harriet Sanders read out a verbal update from Councillor Ian Albert, a Member advocate who objected to the site. His update raised his concerns for the application, and suggested conditions that would restrict operating hours, lighting, restrict the site's environmental impact and ensure adequate waste disposal.

Councillor David Levett commented that a late starting time would restrict workers. He also commented that some businesses work until late evening. He proposed an amendment to Condition 3, which would allow use of the site between 07.00 and 20.00.

Councillor Daniel Allen proposed another condition which would limit the size of vehicles allowed access to the site to 3.5 tonnes and below. In response to this proposed condition, the Acting Development and Conservation Manager advised that this condition was not reasonable, as it would not be possible to monitor.

Councillor Daniel Allen asked the Planning team if it were possible to limit the height of vehicles allowed access to the site.

The Acting Development and Conservation Manager advised that there was no condition requiring fencing in the report. A new condition could be added to encompass a barrier at the site entrance which could restrict height if the Applicant was willing to accept this.

Pete Turness advised that he was willing to accept the additional condition.

Councillor David Levett proposed and Councillor Daniel Allen seconded and after a vote, it was:

**RESOLVED:** That application 22/01810/FP be **GRANTED** planning permission subject to the reasons and conditions set out in the report of the Development and Conservation manager, with the following amendment to Condition 3 and the addition of Condition 9 to read:

“Condition 3:

*To use hereby approved shall only take place between the hours of 07.00 and 20.00.*

*Reason: To ensure the amenity of neighbouring occupiers is protected and that no unacceptable harm is caused to the local environment and wildlife.*

Condition 9:

*Prior to the first occupation of the containers hereby approve, details of fencing are to be submitted to and approved in writing by the Local Planning Authority. The approved details are to be implemented prior to the first occupation of the containers and thereafter retained for the duration of the use hereby permitted.”*

*Reason: To restrict vehicle size.”*

58 **21/03533/FP LAND WEST OF TUTHILL HOUSE, KELSHALL TOPS, THERFIELD, HERTFORDSHIRE**

*Audio recording – 6 minutes 27 seconds*

The Senior Planning Officer provided the following update:

- The application was for three residential units in Therfield.
- Since the publication of the report, a letter of objection had been received from the Parish Council and had been circulated to Members.
- This application had been presented to the Committee previously, however following the adoption of the new Local Plan the application had to be submitted again.
- Previously developed land was land which is or was occupied by a permanent structure, whereas brownfield land was previously developed land that is no longer being used.
- These terms were often used interchangeably in Planning, but the Planning Officer did not believe that this technicality was relevant for the purposes of this application.
- Point of clarification in Paragraph 4.7.7, the second sentence was amended to: “All planning applications are considered on merit, and this site already has Officer recommendation for approval and Members resolve to grant permission”.

The Senior Planning Officer presented the report in respect of application 22/03533/FP supported by a visual presentation consisting of photographs and plans.

In response to a question from Councillor Michael Muir, the Senior Planning Officer advised that it was for Highways to address the matter of visibility when entering the road.

The Chair invited Ms Lynne Bogie to speak against the application. Ms Bogie thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- There was concern regarding the application and the manner the application had been dealt with.
- The application went against the New Local Plan and Policies.
- The application would extend the village on a narrow and busy road.
- The site would cause harm to local assets, and with no public transport in the village, car traffic would increase in the area.
- The nature of the roads meant that there was no safe access to the site and the village centre.
- There were multiple planning harms in the planning application.

There were no points of clarification from Members.

The Chair thanked Ms Bogie for her presentation and invited Mr Matthew Wood to speak in support of the application. Mr Wood thanked the Chair for the opportunity and provided the Committee with a verbal presentation, including that:

- The Officer’s report was impartial and the five year plan was improved.
- The site was not agricultural and unspoilt, with a history of use.
- The urban and industrial character of the site did not fit in with the village.
- The application for three residential dwellings would allow a resolution to this, as the site would be more in keeping with the village location.
- The concrete would be removed, access to the site would be narrowed and side edges would be enhanced with soft landscaping.
- There would be ample room for significant planting, which would contribute to a biodiversity net gain.

There were no points of clarification from Members.

Councillor Daniel Allen commented that this was previously developed land and would follow the Officer’s recommendation for approval.

Councillor David Levett commented that the previous application did not consider the new Local Plan. The current planning application did not comply with policies and the new Local Plan.

The Acting Development and Conservation Manager advised that harm needed to be identified to refuse the application. The opinion of the Planning Officer was that the policy benefits of this application outweigh the harm.

Councillor Tony Hunter commented that the previous Planning Officer advised that the site was not Brownfield, which conflicted with the new application which suggested that the site was Brownfield. He further commented that the site was outside of the settlement boundary and did not comply with the new policies.

The Senior Planning Officer highlighted paragraph 5.1 of the report which stated that the Local Planning Authority may depart from an updated development plan if material cases stated that planning cannot be followed. The planning application does not present harm, but had benefit.

Councillor Tom Tyson commented that there was definite policy conflict, however the application suggested improvement to the area. He commented that he could not see harm in the proposal, but was cautious when approving development outside of a village boundary.

Councillor Sean Nolan commented that approval of the application could contravene the new Local Plan.

The Acting Development and Conservation Manager advised that each application was assessed individually, and harms and benefits are identified in each application. She advised that the benefits to this application outweigh the harms.

Councillor David Levett commented that he felt the planning application went against the new Local Plan and was outside of a settlement boundary, which was harmful.

Councillor David Levett proposed and Councillor Tony Hunter seconded and after a vote, it was:

**RESOLVED:** That application 21/03533/FP be **REFUSED** planning permission due to the following reasons:

“The application site is outside of the settlement envelope of Therfield in a location designated as rural area beyond the Green Belt. The proposed development therefore conflicts in principle with Policies SP2, SP5 and CGB1 of the Local Plan 2011 - 2031 (2022) which seek to focus new housing within defined settlement boundaries.”

## 59 PLANNING APPEALS

*Audio recording – 121 minutes 38 seconds*

The Acting Development and Conservation Manager advised the Committee that there had been 3 new planning appeals in the last monitoring period.

Two decisions were made and had been dismissed by the Inspector.

**RESOLVED:** That the Committee noted the report.

The meeting closed at 9.33 pm

**Thursday, 9th February, 2023**

Chair

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<u>Location:</u>	<b>Land Rear of 30-36 Garden Fields, Great Offley</b>
<u>Applicant:</u>	-
<u>Proposal:</u>	<b>Group of 10x English Oak (Quercus robur)</b>
<u>Ref. No:</u>	TPO/00204 (2022)
<u>Officer:</u>	<b>Thomas Howe</b>

## 1.0 **Proposal**

1.1 Confirmation of Tree Preservation Order TPO/00204 (2022) – Group of 10x English Oak (Quercus robur), Land At Spinney, Rear Of 30 To 37 Garden Fields, Offley, Herts

## 2.0 **Site History**

2.1 In accordance with The Town and Country Planning Act 1900 (as amended) and The Town and Country Planning (Tree Preservation) (England) Regulations 2012 North Hertfordshire Council served a provisional Tree Preservation Order dated 5 December 2022 in respect of the above which provides for a period of 6 months for the Local Planning Authority to confirm the Order.

2.2 13/02671/1 - Erection of 63 dwellings consisting of 6 x 1 bedroom flats, 15 x 2 bedroom houses, 21 x 3 bedroom house, 15 x 4 bedroom houses and 6 x 5 bedroom houses; new vehicular access onto Luton Road, associated car parking, cycle and bin storage areas and associated infrastructure (as amended by plans received 5.10 & 16.12.13 and revised affordable housing statement received 16.12.13) – Conditional Permission

- Condition 5: *“The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and 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 during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.”*
- Condition 6: *“None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the Local Planning Authority.”*

## 3.0 **Representations**

3.1 A period of 28 days from the date of service of a provisional Tree Preservation Order provides for comments to be made. In this case, two letters of objection have been received, raising the following concerns:

- Homes were purchased on basis that no TPO was in place;
- Protecting the trees will infringe on ability to maintain the tree(s);
- Requirement to apply for tree works would result in unnecessary work;

- Impact of works upon ‘common law’ and ability to trim branches together with the legal implications of this;
- Incurrence of injuries from the trees and their maintenance;
- Poor condition of trees at present;
- Requests clarification of why this tree group is protected and not the hedges.

#### 4.0 **Planning Considerations**

##### 4.1 **Site and Surroundings**

4.1.1 Garden Fields comprises a new build development within Offley. The Spinney is to the rear of No. 30 to 36 Garden Fields, adjacent to the southern and south-eastern boundaries of these dwellings.

##### 4.2 **Key Issues**

4.2.1 When considering whether to confirm the TPO, it is essential that the following points be considered such as: any impact on the local environment in terms of loss of amenity if the trees were to be removed; any benefit in their retention for the present and the future and other relevant factors such as wildlife.

##### 4.3 **Consideration**

4.3.1 Trees represent an important environmental, economic and amenity resource within the built and natural environment. They are recognised within the England Trees Action Plan 2021-2024; Tree Preservation Orders and Trees in Conservation Areas 2014 and the North Hertfordshire Council Tree Strategy 2017 and Climate Change Strategy 2020-2025. In addition to these, Section 14 (Meeting the challenge of climate change, flooding and coastal damage) of the NPPF and Policies SP12 – Green Infrastructure, biodiversity and landscape and NE1 – Landscape, all seek to support the contribution trees make to the natural environment.

A Tree Preservation Order is made by a local planning authority to protect specific trees, groups of trees or woodlands in the interests of amenity. An order prohibits the cutting down, topping, lopping, uprooting, wilful damage, or destruction of trees without the local planning authority’s written consent. If consent is given, it can be subject to conditions which have to be followed.

