

Agenda Item 10iii

City and District of St Albans

DIGEST OF APPEAL DECISIONS

NOVEMBER 2009

Can Members advise the Chair and Head of Service of any queries in order that necessary research can be done before the meeting.

2658

5/09/0671

APP/B1930/D/09/2112463

02.11.09

Appeal by Mr Richard Richardson against refusal to grant planning permission for second storey rear extension above existing single storey and a rear conservatory replacing existing shed at 3 Kempe Close, St Albans AL1 2NZ.

Summary of Appeal Decision: DISMISSED

Written Representations Karen L Ridge

Main Issues:

- The effect of proposed extension on the living conditions of adjoining neighbours at No. 2 Kempe Close.
- Effect of the extension on the character and appearance of the existing dwelling and the street scene.

Conclusions:

- The appeal property is a modern dwelling forming part of a group of four townhouses. The dwellings have narrow but long rear gardens which slope downwards. The appeal property has already been extended.
- The second storey extension would be built on top of the existing extension and would project some 3.4m. The conservatory would extend a further 3.8m beyond this. It would result in a substantial 2-storey flank elevation at close quarters when viewed from the ground floor and first floor windows of no. 2 and from the small patio area to the rear of no. 2. The additional rearwards projection of the conservatory, whilst mostly glass, would serve to emphasis the sense of enclosure created.
- I consider that the addition of a second storey would make matters materially worse. The effect would be exacerbated by the narrowness of the rear gardens I do not accept that the proposal would represent an improvement The proposal is much larger than this modest, if rather utilitarian building. I further note that the appellants does not dispute the Council's contention that the extension would intrude into a 45 degree visibility zone of the ground floor windows of no. 2.
- I must determine the current appeal having regard to current development plan policies unless other material considerations indicate otherwise. I have also noted the lack of objection of the current occupiers of no. 2 to the proposal but again this does not overcome my concerns.
- I conclude that the proposal would appear unduly oppressive when viewed from the rear windows and the patio area of no. 2. As such it would be detrimental to the outlook of the occupiers of this property contrary to the objectives of St Albans District Plan₂ (DP) policy 72.
- There is a large degree of uniformity at the front of the properties which contributes to a pleasing streetscene. However, there have already been some alterations to the rear of some of the houses.
- The proposal would be visible from other gardens to the rear and from the road

in Watling View. However, because of the nature of development at the rear of the houses and the fact that the extension would be a relatively simple addition I do not consider that it would be harmful to the character and appearance of the existing property.

- Personal circumstances rarely outweigh harm to planning objectives given that the harm would remain when the personal circumstances have ceased to be relevant I have concluded that the proposal would not be harmful to the character and appearance of the existing house and the surrounding area, I have concluded that it would be detrimental to the living conditions of the adjoining neighbour.

APPEAL DISMISSED

(Officer Recommendation – Delegated Refusal)

2659

P/ENF/472
5/09/0206

APP/B1930/C/09/2109264
APP/B1930/A/09/2106199

04.11.09

Appeal by Carol Hadlow against breach of planning control as alleged in the Enforcement Notice and refusal to grant planning permission for temporary agricultural farm works dwelling (mobile home) at Thistledown Farm, Bower Heath, Harpenden AL5 5DZ.

Summary of Appeal Decision: ALLOWED & NOTICE CORRECTED AND QUASHED

Written Representations Andrew Dale

Procedural Matters:

- The description of the land should refer to agriculture.
- The Council is actually seeking to attach the stationing of a mobile home.
- The Inspector corrected the Notice. No injustice would be caused.
- Appeal B was assessed on the basis of being for a mobile home.

Main Issues:

- Whether the proposal is appropriate development in the MGB.
- Whether there are any very special circumstances.

Conclusions:

- The appellant suggests the mobile home is for the purposes of agriculture. I am satisfied that, albeit that the residential mobile home would be intended to support such a use, a residential property, even if permanent, would not in itself be for the purposes of agriculture.
- The stationing of a residential mobile home in this case involves a material change of use of land. Paragraph 3.12 of PPG2 explains that the making of material changes in the use of land are inappropriate development in the Green Belt unless they maintain openness. Even though the impacts on openness and encroachment are not considerable, the mixed use to which the notice is directed and the proposal under Appeal B would amount to inappropriate development.
- This is an attractive area of countryside. There would be views of a mobile home only from Commons Lane. These would tend to be distant, glimpsed views; Any views would be against a backdrop consisting of tall vegetation. I consider that the impact would be limited and localized. I attach limited weight to this harm.
- If the appellant lived on the site, there is unlikely to be a material intensification in the use of the access. I consider there would be no adverse implications for highway safety.
- The stationing of the residential mobile home is inappropriate development in the Green Belt. It reduces the openness of the Green Belt and conflicts with one of the purposes of including land within it.

- The appellant's smallholding extends to about 2.5ha. The agricultural enterprise is based on the breeding and rearing of alpacas. There are now 13 alpacas. The appellant intends to increase the alpaca herd.
The appellant has made substantial investment in livestock, The enterprise is now her sole source of income and employment. She has considerable experience in the breeding of animals. I consider that there is clear evidence of a firm intention and ability to develop the enterprise concerned. Criterion (i) in paragraph 12 of Annex A to PPS7 is therefore met.
- I consider that the ready essential care of livestock assumed by the functional test in criterion (ii) is necessary. The site may have security issues. Security is a relevant consideration that adds weight to the appellant's case. Criterion (ii) is satisfied.
- I was not made aware of any dwellings in the immediate vicinity of the site that were suitable and available. Dwellings in Harpenden would be too far away to enable adequate supervision. I am satisfied that criterion (iv) is met.
- It is not necessary to demonstrate a profit in relation to an application for a temporary dwelling. I have no reason to dispute this business plan which has been based upon the practical experience of keeping alpacas for a period of time. There is a sound financial basis to the planning of the enterprise.
- There is therefore no conflict with criterion (v).
- I conclude therefore that the relevant tests in Annex A PPS7 have been met. I consider that the need for the temporary dwelling is sufficient to clearly outweigh the harm to the Green Belt.
- I am of the opinion that the appellant's project is a genuine attempt to establish a successful agricultural activity and that she needs to live on the site.

APPEAL ALLOWED & NOTICE CORRECTED AND QUASHED (Officer
Recommendation - Delegated Refusal)

2660

5/09/1056

APP/B1930/D/09/2113417

18.11.09

Appeal by Mr Hin Tsang against refusal to grant planning permission for part single and part two storey front extension at 8 Thamesdale, London Colney AL2 1TB.

Summary of Appeal Decision: DISMISSED

Written Representations Paul Crysell

Main Issues:

- The effect of the proposed development on the character and appearance of the area.

Conclusions:

- The appeal property is one of several 2 storey detached properties. The proposal would involve extending the front of the property by about 2 metres.
- The most significant aspect would involve the change to the roof. No. 10 has an element which projects forward.
- This 2 storey projection is limited to the central portion of the front elevation with the roof being set well below the main ridge of the house. This helps to minimise its overall impact and it adequately reflects the form and style of the main building. I do not consider the appeal proposal would be as successful in this respect because the extension would not be subservient to the main dwelling. The modified roof would sit uncomfortably with that of the existing house because of its size and contrasting form. Consequently, it would be an obvious and incongruent feature in the street scene contrasting with the simple but consistent appearance of surrounding properties and the street scene in general.

- The appeal site is partly screened from the road by hedges. I do not consider that masking a building to compensate for poor design is acceptable.
- I have also had regard to the extension at No. 32.
- I therefore conclude that the proposal would be contrary to policies 69 and 72.

APPEAL DISMISSED

(Officer Recommendation – Delegated refusal)

2661

5/08/2634

APP/B1930/A/09/2106671

25.11.09

Appeal by Mr & Mrs D Kiely against refusal to grant planning permission for erection of stable block incorporating four stables, tack room and hay store at Norrington End Farm, Redding Lane, Redbourn AL3 7PU.

Summary of Appeal Decision: DISMISSED

Written Representations Mark Dakeyne

Procedural Matters:

- The description was amended for clarity.

Main Issues:

- Whether the proposal would be an inappropriate development in the green Belt and the effect on the openness of the Green Belt.
- Effect on the character and appearance of the area.