4.3.2 Prior to the making of the provisional TPO, a visual assessment of the trees was undertaken by Maydencroft arboriculture consultants. The assessment looked at the condition of the trees at that time (November 2022) and the following findings were recorded:

**Roots, buttresses and base of trunks** – Difficult to fully assess due to location of some trees in private gardens. Structure of trees otherwise appears in good condition when viewed from ground level.

**Crown** – Recently reduced, however, trees are in good condition and should recover fully. Crowns are otherwise healthy and are in good condition with strong aesthetic contributions to the locality given their balanced and pleasing shape. Good vitality of crowns with symmetrical growth in previously reduced trees.



**Value** – High potential for current and future wildlife habitation and this species have the ability for up to 50+ decades of arboriculture value. The group is well established and presently contributes significantly to local amenity with the potential for contributions for the foreseeable future.

- 4.3.3 The conclusion of the assessment recommended the retention of these trees and their subsequent protection by means of a Tree Preservation Order being placed on this tree group. This recommendation was based on the visibility and subsequent amenity value of the trees together with their long-life expectancy and high potential for wildlife habitation. The report also advised that the removal of one or more of the trees would result in harm to the group as a whole by reason of harm to the balanced appearance of the group at present.
- 4.3.4 In terms of the objections received, it is accepted that there may be some impact upon the ability for residents to maintain the trees. However, the Local Planning Authority can and will consider cases on their merits and would incorporate submitted evidence as part of the decision. This evidence can comprise a tree report prepared by an arboriculturist. This is unlikely to impede the residents' ability to maintain the trees as an application for works to a protected tree is free and incorporates a time limit. It is acknowledged that this would result in the introduction of further requirements for maintaining the trees, however, the process is not significantly time consuming or requiring significant effort from landowners and officers.
- 4.3.5 The report provided by Maydencroft does not support the representation that advises of the poor condition of the trees. The contributions made by the trees to absorbing carbon together with the ability for the trees to host animals and other organisms is welcomed given its biodiversity contributions.

## 5.0 **Environmental Implications**

- 5.1 Trees contribute a key role in helping to tackle the climate emergency and creating a greener district. They not only directly remove carbon dioxide from the atmosphere and provide us with oxygen but also deliver many other benefits including: providing visual public amenity; softening or complementing the effect of the built environment; displaying seasonal changes and providing opportunities for biodiversity; making places more comfortable in noticeable ways by contributing to screening and shade; reducing wind speed and turbulence; reduce flooding by intercepting snow and rainfall and reducing sun glare.
- 5.2 Trees are also a key element of the green infrastructure network, contributing to urban cooling and providing microclimate effects which help reduce energy demands on buildings. They therefore represent a key resource that can significantly contribute to climate change adaptation.

## 6.0 **Legal Implications**

- 6.1 There are no financial implications for the council at this stage. Compensation is potentially payable only where sufficient evidence has been provided by an applicant to support an application to carry out works to a protected tree and where that application is refused.

## 7.0 Human Rights Act Implications

- 7.1 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions, but it is capable of justification under Article 1 of the First Protocol as being in the public interest (the amenity value of the trees) and subject to the conditions provided for by The Town and Country Planning Act 1990 (as amended) and The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and by the general principles of international law.

## 8.0 Alternative Options

- 8.1 If the Provisional Tree Preservation Order (TPO/00204) is not confirmed then the trees would be controlled temporarily by the conditions attached to the original planning permission, with return forms advising that the site was completed in 2016.

## 9.0 Conclusion

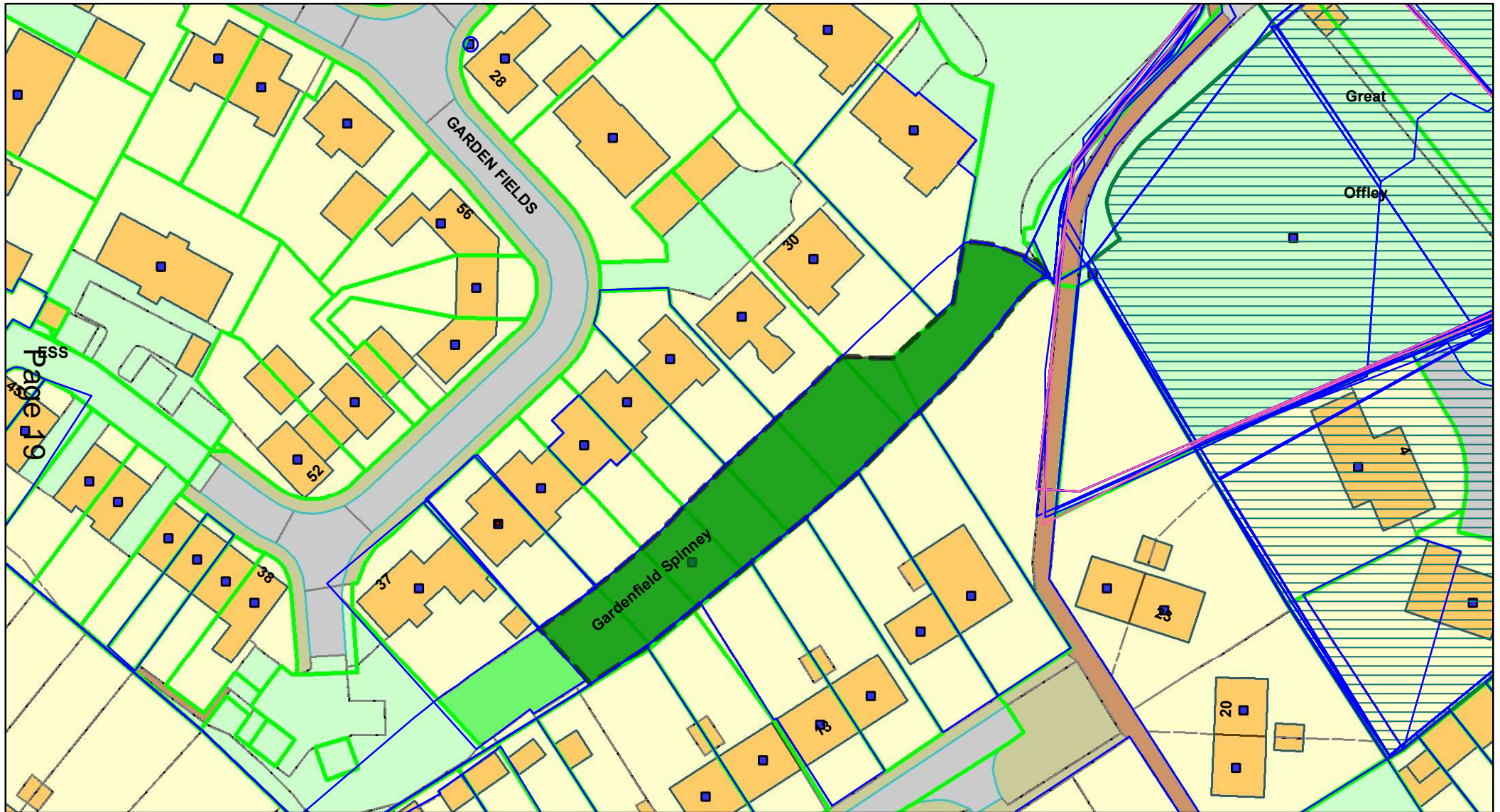
- 9.1 Mature trees such as this group of English Oaks play a key role in helping to tackle climate change and to create a greener district. These trees contribute by absorbing carbon dioxide and by providing habitats for a variety of species. Therefore, if the TPO is confirmed, the protection of these trees will not just retain their environmental contributions but also the public amenity values given their relative visibility and their pleasing shape and scale. These would contribute positively to the council's objectives of reducing global warming and carbon emissions.
- 9.2 Should the TPO be confirmed, it does not result in the inability to maintain the trees and instead requires the submission of a TPO application, with the Local Planning Authority considering the impacts to the trees and any evidence submitted accordingly.

## 10.0 Recommendation

- 10.1 That the provisional Tree Preservation Order (TPO/00204) be **CONFIRMED**.

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

TPO/00204 (2022) Land rear of 30-36 Garden Fields, Great Offley



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Scale 1:750  
Date: 20/03/2023

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<u>Location:</u>	<b>Sollershott Hall, Letchworth Garden City, Hertfordshire</b>
<u>Applicant:</u>	-
<u>Proposal:</u>	<b>Group of 25 Pine</b>
<u>Ref. No:</u>	TPO/00205 (2022)
<u>Officer:</u>	<b>Henry Thomas</b>

## 1.0 **Proposal**

- 1.1 Confirmation of Tree Preservation Order TPO/00205 (2022) – G1 – Group of 25 Pine trees at Sollershott Hall, Sollershott East, Letchworth Garden City, SG6 3PN.

## 2.0 **Site History**

- 2.1 In accordance with The Town and Country Planning Act 1900 (as amended) and The Town and Country Planning (Tree Preservation) (England) Regulations 2012 North Hertfordshire Council served a provisional Tree Preservation Order dated 5 December 2022 in respect of the above which provides for a period of 6 months for the Local Planning Authority to confirm the Order.

## 3.0 **Representations**

- 3.1 A period of 28 days from the date of service of a provisional Tree Preservation Order provides for comments to be made. In this case, two letters of objection have been received, one on behalf of Sollershott Hall Management Ltd and one from the Owner/Occupier of Flat 30, Sollershott Hall raising the following concerns:

- Trees are damaging the fabric of Sollershott Hall
- Deadwood falling in high winds causing damage to cars and potentially dangerous to people.
- Trees are lifting concrete drive
- Lifting of concrete has caused damage to vehicles
- Damage to original drainage systems, allowing for rats into the property
- A structural engineer report has shown one tree is leaning closer to flats 34-39 each year and causes a health and safety issue.

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

- 4.1.1 Sollershott Hall is a Grade II listed block of flats building located on the corner of Spring Road and Sollershott East. The site is located within the Letchworth Conservation Area.