Conclusions:

- A new building in the Green Belt to provide an essential facility for sport and recreation is not inappropriate subject to the use preserving the openness of the Green Belt. Small stables are an example of such a building.
- I conclude that the L-shaped block for the stabling of horses used by the appellants' family for recreation would represent a small scale development which would not be inappropriate development in the Green Belt.
- Openness is the most important attribute of Green Belt. The stable block would have limited site coverage and would be relatively small scale. I conclude that the proposal would result in some loss of Green Belt openness, the harm is limited.
- The appeal site, which comprises a dwelling, its cartilage and an adjacent small paddock, is on the southern edge of the building group of Norrington End Farm.
- The proposed stable block would be detached from the building group. There are no other landscape or physical features to which the proposal would relate. To my mind it would appear as a somewhat isolated structure which would be prominent in the landscape, particularly when seen from the approach along Redding Lane. Landscaping would assist in reducing the impact I do not consider that it would sufficiently mitigate the harm.
- I saw other stable type buildings nearby. I conclude that the proposal would have an unacceptable impact on the appearance of the area by reason of its siting. As a result I find conflict with Policy 1 of the City and District of St Albans District Local Plan Review (LP) as it would not integrate with the existing Green Belt landscape. In this respect it would be visually detrimental to the Green Belt due to its siting. The appeal proposal should be judged on its own merits. Based on the information before me it would appear that the proposal is not directly affected by the removal of the permitted development rights which applied to the new dwelling.
- I conclude that the proposal would not be inappropriate development in the Green Belt. Whilst there would be some loss of openness I consider that the harm would be balanced by the need to provide shelter for the animals. However, I conclude that the appeal should be dismissed due to the specific

visual impact of the proposal caused by its siting.

APPEAL DISMISSED

(Officer Recommendation – Delegated refusal)

2662

5/09/0130

APP/B1930/A/09/2105379

25.11.09

Appeal by Mr and Mrs M Peers against refusal to grant planning permission for a single storey side and rear extension at 24 Stanmore Chase, St Albans AL4 0EZ.

Summary of Appeal Decision: DISMISSED

Written Representations Mark Dakeyne

Main Issues:

- Whether the proposal would be inappropriate in the Green Belt and whether there would be conflict with Green Belt Policy.
- The effect on the character and appearance of the streetscene.

Conclusions:

- The appeal site lies within the Green Belt. However, I am satisfied that the proposal would not be inappropriate development as the extension would not be disproportionate in the context of lying in the midst of a modern housing estate developed in the Green Belt. Moreover, the proposal would not impact on the openness or visual amenities of the Green Belt. As such there would be no conflict with Green Belt policy.
- The detached house lies on an irregularly shaped corner plot.
- In projecting forward towards the road, it would accentuate the conflicting angles of the house and garage. In my view the extension would create a discordant appearance from the front as the plane of the elevation and the long shallow roof would be at odds with the front and side elevations of the house.
- The extension's chamfered design, incorporating shallow pitched and flat roofed elements, which would be partially seen from the street, would, to my mind, result in a disjointed appearance against the regular lines of the original house with its steeper gables.
- In my opinion the extent of the ground floor footprint and bulk would be out of proportion with the scale of the existing house resulting in an imbalance between the single-storey and two-storey elements.
- I conclude that the proposal would have an unacceptable impact on the character and appearance of the building and street scene. I find conflict with Policies 69 and 72.
- I acknowledge the appellants desire to improve their living accommodation. No objections have been received from neighbouring occupiers. I do not consider that these factors outweigh the harm that I have identified.

APPEAL DISMISSED

(Officer Recommendation – Delegated refusal)

2663

5/08/2634

APP/B1930/A/09/2106671

25.11.09

Appeal by Mr Ned Connors against refusal to grant planning permission for extension of existing caravan site for two gypsy families with a total of two caravans and a mobile kitchen/dining room at land rear of Woodview Lodge, Lye Lane, Bricket Wood AL2 3TW.

Summary of Appeal Decision: ALLOWED

Written Representations David Smith

Procedural Matters:

- The Inspector noted there were mobile homes on site in different positions. The Inspector dealt with the matter on the basis of the layout and plans submitted.