4.1.2 The group forms part of a cohesive row of trees located on the verge between the private access road for Sollershott Hall and the neighbouring private property boundary to the east. At the northern end, this row adjoins a separate row of predominantly black pines mixed with some Scots pines, which runs to the west along the north boundary of Sollershott Hall. Both rows provide significant landscape and amenity value to the residents of Sollershott Hall and the local area due to their cohesive nature and size

## 4.2 Key Issues

4.2.1 When considering whether to confirm the TPO, it is essential that the following points be considered such as: any impact on the local environment in terms of loss of amenity if the tree was to be removed; any benefit in its retention for the present and the future and other relevant factors such as wildlife.

## 4.3 Consideration

4.3.1 Trees represent an important environmental, economic and amenity resource within the built and natural environment. They are recognised within the England Trees Action Plan 2021-2024; Tree Preservation Orders and Trees in Conservation Areas 2014 and the North Hertfordshire Council Tree Strategy 2017 and Climate Change Strategy 2020-2025. In addition to these, Section 14 (Meeting the challenge of climate change, flooding and coastal damage) of the NPPF and Policies SP12 – Green Infrastructure, biodiversity and landscape and NE1 – Landscape, all seek to support the contribution trees make to the natural environment.

A Tree Preservation Order is made by a local planning authority to protect specific trees, groups of trees or woodlands in the interests of amenity. An order prohibits the cutting down, topping, lopping, uprooting, wilful damage, or destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

4.3.2 Prior to the making of the provisional TPO, a visual assessment of the tree was undertaken by Maydencroft. The assessment looked at the tree condition at that time (November 2022) and the following findings were recorded:

At the time of the assessment, all five trees were in good condition, presenting signs of good vitality and no significant structural defects. Three of these trees were smaller and of slightly poorer quality when compared to the remaining thirteen trees in the wider group. The reduction in quality is due to these trees having small, suppressed crowns in relation to their tall stems, asymmetrical crown forms weighted to the west over the access road, and moderately leaning stems.

4.3.3 This assessment has concluded that not only the five trees identified by NHC but the entire row is suitable for the statutory designation of a Tree Preservation Order. This recommendation was based on the condition of the trees at the time of the survey, further validated by the trees historical, landscape and amenity value.

4.3.4 In terms of the objections received, it is accepted that there may be some impact upon the ability for residents to maintain the trees. However, the Local Planning Authority can and will consider cases on their merits and would incorporate submitted evidence as part of the decision. This evidence can comprise a tree report prepared by an arboriculturist. This is unlikely to impede the ability of residents to maintain the trees as an application for works to a protected tree is free and incorporates a time

limit. It is acknowledged that this would result in the introduction of further requirements for maintaining the trees, but the process is not significantly time consuming or requiring of significant effort from landowners and officers.

- 4.3.5 The report provided by Maydencroft does not address the objections towards the structural damage the trees cause towards the buildings and the road. Whilst it can be seen that the trees have caused uplifting to the private road, the damage to buildings or drainage system is less apparent. In my opinion, without evidence in the form of a structural report the benefit the trees provide to the visual amenity and biodiversity of the locality outweighs the harm.

## 5.0 **Environmental Implications**

- 5.1 Trees contribute a key role in helping to tackle the climate emergency and creating a greener district. They not only directly remove carbon dioxide from the atmosphere and provide us with oxygen but also deliver many other benefits including: providing visual public amenity; softening or complementing the effect of the built environment; displaying seasonal changes and providing opportunities for biodiversity; making places more comfortable in noticeable ways by contributing to screening and shade; reducing wind speed and turbulence; reduce flooding by intercepting snow and rainfall and reducing sun glare.
- 5.2 Trees are also a key element of the green infrastructure network, contributing to urban cooling and providing microclimate effects which help reduce energy demands on buildings. They therefore represent a key resource that can significantly contribute to climate change adaptation.

## 6.0 **Legal Implications**

- 6.1 There are no financial implications for the council at this stage. Compensation is potentially payable only where sufficient evidence has been provided by an applicant to support an application to carry out works to a protected tree and where that application is refused.

## 7.0 **Human Rights Act Implications**

- 7.1 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions, but it is capable of justification under Article 1 of the First Protocol as being in the public interest (the amenity value of the tree) and subject to the conditions provided for by The Town and Country Planning Act 1990 (as amended) and The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and by the general principles of international law.

## 8.0 **Alternative Options**

- 8.1 If the Provisional Tree Preservation Order (TPO/00205) is not confirmed then the tree is only afforded the protection of a conservation area.

## 9.0 **Conclusion**

- 9.1 Mature trees such as this group of Pine trees play a key role in helping to tackle the climate emergency and create a greener district. They directly remove carbon dioxide from the atmosphere and convert this to stored carbon. Additionally, they are

important for biodiversity both in their own right and as a habitat for other species. Therefore, if the provisional TPO is confirmed, the protection of this tree will not only retain the contribution it makes to public amenity value, but it will help contribute towards the Council's objective to reduce the effects of global warming and carbon emissions.

9.2 Should the TPO be confirmed, it does not mean that no future works to the tree can be undertaken, it purely means that any works would be the subject of a TPO application which the Local Planning Authority would need to consider and issue a decision on accordingly.

10.0 **Recommendation**

10.1 That the provisional Tree Preservation Order (TPO/00203) be **CONFIRMED**.



# NORTH HERTFORDSHIRE DISTRICT COUNCIL

TPO/00205 (2022) Land At Sollershott Hall, Sollershott East, Letchworth, SG6 3PN



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**PLANNING CONTROL COMMITTEE**

**DATE: 06 April 2023**

**PLANNING APPEALS DECISION**

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mr Kevin Heaney	Erection of one detached 5-bed dwelling and detached triple garage with carport/store/cycle store (as amended) .	Land To The South Of West Lane Offley	21/01399/FP	Appeal Dismissed On 24 January 2023	Delegated	The Inspector stated that whilst the contemporary design of the building, would not, in itself lead to harm to heritage assets, the proposed development would be a significant structure, of linear form and situated in close proximity to the boundaries of the appeal site. Consequently, it would appear as an elongated visual barrier, and would significantly erode the open character that the site currently exhibits. This would be exacerbated by the proposed garage, car port and storage building, which, although of a smaller scale would introduce further built development into the space. This would lead to a partial loss of the sense of openness that currently exists, to the detriment of the setting of the listed building and the character and appearance of the wider Great Offley Conservation Area.

Mr Jonathan Lovejoy	Erection of one detached 4-bed dwelling, detached garage/store room/double carport, creation of vehicular access off High street, parking and landscaping.	Land North East Side Of The High Street Hinxworth	21/02739/FP	Appeal Dismissed On 09 February 2023	Delegated	The Inspector concluded that the appeal site was not a suitable location for the proposed development, and the proposed development would have an adverse effect upon the character and appearance of the surrounding area and upon highway safety.
Mr Phillip Fowler	Erection of single storey side elevation conservatory with glass balustrade	Shooters Lodge Putteridge Park Luton LU2 8LD	21/03308/FPH	Appeal Dismissed On 14 February 2023	Delegated	The Inspector concluded that he proposed development would constitute inappropriate development and, by definition, would be harmful to the Green Belt by way of that inappropriateness. It would also have a limited but negative impact on the openness of the Green Belt.
Mrs Sarah Flain	First floor front extension over existing ground floor and insertion rooflights in front and side roofslopes	4 Tall Trees St Ippolyts Hitchin SG4 7SW	22/00812/FPH	Appeal Dismissed On 23 February 2023	Delegated	The Inspector found that the proposal would harm the living conditions of the occupiers of No 6 Tall Trees with regard to outlook. The Inspector also stated that the proposed front apex window would represent a dominant feature in the street scene which would not be in keeping with the surrounding area.
Marriott Land, Brian Homent and James Squier	Permission in Principle: Erection of 9 dwellings replacement local community shop (Class F2 (a)) of 265sqm and associated access, parking, drainage and	Land East Of Picknage Road And Adjacent To 36 Picknage Road Barley	21/02973/PIP	Appeal Dismissed On 03 March 2023	Committee	<b>Appeal against non-determination within prescribed time</b> The Inspector stated that the location, land use, and amount of development proposed, do not accord with important North Hertfordshire Local Plan 2011-2031

	biodiversity/landscaping area.					(NHLP) policies with regards to location. The development would also conflict with the Framework requirements, set out at paragraphs 130 and 170(b), for planning decisions to ensure developments are sympathetic to local character and that they recognise the intrinsic character and beauty of the countryside. The Inspector also found that the development is contrary to NHLP Policy HE1 (Designated heritage assets) and the Framework's aim to conserve heritage assets in a manner appropriate to their significance.
Mr Anthony Wilson	Development A: Insertion of rooflights to existing front roof slope Development B: Dormer to existing rear roofslope to facilitate conversion of loftspace into habitable accommodation.	3 Masefield Way Royston SG8 5UU	22/01609/FPH	Appeal Dismissed On 08 March 2023	Delegated	<b>A split decision was issued by the Council and this appeal is only concerned with Development B the proposed rear dormer</b> The Inspector concluded that the proposed development would cause unacceptable harm to the character and appearance of the host property and the surrounding area and, as such, it would conflict with NHLP Policies D1 (Sustainable design) and D2 (House extensions, replacement dwellings and outbuildings)

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# Appeal Decision

Site visit made on 25 May 2022

by **S D Castle BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

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**Appeal Ref: APP/X1925/W/21/3289069**

**Land off Picknag Road, Barley, Hertfordshire SG8 8HP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for permission in principle.
  - The appeal is made by Marriott Land, Brian Homent and James Squier against North Hertfordshire District Council.
  - The application Ref 21/02973/PiP, is dated 15 October 2021.
  - The development proposed is Permission in Principle: Erection of 9 dwellings, replacement local community shop (Class F2 (a)) of 265 square metres, and associated access, parking, drainage, and biodiversity/landscaping area.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order). The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted<sup>1</sup>. All other matters are considered as part of the subsequent technical details consent (TDC) application if permission in principle is granted. Planning permission does not exist unless both the permission in principle and the technical details are approved.
4. During the course of the appeal the North Hertfordshire Local Plan 2011-2031 (NHLP) was adopted<sup>2</sup> and replaces the saved policies of the District Local Plan Second Review with Alterations (1996)<sup>3</sup>. Both main parties' appeal statements included references to the policies of the Proposed Submission Local Plan and the parties have had the opportunity to comment on the adoption of the NHLP.

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<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

<sup>2</sup> Adopted on Tuesday 8 November 2022

<sup>3</sup> North Hertfordshire District Local Plan No. 2 with alterations, April 1996 (Saved Policies from September 2007)

I have taken those comments into account and the determination of this appeal is based on the policies in the NHLP as that is the development plan applicable at the date of this decision.

5. This appeal is against the failure of the Council to make a decision within the prescribed period. Following the lodging of the appeal, the Council has indicated that, had it been in a position to do so, it would have refused the application for the following two reasons:
  - i. *Due to there being no unmet need for a shop facility in Barley, there is no policy support for the proposed shop and 9 enabling dwellings on land outside of the village boundary. The proposed development would have adverse harm on the context of open landscape and edge of village setting in this location as well as unacceptable impact on the residential amenities of the adjoining neighbour number 36. As a result, the application is considered to fail to comply with the provisions of saved Policy 6 of the Local Plan 1996 and emerging Policies CGB1, CGB2b and D3 of the Submission Local Plan 2011 – 2031.*
  - ii. *The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Unilateral Undertaking) securing obligations towards education, library and youth services. The secure delivery of these obligations is required to mitigate the impact of the development on local infrastructure and services in accordance with policy 51 of the North Hertfordshire District Local Plan No. 2 – with Alterations (Saved Policies 2007) and proposed Local Plan Policy SP7 of the Council’s Proposed Submission Local Plan (2011-2031) (Incorporating Proposed Main Modifications 2018). Without this mechanism to secure these provisions the development scheme cannot be considered a sustainable form of development contrary to the requirements of the National Planning Policy Framework.*
6. A Unilateral Undertaking (UU1), dated 19 October 2021, was submitted as part of the appellants’ initial application documents. UU1 includes an obligation that a maximum of four dwellings can be occupied prior to the completion of the build of the shop. A second Unilateral Undertaking (UU2), dated 17 May 2022, was submitted by the appellants during the appeal process. UU2 includes obligations securing the various contributions required by the Council in their second putative reason for refusal.

### **Main Issues**

7. The main issues are whether the site is suitable for residential development, in terms of its location, land use and amount of development, with particular regard to:
  - i) local and national planning policy relating to the location of the proposed development;
  - ii) the effect of the proposal on the living conditions of neighbouring occupiers;
  - iii) the effect of the proposal on the character and appearance of the area; and
  - iv) the effect of the proposal on the setting and significance of the Barley Conservation Area (BCA);



## Reasons

### *Location*

8. NHLP Policy SP2 (Settlement Hierarchy) identifies Barley as a Category A Village in which general development within the defined settlement boundary is allowed. As a Category A Village, Barley provides a range of facilities, including a primary school, church, sports field and public houses. The main parties accept that the development would be in a location that would enable sustainable journeys to be made to key services and facilities in accordance with NHLP Policy SP6 (Sustainable Transport). I see no reason to disagree.
9. The site is, however, located at the eastern edge of Barley, outside of the village settlement boundary and within the 'Rural Area beyond the Green Belt' (RABGB). As such, NHLP Policies CGB1 (RABGB) and CGB2b (Community Facilities, Services and Affordable Housing in the RABGB) are relevant.
10. NHLP Policy CGB1 sets out the broad typologies of development considered acceptable within the RABGB, including (b) meeting a proven local need for community facilities, services or affordable housing in an appropriate location; and (e) modest proposals for rural economic development or diversification. Whilst the appellants assert that there is a proven local need for a replacement community shop, the proposals also include 9 market dwellings for which there is no support within Policy CGB1.
11. NHLP Policy CGB2b supports the development of community facilities, services and affordable housing in the RABGB adjoining Category A villages where:
  - a. It meets a proven local need as identified through a parish survey or other relevant study;
  - b. There are no reasonable alternate, suitable and available sites within the defined settlement boundaries of relevant towns or Category A villages or the built core of relevant Category B villages;
  - c. The proposal would meet relevant criteria of Policy HS2 (Affordable housing), particularly in relation to need, affordability and retention of dwellings;
  - d. The proposed development would not have a substantial adverse impact on the openness or general policy aims of the Green Belt or Rural Area beyond the Green Belt; and
  - e. The public benefit of the proposal outweighs any harm that might arise against these aims.
12. Policy CGB2b also allows, in exceptional circumstances, for the provision of limited market housing to cross-subsidise schemes otherwise supported by the policy, where it can be demonstrated that the level of market housing proposed is strictly necessary to make the required development deliverable and that it would accord with criteria (d) and (e) of the policy. The explanatory text to the policy states that where market housing is proposed, it must be justified by the submission of viability evidence.
13. The appellants advise that the existing village shop has been identified within the 2015 Village Plan as the most important village amenity/facility. I also note that the significant benefit to the local community of having a village shop is supported by the submissions of both Barley Parish Council and many

interested parties. Furthermore, I acknowledge that some interested parties have expressed a desire for a larger village shop in a location with more allocated parking and better access. Whilst I accept that there is a local need for a shop in the village, the evidence falls short of the parish survey, or other relevant study, required by criterion (a) of Policy CGB2b, to demonstrate that the proposed shop would meet a proven local need given the presence of the existing shop.

14. I have had regard to the letter submitted by the proprietor of the existing shop, and I acknowledge that ensuring the shop remains viable, given its limited floor area and the constrained levels of nearby parking, is a challenge. However, no financial accounts have been provided and there is no substantive evidence to indicate that the shop would be unviable for other potential proprietors. As such, there is insufficient evidence to demonstrate that the existing shop is at an imminent risk of permanent closure. The existing shop, therefore, remains a reasonable alternate, suitable and available site within the defined settlement boundary of Barley. The proposal does not, therefore comply with criterion (b) of Policy CGB2b.
15. The proposal does not seek to provide affordable housing, and in the absence of substantive evidence of a proven local need for the new shop, there is no justification for the provision of the open market dwellings to cross-subsidise delivery of the shop. Notwithstanding this, I do have concerns about the appellants' approach of proposing market housing without providing a comprehensive viability assessment of the overall scheme. In stating that the level of market housing must be strictly necessary to make the shop deliverable, Policy CGB2b clearly indicates that the market housing component should be the minimum necessary. The submitted Indicative Build Cost Plan of the shop, however, represents insufficient information to identify the strictly necessary level of market housing required. Consequently, in this regard, the level of proposed market housing is contrary to Policy CGB2b.
16. I acknowledge that other policies within the NHLP support existing and new shops that serve the day-to-day needs of local communities. Those policies broadly reflect the support within the National Planning Policy Framework (the Framework), at paragraphs 84, 85 and 93, for the provision of new and expanded local shops in rural areas.
17. NHLP Policy SP4 (Town Centres, Local Centres and Community Shops) supports the retention and provision of shops outside of identified centres where they serve a local day-to-day need. Whilst the proposed shop would serve the day-to-day needs of the community, Policy SP4 provides support of only limited weight given the lack of a proven need for the proposed shop.
18. NHLP Policy ETC7 (Scattered Local Shops and Services in Towns and Villages) states planning permission for small-scale proposals providing new shops and services to serve the day-to-day needs of the local community will be granted where, amongst other criteria, the site is within a defined settlement boundary. Given the proposal relates to a new shop outside of the defined settlement boundary of Barley, Policy ETC7 does not support the specifics of the appeal proposals.
19. The appellants also refer to NHLP Policy SP10 (Healthy Communities), but I find this policy to offer only overarching support for community facilities rather

than support for a new retail unit outside of the settlement boundary of a Category A village as is the case in this instance.

20. Overall, notwithstanding the national and local policy support noted above, the location, land use, and amount of development proposed, do not accord with important NHLP policies with regards to location, and I give significant weight to the identified conflicts with Policies CGB1 and CGB2b.

#### *Living Conditions*

21. I note that there are concerns that the retail unit and its associated parking would result in harm to the living conditions of the occupiers of no 36 Picknag Road. Those concerns are largely based on the site being developed in accordance with the submitted illustrative masterplan, which locates the retail unit adjacent to the southern boundary of no 36. The detailed layout of the development does not, however, fall within the scope of consideration for the first stage of the permission in principle consent route.
22. Whilst a retail unit on the site has the potential to result in harm to living conditions through light and noise pollution, the site is of sufficient area to allow for many different layouts that may mitigate any such harm. Those potential layouts could also avoid any harm by virtue of overlooking or overbearing adjoining dwellings. As such, in principle, I am satisfied that the land use and the amount of development proposed could be arranged on the site location without harm to the living conditions of adjoining occupiers. I do not, therefore, find the development to conflict with NHLP Policy D3 (Protecting Living Conditions).

#### *Character and Appearance*

23. The Council objects to the effect of the proposals on the site's context of open landscape and edge of village setting. Whilst I acknowledge that there is existing housing development on the eastern side of Picknag Road, the appeal site, as part of a sloping, agricultural field within an undulating, productive rural landscape, is representative of the wider agricultural and open landscape surrounding Barley. The site presents a long and undeveloped frontage to Picknag Road, allowing views from Picknag Road across the open, agricultural fields to the east of the village. The appeal site, therefore, forms a positive part of the village's transition to the open countryside, and is an important part of the rural setting of the village.
24. The proposed change from arable field to a shop and housing would fundamentally change the rural character of the site, altering its nature and function, which can only be seen as high magnitude change, notwithstanding the potential for open space and landscaping to be included in the final details of the scheme. The development would project into the open countryside on a prominent slope, representing an urban intrusion detrimental to the connection between the village and its open agricultural surroundings. I find, therefore, that significant landscape character and visual harm would result by virtue of the development of an open agricultural site that contributes positively to the rural setting of the village.
25. The explanatory text within the NHLP advises that the RABGB, in terms of intrinsic character and beauty, contains some of the highest quality countryside in the district and that a policy of restraint within the RABGB is therefore

justified. As such, the land use and amount of development proposed for the site would not accord with criterion (d) of Policy CGB2b by virtue of its substantial adverse impact on the policy aims of the RABGB, which includes seeking to provide strong policy protections for the countryside of North Hertfordshire.