Main Issues:

- The effect of the proposal on the openness of the Green Belt, its purposes and the general character and appearance of the area.
- The effect on living conditions of nearby residents.
- Whether harm by inappropriateness is outweighed by other considerations and justify very special circumstances.

Conclusions:

- The appellant, his wife and three children, including a disabled son, live on a lawful site at Woodview Lodge. Planning permission was given at appeal in 2003. A further appeal was allowed last year in respect of the erection of a day room. The appeal site is immediately to the rear of, and accessed through, Woodview Lodge.
- It is accepted that the appellant is a gypsy as defined in Circular 01/2006.
- The appeal site is occupied by the appellant's son.
- The other mobile home is occupied by the appellant's daughter. She has a traditional gypsy background. There is no indication that she wishes to give up a nomadic lifestyle. I therefore find that both have gypsy status and relevant national and local policies regarding gypsies should be applied to the proposed use of the site.
- The proposed mobile homes and mobile kitchen, in themselves, reduce the openness of the Green Belt. Historically the site was not undeveloped. The stables are quite recent, were removed by the appellant and were a direct pre-cursor of the use proposed. I therefore consider it reasonable to take them into account when considering this matter.
- I estimate that the quantum and extent of development would be broadly similar. I consider that the overall effect on openness would be neutral or, at worst, very limited. It was accepted at the hearing that the appeal site is previously developed land. I find that the proposed use would not encroach into the countryside. Consequently none of the purposes of including land in the Green Belt, would be offended.
- PPS7: contains an overall aim of protecting the countryside for the sake of its intrinsic character and beauty. Circular 01/2006 indicates that rural settings for gypsy sites are acceptable in principle where they are not subject to special planning constraints. The appeal site falls into this category. The Circular also reiterates the general presumption against inappropriate development within Green Belts. I nonetheless consider that national guidance accepts that the countryside is bound to be affected in some way if progress is to be made in addressing the under-provision of gypsy sites.
- There are no long distance views of the appeal site. However, it can be seen at short range from Lye Lane. The proposed mobile homes and mobile unit would be seen above the fencing that surrounds the site. This would be in the context of the lawful mobile home. They would therefore be small and insignificant elements in the overall rural scene.
- Whilst further planting would undoubtedly soften and screen the additional caravans proposed I am not persuaded that it is necessary to 'hide' the development. Indeed, Annex C of the Circular confirms that too much enclosure should be avoided as it tends to deliberately isolate gypsy sites the proposed use

would be well contained within the landscape and unobtrusive. The proposal would have some negative impact because it would add visual clutter. Circular 01/2006 accepts that there will be a degree of change in rural areas to accommodate gypsy sites and the actual impact of the proposal would be very slight. I consider that its effect is acceptable and that the general character and appearance of the countryside and the visual amenities of the Green Belt would not be harmed.

- Immediately to the west of the appeal site is a track that leads to open land. Next to the track is a residential property known as Hoofprints.
- It is reasonable to expect that the number of vehicle movements and general activity would also increase. However, the scale of this would be likely to be modest.
- I expect that noise and disturbance arising from the additional mobile homes would be insignificant. Any impact would also take place closest to a less sensitive side of Hoofprints. There would therefore be no harm to the living conditions of adjoining residential occupiers.
- There is a general need for gypsy sites nationally, regionally and across the county. Circular 01/2006 recognises that there has been a failure to deliver adequate sites in St Albans as this is where the appellant and his family are based.
- East of England Policy H3 was adopted in July 2009. This indicates that a minimum of 28 additional pitches should be provided. Thereafter provision should be made for an annual 3%. This policy is the subject of a legal challenge by the Council.
- Since Circular 01/2006 only additional provision has been at Tullochside in Redbourn. Notwithstanding the legal challenge I consider that Policy H3 represents the best guide regarding the level of unmet general need.
- There are no relevant development plan policies regarding gypsy sites. The Core strategy intention is that actual site allocations will be tackled by a subsequent Development Plan Document (DPD).
- All the land in the District outside of urban areas is within the Green Belt. whilst some steps have been taken to address the general need the rate of progress has not been swift and the scale of the task compared to the existing level of provision is considerable.
- There were 75 applicants on the County Council's waiting list for public sites in May 2009. The highest annual figure for turnover of plots over the last 3 years is 16 so that anyone added to the list now might have to wait in the region of 5 years. There are no other authorised private sites that members of the Connors family could occupy.
- There is no indication that any kind of systematic search for another site has been undertaken. However, given the major constraint of the Green Belt in St Albans and surrounding Districts and the information above, it is almost inevitable that such an exercise would have been fruitless. There is also an absence of development plan policies that might have offered guidance.
- The appellant accepted that it would be feasible to site one further mobile home on the lawful site having regard to site licensing requirements. He was nonetheless concerned about potential conflict between vehicles and children. I do not consider these difficulties to be overriding.
- Because of its size I consider that three mobile homes could not be sited on the lawful site in practical terms. The visual impact would be greater from Lye Lane.
- There are no other public or private sites available to the appellant and his family. I give this matter significant weight.
- I recognize that there are strong family bonds which are part of gypsy culture and traditions. Hence there is a desire for them to remain in close proximity to one another as an extended family group.
- One of the aims of the Circular is to enhance the health and education outcomes of gypsies. On this basis, I give the personal circumstances of the family limited weight.
- In the event that the appeal was dismissed, I anticipate that the Council would take all necessary steps to secure the cessation of use. The current occupiers would therefore be eventually forced to leave.
- No clear alternative has been identified and there the family would have no fixed abode. This would be contrary to the intention of avoiding gypsies and travelers becoming homeless through eviction without an alternative to move to.