26. Whilst the Council has found that the development would result in harm to the local landscape, it has not included conflict with NHLP Policy NE1 (Landscape) within its putative refusal reason. Such a position is inconsistent with its finding of landscape harm. Both the main parties' statements refer to Policy NE1 as a relevant material consideration and address the effect of the proposals on the character and appearance of the area.
27. I am not restricted to considering the appeal against only the policies within the putative refusal reasons. Consequently, for the reasons above, the development would fail to accord with Policy NE1 insofar as it requires, amongst other things, development not to have a detrimental impact on the appearance of their immediate surroundings and the landscape character area unless suitable mitigation measures can satisfactorily address the adverse impact. The development would also conflict with the Framework requirements, set out at paragraphs 130 and 170(b), for planning decisions to ensure developments are sympathetic to local character and that they recognise the intrinsic character and beauty of the countryside.

#### *Conservation Area*

28. The Barley Conservation Area (BCA) includes the majority of Barley and extends across Picknage Road to include the very western edge of the appeal site. S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The BCA is characterised by not only the many traditional rural buildings clustered along High Street and Church End, but also the considerable open spaces within it. The mix of traditional rural buildings and open spaces, together with the rural landscape surrounding the village, contribute to the significance of the conservation area.
29. The site lies at the edge of the BCA and its undeveloped character forms an important element in outward views from the BCA. The undeveloped nature of the site maintains the open character and the long-distance views from the eastern edge of the village. The site is, therefore, a significant visual element in the setting of the BCA. I find the site to contribute to the sense of space and rural tranquillity, characteristic of the wider countryside surrounding the BCA. As such, the undeveloped site helps to preserve a sense of timelessness and a connection to the village's agrarian and rural origins, positively contributing to the heritage significance of the BCA.
30. The land use and amount of development proposed for the site would reduce the connectivity of the BCA with the rural landscape on its east side, which forms part of its setting. The contribution that the appeal site makes to the BCA as part of its rural setting would be diminished as a result. This would be harmful to the character, appearance, setting and significance of the BCA. That harm would be less than substantial.

31. I note that both the Council and appellants also identify that the proposal would represent less than substantial harm to the BCA. I also note that Barley Parish Council assert the development would cause significant harm to the BCA. The Council has not, however, included a putative refusal reason in relation to that harm, viewing it not sufficient to warrant a reason for refusal. It is not clear from the Council's submissions, however, that it has, in its assessment of the development, weighed the identified less than substantial harm against the development's public benefits. Nevertheless, paragraph 202 of the Framework, and NHLP Policy HE1 (Designated Heritage Assets), require such a balance to be undertaken.

#### *The Heritage Balance*

32. The PPG<sup>4</sup> advises that, 'public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework'.
33. Amongst the benefits of the proposals would be the provision of 9 homes in a location accessible to the services and facilities available within the village. Following the recent adoption of the NHLP, the Council asserts that it is now able to demonstrate a five-year supply of deliverable housing sites (5YHLS). The appellants' final appeal submissions do not dispute the Council's ability to demonstrate a 5YHLS. The appellants do advise, however, that the Housing Delivery Test<sup>5</sup> (HDT) results for 2021 show that just 49% of the requirement over the previous three years was achieved, which is significantly below the expectation set out within the Framework.
34. The Housing Delivery Test period covers the previous 3 financial years, and in the case of the 2021 measurement, the years are 2018/19, 2019/20 and 2020/21. The Government is yet to publish the 2022 measurement. Framework paragraph 222 states that until new HDT results are published, the previously published result should be used. As such, I give moderate weight to the delivery of the proposed housing, acknowledging that the HDT measurement indicates a recent history of under-delivery, and that the Framework supports the Government's objective to significantly boost the supply of homes.
35. The new residents and the proposed retail unit would contribute to the social role of the village within its rural hinterland. The retail unit would provide additional parking and have capacity for a greater range of produce, thus easing access and reducing the need for shopping trips further afield. I acknowledge that Framework paragraphs 84, 85 and 93 offer support for new and expanded local shops in rural areas. There would also be some economic benefits resulting from the development, including employment during construction and new residents supporting local services and businesses. There is, however, limited evidence before me regarding the employment implications of the development, and it is unclear as to what would happen to the site of the existing shop. I am not persuaded, therefore, that the development would secure improvements to either parking, congestion or highway safety along Church Lane. Nevertheless, I afford the above economic, environmental, and social benefits of the development moderate weight.

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<sup>4</sup> Paragraph: 020 Reference ID: 18a-020-20190723 - Revision date: 23 07 2019

<sup>5</sup> The 2021 Housing Delivery Test results were published on 14 January 2022.

36. Whilst it may be possible to secure biodiversity net gain at the technical details stage, there is no substantive evidence to demonstrate how those gains would be achieved. I therefore afford the potential benefit of biodiversity net gain from the development limited weight.
37. Framework paragraph 199 requires that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. I, therefore, attribute great weight to the conservation of the BCA, understanding that heritage assets are an irreplaceable resource. Accordingly, I also give great weight to the identified less than substantial harm to the setting and significance of the BCA. The public benefits of the scheme, even if taken together, do not outweigh the identified harm to the BCA. The development is, therefore, contrary to NHP Policy HE1 and the Framework's aim to conserve heritage assets in a manner appropriate to their significance<sup>6</sup>.

## **Other Matters**

### *Interested Parties*

38. I have had regard to the various comments of interested parties which have been received in response to the proposed permission in principle. In addition to matters related to the location, living conditions, character and appearance, and conservation area impacts of the development addressed above, concerns have also been raised regarding a number of other matters. These other matters include the effect of the development on housing mix, ecology, flooding, congestion, parking and highways safety. I have been provided with no substantiated evidence which would persuade me that, with regards to these other matters, the location, land use and amount of development proposed is not acceptable in principle.

### *Planning obligations*

39. The Planning Practice Guidance (PPG) indicates that there is no scope to secure planning obligations at the permission in principle stage, although they can be secured at the TDC stage<sup>7</sup>. Nevertheless, I have had regard to the legal effects of the unilateral undertakings submitted by the appellants given that each deed is conditional on the grant of Planning Permission (including the TDC). However, in view of my conclusions on other substantive matters, I have not taken this matter further and it is not necessary to set out an assessment of whether the obligations would comply with the tests set out in the Framework, the PPG, and the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

## **Planning Balance**

40. Framework Paragraph 11 states that, in instances where the HDT indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years, permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development.

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<sup>6</sup> Framework paragraph 189

<sup>7</sup> Paragraph: 022 Reference ID: 58-022-20180615

Footnote 7 of the Framework specifies that designated heritage assets are included within such protected assets. Given my findings with regards to the harm to the setting and significance of the BCA, the Framework therefore provides a clear reason for refusing the proposal, and the so-called tilted balance at Framework paragraph 11d(ii) does not apply in this case.

41. It is not unusual for some tension to be found between different policies in a development plan, when applied to a specific proposal. Although there would be compliance with limited aspects of the NHLP, I have found conflict with significant policies relating to the safeguarding of the RABGB, landscape character, and designated heritage assets. These identified conflicts with the development plan are given significant weight, as are the identified conflicts with the Framework, including paragraphs 130, 170(b) and 189.
42. Whilst the public benefits listed above in the heritage balance are afforded moderate weight, they would not outweigh the significant harms set out above. Even if I were to conclude the so-called tilted balance at Framework paragraph 11d(ii) to apply, the adverse impacts of granting permission in principle would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the site is not suitable, in principle, for the development given its proposed location, land use and the amount of development.

### **Conclusion**

43. For the reasons given above, the appeal is dismissed.

*S D Castle*

INSPECTOR

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# Appeal Decision

Site visit made on 30 January 2023

**by G Dring BA (Hons) MA MRTPI MAUDE**

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

**Decision date: 23 FEBRUARY 2023**

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**Appeal Ref: APP/X1925/D/22/3304152**

**4 Tall Trees, St. Ippolyts SG4 7SW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Sarah Flain against the decision of North Hertfordshire District Council.
  - The application Ref 22/00812/FPH, dated 21 March 2022, was refused by notice dated 10 May 2022.
  - The development proposed is first floor front extension over existing ground floor.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The decision notice refers to policies set out in the emerging plan. Since the decision was issued by the Council, the North Hertfordshire Local Plan 2011-2031 (LP) has been adopted and therefore the North Hertfordshire District Local Plan No 2 with Alterations April 1996 (saved policies under the Planning & Compulsory Purchase Act 2004 Written Statement September 2007) no longer form part of the development plan. I have therefore not had regard to policies 28 and 57 of the superseded plan in reaching my decision and have taken account of the policies set out in the LP adopted on 8 November 2022.

## Main Issues

3. The main issues are the effect of the proposal on:
  - the living conditions of the occupiers of 6 Tall Trees with regard to outlook; and
  - the character and appearance of the area.

## Reasons

### *Living conditions*

4. The proposed first floor extension would be situated so that it would not have a significant effect on the outlooks from the rear windows of No 6. However, the addition of the first floor, due to its height, depth and siting so close to the boundary would add to what is already a significant amount of built form, viewed from the rear garden area of No 6. The cumulative effect would result in a dominant and oppressive feature that would have an overbearing effect upon the outlook from the rear garden area of No 6.

5. I therefore find that the proposal would harm the living conditions of the occupiers of No 6 with regard to outlook. The proposal is therefore contrary to policies SP1, SP9, D1 and D3 of the LP, which seek amongst other things, to create high quality developments that respond positively to local context and do not cause unacceptable harm to living conditions. The proposal would also be contrary to the relevant paragraph of the National Planning Policy Framework (the Framework) which seeks, amongst other things, to ensure that developments create places with a high standard of amenity for existing and future users.

#### *Character and appearance*

6. The general form, design and proportions of the proposed extension would be in keeping with the character and appearance of the existing dwelling. However, the proposal includes the provision of an apex style window in the front elevation which is not in keeping with the design of the existing windows.
7. I note the appellant has confirmed that the design of this window did not form a reason for refusal in the previously refused scheme and that the Council have only raised it in the reason for refusal for the scheme subject to this appeal. The appellant has confirmed they did not have the opportunity to amend this element of the scheme due to this. However, as it is included as part of the reason for refusal, I must consider it as part of this appeal.
8. The proposed apex window in the front elevation would be at odds with the character and appearance of the existing windows situated in the appeal dwelling and it would be prominent given its position in the front elevation, sited further forward than the existing dwelling at first floor level. In addition, the apex window feature would be out of keeping with the character and appearance of other fenestration detailing in the surrounding dwellings along Tall Trees, which all have rectangular windows of relatively regular proportions.
9. I therefore find that the proposed apex window would represent a dominant feature in the street scene which would not be in keeping with the surrounding area. The proposal would therefore harm the character and appearance of the area and is contrary to policies SP1, SP9 and D1 of the LP, which seek amongst other things, to create high quality developments that respond positively to local context. The proposal would also be contrary to the relevant paragraph of the Framework which seeks, amongst other things, to ensure that developments are sympathetic to local character.

#### **Other Matters**

10. I note that this scheme was an amended resubmission of a previously refused scheme and that the appellant sought to resolve the issues raised in the previous reason for refusal. Be that as it may, I must deal with the proposal before me on its own merits.
11. Due to the orientation of the proposed extension in relation to No 6, there would not be a detrimental impact on the levels of either sunlight or daylight reaching the garden area of No 6, as a result of the proposal. However, the lack of harm in this regard does not weigh in favour of the proposal.

**Conclusion**

12. The proposal is contrary to the development plan as a whole and there are no other considerations, including the Framework, which outweigh the harm. The appeal is therefore dismissed.

*G Dring*

INSPECTOR

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## Appeal Decision

Site visit made on 21 February 2023

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Housing, Communities and Local Government**

**Decision date: 8<sup>th</sup> March 2023**

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**Appeal Ref: APP/X1925/D/22/3304621**

**3 Masefield Way, Royston, Hertfordshire SG8 5UU**

- 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 Anthony Wilson against the decision of North Hertfordshire District Council.
  - The application Ref 22/01609/FPH, dated 13 June 2022, was refused by notice dated 21 July 2022.
  - The development proposed is a loft conversion with rear dormer and front rooflights.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The North Hertfordshire District Local Plan (LP) was adopted and, as such, reference is made in this appeal decision to the most up-to-date policies which were emerging at the time the application was determined. A split decision was issued by the Council and this appeal is only concerned with the proposed rear dormer.

### Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the host property and the surrounding area.

### Reasons

4. The proposed development includes the erection of an extension within the rear roofslope of a 2-storey detached dwelling situated within a predominantly residential area of similar types of dwellings. The proposed development seeks to enable the appellant to utilise the roofspace as additional residential accommodation.
5. Within the wider area there are examples of 3-storey buildings. Based upon what could be observed, there are also some properties with small dormers with gable roofs within their front roof slopes. However, because of they are sited a distance away from the appeal property these other schemes do not provide the local context for the proposed development.
6. By reason of its size and form, rather than being a sympathetic addition the proposed flat roof rear dormer extension would visually and physically dominate the rear roof slope of the property and give the impression of a third

storey being added. The appeal scheme would be an incongruous addition to the property and would fail to respect the character and appearance of the surrounding 2-storey dwellings. This unacceptable harm would be noticeable from surrounding gardens and from Betjeman Road above the boundary wall of 1 Masefield Way rather than from this road itself. The unacceptable massing and design of the proposed rear roof extension would not be satisfactorily mitigated by the windows nor the use of hanging tiles as the external material.

7. For the reasons given, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the host property and the surrounding area and, as such, it would conflict with LP Policies D1 and D2. Amongst other matters, these policies require proposals to respond positively to local context and for dwelling extensions to be sympathetic to the existing house in form, roof type and proportions. Accordingly, it is concluded that the appeal should be dismissed.

*D J Barnes*

INSPECTOR



## Appeal Decision

Site visit made on 08 February 2023

**Decision by Chris Preston BA(Hons) BPI MRTPI**

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

**Decision date: 14 February 2023**

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**Appeal Ref: APP/X1925/D/22/3296427**

**Shooters Lodge, Putteridge Park, Hertfordshire LU2 8LD**

- 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 Phillip Fowler against the decision of North Herts Council.
  - The application Ref 21/03308/FPH, dated 25 November 2021, was refused by notice dated 08 February 2022.
  - The development proposed is a proposed single storey side extension to provide an oak framed conservatory.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. In its decision notice the Council used an altered description of the proposed development from that given on the application form. There is no indication that this change was agreed with the appellant. Given that the application form accurately describes what is proposed I have used that description within my decision.

### Main Issue

3. The main issues in the determination of the appeal are:
  - i) Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
  - ii) The effect on the openness of the Green Belt;
  - iii) The effect on the character and appearance of the area, including Putteridge Bury historic park and garden;
  - iv) If the proposal does amount to inappropriate development within the Green Belt, whether the harm by way of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to amount to the very special circumstances needed to justify the development.

### Reasons

#### *Whether Inappropriate Development*

4. Development within the Green Belt is strictly controlled in order to preserve its key characteristics and functions, as set out at paragraphs 137 and 138 of the

Framework. New development is deemed to be inappropriate unless it falls within one of the exceptions listed at paragraphs 149 and 150. Of relevance to this appeal paragraph 149(c) allows for extensions to existing buildings, providing that they do not result in disproportionate additions over and above the size of the original building. The original building is defined as a building as it existed on 01 July 1948 or, if constructed after that date, as it was built. Saved Policy 2 of the North Hertfordshire District Local Plan (1996) (the LP) is broadly consistent with the aims of national policy, as is Policy SP5 of the emerging Local Plan (ELP) which has reached submission stage.

5. In some circumstances Local Plans set a limit, usually expressed in volumetric percentage terms, beyond which extensions will be considered to be disproportionate. In the absence of any specific criteria in this instance what amounts to a 'disproportionate' extension requires the exercise of judgement, as a matter of fact and degree. Factors such as size, volume, prominence, and overall scale will be relevant.
6. It is clear that the originally modest property has already been extended substantially. The rear extension permitted in 2010 allowed for two, two-storey, rear wings to be added at each end of the property and these have been joined by a single storey extension. In addition, a garage, car port and sizeable garden office have also been erected. Whilst the full details of the rationale for approving the garden buildings has not been provided I note that there is no specific allowance for new detached garden structures within the listed exceptions to 'inappropriate' development at paragraphs 149 and 150 of the Framework. However, it is common practice for ancillary structures to be considered as extensions under paragraph 149(c) where they would amount to a normal domestic adjunct. That would appear to be the case here. Consequently, the cumulative effect of all of the previous extensions and outbuildings, as well as the current appeal proposal, should be considered when making a judgement as to whether the development would be disproportionate, as compared to the original building.
7. The floor area of those extensions and outbuildings is greater than that of the original dwelling and whilst precise volumetric calculations have not been submitted, the combined mass is substantial compared to the scale of the original property. The development is also spread out across a much wider area of the site. In addition to the combined scale and volume the proposal would extend to the south and elongate the dwelling. That would further increase the coverage of built form when combined with previous extensions to the rear and outbuildings to the north.
8. The appellant has expressed the scale of the proposed extension as a percentage of the size of the garden. However, the required assessment is to compare the scale to the original building. Whilst the conservatory now proposed is not substantial, of itself, it would add to the cumulative impact of the previous development at the site. Given the substantial scale, footprint and coverage of existing extensions and outbuildings the extension would tip the cumulative extent of new development into what would clearly amount to a disproportionate addition in my view. Accordingly, the proposed development would not comply with the exception listed at paragraph 149(c) and would amount to inappropriate development, having regard to national and local planning policy.



### *Effect on the Openness of the Green Belt*

9. As set out above, openness is a key characteristic of the Green Belt. Assessment of the effect on openness has both a visual and spatial dimension. In visual terms, the proposal would be well-screened by mature boundary hedges and neighbouring residential development and would not be overly prominent in the wider landscape. Spatially, it would extend into space that is currently free from built development and would elongate the dwelling as described above. That would have some impact on the openness of the Green Belt in a physical sense, albeit that the effect would be limited and localised. Nonetheless, any harm to the openness of the Green Belt runs contrary to the aims of established planning policy and that is a matter that weighs against the development.

### *Character and Appearance of the Area*

10. The appeal site sits within the registered park and garden at Putteridge Bury which comprises the formal gardens associated with the main hall, as well as the planned, agrarian, parkland landscape which surrounds it. Shooter's Lodge clearly has a close historical association with the main house and is one of a number of residential properties within the estate.
11. Whilst the parkland landscape offers sweeping vistas and views, the immediate context around the site is more intimate, being bordered by the lane and other dwellings and converted properties. Moreover, the garden is enclosed by mature hedges. Consequently, the impact of the conservatory on the wider parkland landscape would be extremely limited in my view. I note concerns regarding reflective light from the proposed glazing but any impact would be very localised in extent and the structure itself would be seen against the backdrop of existing residential development. In any event, glazing is not an alien feature in the landscape; the surrounding buildings and the main house itself contain glazed facades as one would expect in residential buildings. Consequently, I am not convinced by the argument that glare, to the extent that it would be noticeable in any event, would cause demonstrable harm.
12. The design and appearance of the existing lodge is domestic in nature and the proposed design and materials, including the oak frame, would be sensitive to that context. Overall, the proposal would not cause harm to the character and appearance of the dwelling itself, nor would it have any discernible impact on the ability to appreciate and understand the significance of the surrounding gardens and parkland. In those respects the development would comply with the aims of Saved Policy LP19 of the LP, policy HE1 of the ELP and the principles set out within Chapter 16 of the Framework.

### *Other Matters*

13. No other material considerations have explicitly been put forward by the appellant. I recognise that permitted development rights often exist to extend residential properties in the Green Belt but that is not the case here. Such rights were removed when the property was converted and there is no fall-back position against which to compare the proposed development.

### **Planning Balance & Conclusion**

14. The proposed development would constitute inappropriate development and, by definition, would be harmful to the Green Belt by way of that

inappropriateness. It would also have a limited but negative impact on the openness of the Green Belt. Paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt. The proposal is also contrary to the development plan in those respects.

15. I have found no harm in relation to the character and appearance of the area and the registered park and garden. However, that would be expected of any development and the absence of harm is not a matter that has positive weight in favour of the proposal.
16. As set out at paragraph 148 of the Framework, inappropriate development should not be approved unless the harm to the Green Belt, and any other harm, are clearly outweighed by other considerations such as to amount to the very special circumstances needed to justify a proposal. Given the absence of any other matters put forward by the appellant it is clear that such circumstances do not exist in this case. Thus, there is nothing to indicate that a decision should be taken other than in accordance with the Development Plan and I shall dismiss the appeal.

*Chris Preston*

INSPECTOR



## Appeal Decision

Site visit made on 25 January 2023

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> February 2023

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**Appeal Ref: APP/X1925/W/22/3298193**

**Land North East of High Street, Hinxworth (523333, 240672)**

- 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 Jonathan Lovejoy against the decision of North Herts Council.
  - The application Ref 21/02739/FP, dated 23 September 2021, was refused by notice dated 8 December 2021.
  - The development proposed is the erection of one 4-bedroom house and detached garage, with associated access, parking and landscaping
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Subsequent to the determination of the planning application, the Council adopted the new North Hertfordshire Local Plan (the Local Plan). It now carries full weight in the consideration of planning applications. Given that the appellant has had the opportunity to comment on this document, I do not believe that it would be prejudicial to any party to determine the appeal with reference to the new planning policies.

### Main Issues

3. The main issues relevant to this appeal are:
  - the suitability of the site as a location for a residential development;
  - the effect of the development upon the character and appearance of the surrounding area; and
  - the effect of the development upon highway safety.

### Reasons

#### *Suitability of the site*

4. The appeal site consists of a grassed area, adjacent to similar sites. There are fields to the front and rear of the appeal site. The appeal site is located adjacent to a road, on which vehicles can travel at up to speeds of 60 miles per hour. This road does not feature street lighting or separate environments for pedestrians.
5. Although the proposed dwelling would not be isolated, the development would not be related to an existing building. In addition, the development would result in an increase in the number of people residing in the vicinity. This poses

a concern in that the surrounding area features the level of facilities that would be expected within a more rural area. Therefore, there is a likelihood that the occupiers of the development would need to travel to other settlements in order to access the services and facilities that they are likely to require on a regular basis.

6. This poses a concern as the surrounding road network does not feature a separate environment for the movement of people on foot, or by bicycle. In addition, the absence of streetlighting is likely to deter people from travelling by such means owing to the potential conflict between pedestrians and motorists. Therefore, the lack of such a welcoming environment for pedestrians and cyclists is likely to result in an increase in car movements.
7. In addition, although the appeal site is near to the settlement, the speed limit changes to 60 miles per hour prior to the appeal site when travelling from the settlement. Therefore, at the point where vehicles are travelling past the appeal site, they are likely to be moving at a notable speed. This would give rise to the previously described adverse effects.
8. It has been suggested that there are a variety of services in nearby settlements. Although this might be the case, the services that have been referenced are still a notable distance away. In result, there is a significant likelihood that if the occupiers of the development were to use these services, there would be a general reliance upon private cars as a means of travel.
9. However, even if the residents were minded to travel on foot or by bicycle, the road network near to the front of the appeal site is such that residents are likely to be deterred from undertaking travel using such practices. Therefore, the aforementioned adverse effects have a notable likelihood of occurring.
10. I therefore conclude that the appeal site is not a suitable location for the proposed development. The development, in this regard, would conflict with Local Plan Policies SP1; SP6; T1; and D1. Amongst other matters, these seek to maintain the role of key settlements within, and adjoining the district, as the main focus for housing; promote the use of sustainable transport modes; secure sustainable transport measures; and maximise accessibility.

#### *Character and appearance*

11. The proposed development would be located within a field separated from the rest of the settlement. It therefore has an undeveloped and rural character, including landscaping.
12. Although it would appear that there are no defined settlement boundaries, the character of Hinxworth is such that most buildings are arranged in a single cluster. The proposed development would conflict with this character given that it would extend the settlement in a linear form along the road. Furthermore, the proposal would not be related to an existing building on the appeal site.
13. The proposed development would result in an increase in the overall level of built form. This would therefore contribute to an erosion of the area's more rural character by reason of the increase in the scale of the development and its more domestic style of architecture. This adverse effect would occur irrespective of the materials from which the proposed development would be constructed from.

14. The proposed development features a dwelling of a significant height and footprint. It would therefore have a great urbanising effect upon the rural character of the appeal site and the surrounding area. This adverse effect would be compounded by reason of the presence of a large outbuilding, which would be sited close to the front of the site.
15. In addition, the proposed development would be in use as a domestic dwelling. This means that there is a likelihood that items of domestic paraphernalia are likely to be placed in the garden of the dwelling. The result of this is that the generally rural character of the landscape would be eroded. Therefore, the development would appear incongruous.
16. This is a concern owing to the general prominence of the appeal site. This means that the proposal would be readily viewed from the surrounding road. Therefore, the development has the potential to be experienced by a great number of people, such as passing road users. In consequence, the proposed development would result in a strident addition to the locality.
17. There is an existing dwelling near to the appeal site. However, the proposed development, in conjunction with the existing dwelling, would create an erosion of the more rural character of this particular area.
18. My attention has been drawn to a previously approved development on the adjacent site. I do not have the full information regarding the planning circumstances of this, which means that I can only give it a limited amount of weight. Nonetheless, I note that this planning permission was for the change of use of the land only and that certain permitted development rights were removed. Therefore, the effects of this development are different to the scheme before me. In consequence, this previous decision does not outweigh my earlier findings.
19. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with SP1; SP2; SP5; CGB1; and D1 of the Local Plan. Amongst other matters, this seeks to ensure that proposals create high-quality developments; direct developments to a hierarchy of settlements; operate a general policy of restraint; ensure development relates to an existing rural building; and respond positively to the site's local context.

#### *Highway safety*

20. The proposed development would create an additional access point from the road. This would serve the driveway of the proposed dwelling. The boundary treatments of the site comprise hedges.
21. By reason of the boundary treatments, motorists looking to leave the appeal site and join the highway would have a diminished level of visibility. This means that such motorists would not necessarily be able to view approaching vehicles. This means that there would be a greater risk of collisions.
22. These concerns would be exacerbated by the fact that the vehicles on this stretch of highway can travel at speeds of up to 60 miles per hour. This means that the potential conflict between vehicles travelling on the highway and vehicles looking to leave the site would be exacerbated.

23. I am aware of a survey that has been carried out that indicates that some approaching vehicles might be travelling slower than the speed limit of 60 miles per hour. Although this might be the case, the possibility of vehicles travelling at speeds close to, or at, the speed limit cannot be discounted. Therefore, the previously described adverse effects have a reasonable likelihood of occurring.
24. In addition, I note that the boundaries of adjoining land to the appeal site features a variety of planting that are set back by a relatively small amount from the highway edge. However, if these areas of planting were to grow in size, there would be a diminished ability for motorists looking to leave the appeal site to view approaching road users. This would compromise highway safety.
25. Given that such planting is outside of the appeal site and therefore the control of the appellant. Therefore, it would be unreasonable to impose a condition to prevent these planting from being grown to a larger size as it would not be in the gift of the appellant to ensure compliance. In result, there is a likelihood that it would not be possible to secure highway safety throughout the life of the development.
26. In consequence, I am not persuaded that sufficient visibility could be provided for all motorists looking to leave the appeal site and to ensure a satisfactory level of highway safety.
27. In reaching this view, I have had regards to the National Planning Policy Framework (the Framework). Amongst other matters, the Framework is unambiguous that any erosion of highway safety by a development is unacceptable.
28. I therefore conclude that the proposed development would have an adverse effect upon highway safety. The development, in this regard, would conflict with the requirements of Policies SP9 and T2 of the Local Plan; and the Framework. Amongst other matters, these seek to create integrated, accessible and sustainable transport; demonstrate a layout that will function satisfactorily; and maintain highway safety.

### **Other Matters**

29. My attention has been drawn to planning appeal decisions elsewhere. Whilst I have had regard to these, I note that these are located in different settlements to the appeal site. Therefore, the effects of the proposed development are likely to vary depending on context. In result, the effects of these developments would potentially be different to the scheme before me. Accordingly, they do not outweigh my previous conclusions.
30. The proposed development would add to the local housing supply, even though the Council can now currently demonstrate a five-year housing land supply. Although this matter is a benefit, the amount of weight that can be attributed to it would be small by reason of the scale of the proposed development. Accordingly, it does not outweigh my findings in respect of the main issues.
31. Concerns regarding the manner in which the planning application was considered by the Council fall outside of the scope of this decision.

**Conclusion**

32. The proposal would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR

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# Appeal Decision

Site visit made on 17 October 2022

**by C Harding BA(Hons) PGDipTRP PGCert MRTPI**

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

**Decision date: 24 January 2023**

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**Appeal Ref: APP/X1925/W/22/3299243**

**Land to the south of West Lane, Great Offley SG5 3BQ**

- 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 Kevin Heaney against the decision of North Hertfordshire District Council.
  - The application Ref 21/01399/FP, dated 29 April 2021, was refused by notice dated 23 November 2021.
  - The development proposed is described as "Erection of a single, highly sustainable dwelling including the creation of a new access, hard and soft landscaping and all ancillary works".
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The North Hertfordshire Local Plan 2011-2031 (NHLP) was adopted on 08 November 2022. This plan replaces the saved policies of the North Hertfordshire District Local Plan Second Review with Alterations, and I have therefore dealt with the appeal on this basis. The parties have been afforded opportunity to comment on the adoption of the NHLP, and as a result would not be prejudiced.

## Main Issues

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of Great Offley Conservation Area, and the setting of The Lawns, a Grade II listed building.

## Reasons

4. The appeal site lies within, and at the western extent of Great Offley Conservation Area (GOCA). Great Offley is a settlement with an historic linear form with later expansion to the west, set within the countryside. The GOCA generally follows the historic linear settlement pattern, and its significance is derived from its historical and architectural interest as an example of a traditional rural village. The appeal site forms an open space at a position of interface between areas of different ages of development, including the setting of the Grade II listed The Lawns and modern housing development of a variety of ages, some of which lie outside of the GOCA. There are various open spaces within the GOCA, some large and formal, others smaller and less defined.
5. The evidence indicates that in the past, the appeal site formed part of the landholding of a residential property known as The Lawns, and at one point in

history functioned as an orchard in association with this dwelling. The Lawns is a Grade II listed house which evolved as a dower house associated with Offley Place, a larger residential property located on the opposite side of Kings Walden Road. The Lawns incorporates a Georgian façade, resulting from the remodelling of earlier buildings on the site. The significance of the listed building is derived from the historic interest of the way in which the property was remodelled in order to elevate modest origins, along with the role the property plays in understanding the development of the area as part of the wider GOCA.

6. The appeal site lies to the rear of The Lawns, beyond a walled garden and a further, more informal garden still associated with the listed building. It was evident on my site visit that despite an historic association, the current visual and physical relationship of the appeal site to the listed building and its immediate setting is limited by distance and intervening development, including the less formal garden of The Lawns, and the garden structures that lie within this area, along with defined boundary treatments. Whilst I acknowledge that there is an historic functional link between the appeal site and the listed building, visually, the appeal site now largely appears as a separate entity and does not directly contribute to the significance of The Lawns.
7. Instead, the appeal site exhibits value in terms of the wider setting of the listed building and character of the GOCA by the absence of development in a part of the village that is characterised by a mix of development, including modern buildings. The original extent of the open surroundings of The Lawns has previously been eroded by new development to the south known as Manor Gardens. The appeal site forms part of the remaining open space and the fact that it is the humbler rear of the listed building, and walled garden visible in views across the site, as opposed to the grander Georgian facade, does not diminish its value. Rather, the value of the site in terms of setting and the character of the wider GOCA is to allow The Lawns and its garden space to breathe in a situation that is otherwise characterised by the close juxtaposition of historical and modern.
8. Consequently, whilst the principal significance of The Lawns lies in its architectural form and relationship with Offley Place, and its immediate setting is formed by the walled garden, the appeal site nevertheless contributes positively to the wider setting of the listed building and the wider GOCA, and provides a buffer to surrounding modern development.
9. Whilst the contemporary design of the building, would not, in itself lead to harm to heritage assets, the proposed development would be a significant structure, of linear form and situated in close proximity to the boundaries of the appeal site. Consequently, it would appear as an elongated visual barrier, and would significantly erode the open character that the site currently exhibits. This would be exacerbated by the proposed garage, car port and storage building, which, although of a smaller scale would introduce further built development into the space. This would lead to a partial loss of the sense of openness that currently exists, to the detriment of the setting of the listed building and the character and appearance of the wider GOCA.
10. I acknowledge that an extant approval exists for a substantial boundary wall around the appeal site. However, this would not be directly comparable with

the appeal proposal, which would include a building of significant scale and volume. Whilst only part of the buildings within the site would be visible over such a wall, as I have set out above, it is not views of the listed building *per se* which form the value of the appeal site, rather the relative absence of development within the site.

11. Having regard to the impact on the GOCA as a whole and the setting of the listed building, and being mindful of my findings above, the harm I have found to the significance of the heritage assets would be less than substantial. Policy HE1 of the NHLP and Paragraph 202 of the National Planning Policy Framework (the Framework) state that 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, where appropriate, securing its optimum viable use.
12. The provision of a single dwelling would make a positive, albeit very modest contribution towards boosting housing supply, where there is an existing significant shortfall, and would comprise a self-build scheme. I afford this moderate weight. This would, in turn, provide employment during construction, although this would be time limited. There would also be other social and economic benefits to Great Offley and the wider area, in terms of economic activity and supporting local services. These would, however, also be limited by the scale of the proposed development. The use of low carbon construction methods would also be a minor benefit, as would be the reuse of previously developed land.
13. The proposal would have a negative effect on the significance of designated heritage assets and the Framework states that great weight should be given to the conservation of these assets. The public benefits identified would not outweigh this harm.
14. I am aware that planning permission has twice previously been granted for a single dwelling on the appeal site, albeit in both cases of a smaller scale, and that the later of these permissions has lawfully commenced. It therefore forms a fallback position which has a greater than theoretical prospect of implementation. However, there are material differences between the two schemes in terms of scale and form, and the appeal scheme would not, I consider, represent a preferable form of development in terms of preserving or enhancing the setting of the listed building, or the wider GOCA. I therefore consider that this fallback position does not weigh significantly in favour of the appeal scheme.
15. Although full details have not been provided to me, I have also taken account of the findings of the Inspector with regards to a previous appeal at this site. In doing so I have afforded significant weight to the previous Inspector's conclusions with regards to the character and significance of the appeal site in relation to the setting of the listed building and character and appearance of GOCA. I am also aware that the proposal subject to that appeal was of a smaller scale, and therefore would not be wholly comparable to the 5-bedroom property now proposed, which I have considered on its own merits.
16. Given the above, the proposed development would conflict with Policies HE1 and D1 of the NHLP and Paragraphs 130 and 197 of the Framework which together seek to ensure that new development take account of existing surroundings, including heritage assets.

### **Other Matters**

17. I note the appellants evident frustration with the application process; however the proposed development must be considered on its own merits. Accordingly, I have not afforded any weight to the conduct of any of the parties in reaching my decision.

### **Conclusion**

18. I have found that the proposed development would conflict with the development plan as a whole, and there are no material considerations that indicate that a decision should be taken other than in accordance therewith.

19. For the reasons given above, I conclude that the appeal is dismissed.

*C Harding*

INSPECTOR

**PLANNING CONTROL COMMITTEE**

**DATE: 06 April 2023**

**PLANNING APPEALS LODGED**

<b>APPELLANT</b>	<b>Appeal Start Date</b>	<b>DESCRIPTION</b>	<b>ADDRESS</b>	<b>Reference</b>	<b>PROCEDURE</b>
Mr Stephen Hamid	25 January 2023	Erection of detached double garage	15 Oakfields Road Knebworth Hertfordshire SG3 6NS	22/01036/FPH	Householder Appeal Service
Mr J Swain	06 February 2023	Development A - Single storey rear and side extensions, replacement chimney and rear and side patio area with replacement windows and doors Development B- Formation of vehicular crossover and associated parking space to the front of the dwelling as amended by plans received on 4 February 2022.	45 Longmead Letchworth Garden City Hertfordshire SG6 4HP	21/03418/FPH	Written Representations
Mr & Mrs Jas Lidder	22 February 2023	First floor rear extension.	16 Bearton Green Hitchin Hertfordshire SG5 1UG	22/03061/FPH	Householder Appeal Service
Mr & Mrs Hawkins	03 March 2023	Erection of one detached 4-bed dwelling to include 2 parking spaces following demolition of existing outbuildings and tennis court.	Churchfields Hitchin Road Codicote Hertfordshire SG4 8TH	22/00912/FP	Written Representations

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Enforcement Notice List									
Case Reference Number	Address	Breach of Planning Control	Action Authorised	Notice issued	Compliance required by	Notes	Appeal	Appeal Decision	Compliance Achieved
17/00412/1ENF	Hitchin Caravan Centre, Harkness Roses, Cambridge Road, Hitchin.	Extension of site into green belt without planning permission. LDC refused for existing use.	16/10/19	27/02/20	27/06/2020  New date following appeal being dismissed  21/07/2022	Compliance visit undertaken.	YES	Appeal dismissed.	Yes.
20/00110/1ENF	50A Stevenage Road, Hitchin	Installation of two air conditioning units on a first floor flat roof.	06/01/22	17/03/22	18/08/2022	Planning application to reposition units received. Notice not complied with, application decision awaited before determining next action.	No		No
20/00005/1BOC	10 Stormont Road, Hitchin.	Extensions to a residential dwelling	06/01/22	17/03/22	17/03/2023		Yes	Appeal Statement sent, decision awaited	
21/00112/1ENF	33 Willian	Outbuilding	20/06/22	21/07/22	20/08/23	Notice issued	Yes	Appeal	

	Way, Letchworth	without planning permission						lodged, Ground A only that planning permission should be granted. Appeal Statement sent, decision awaited.	
22/00086/1ENF	Land at Chapel Lane, Bendish	Laying of hard standing in the Green Belt	21/06/22	05/07/22	04/03/23	Notice issued	No		
20/00054/1ENF	The Cabinet, High Street, Reed.	Works to Listed Building, works in the curtilage of Listed Building, placement of mobile structures in car park.	13/10/22 22/11/22	20/11/22	19/11/23	3 Notices issued. Due to take effect 6 January 2023 but appeals lodged.	Yes	Statement of Case sent 14/3/23. Decision awaited	



By virtue of paragraph(s) 5, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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