- The amount of extra traffic arising from the use would be limited and two nearby ponds said to contain Great Crested Newts would not be directly affected.
- The proposal would be inappropriate development in the Green Belt. This is by definition, harmful and substantial weight is to be attached. Its openness would be reduced. No harm would be caused to the general character and appearance of the area or the living conditions of those nearby.
- In favour of the appeal is the general need for gypsy sites in St Albans. This attracts significant weight. There is a lack of alternative sites. I give this factor significant weight.
- Furthermore, the appeal site is previously-developed land. These characteristics of the appeal site support the proposal since it is preferable to an entirely new site being established on undeveloped land.
- I therefore recognize that dismissing the appeal would represent an interference with their home and family life. No very special circumstances therefore exist and a permanent permission is not justified.
- Temporary permission should be considered when there is unmet need. I consider that the conditions relating to temporary permission in the circular are met.
- I consider that in the short term the totality of harm would be clearly outweighed. In my view very special circumstances exist in this case which justify the development on a temporary basis. As a result the proposal would accord with Local Plan Policy 1 which relates to the Metropolitan Green Belt.
- This decision should not be regarded as a precedent for the determination of any future applications for full permission for use of the land as a caravan site. I consider that four years is a realistic temporary period.
- I appreciate that my decision would allow respective families to reside on appeal site, that finding related to the weight to be given to their personal circumstances. In view of these factors and the other considerations referred to I intend to permit the proposal before me.
- I find that a temporary planning permission for a period of four years is appropriate. The protection of the public interest cannot be achieved by means of which are less interfering of the appellants' rights. They are proportionate and necessary in the circumstances and hence would not result in a violation of their rights under Article 8 of the European Convention on Human Rights.
- I have taken full account of my duties under Race Relations Act 1976 which seeks to address the disadvantages experienced by gypsies and travelers.
- The owners of a field adjacent to the appeal site complain that their human rights to be governed equally have been interfered with. Gypsies and travelers, because of their need for caravan sites, are not analogous to the settled community. Consequently I am satisfied that there would be no violation of Article 14 rights.
- I conclude that the appeal should succeed.

APPEAL ALLOWED

(Officer Recommendation Grant – Committee Refusal)

2664

P/ENF/469/OTE
P/ENF/469/OTE
P/ENF/469/OTE

(A) APP/B1930/C/09/2105910
(B) APP/B1930/C/09/2105912
(C) APP/B1930/C/09/2105914

26.11.09

Appeal by Allan Developments for breach of planning control as alleged in the Enforcement Notice at 1, 4 & 5 Redwood Close, Willow Crescent, St Albans AL1 5FP.

Summary of Appeal Decision: ALLOWED & ENFORCEMENT NOTICES QUASHED

Written Representations

Main Issues:

Conclusions:

- Notices concerning departures from the approved plans in respect of the size and detailing of the dwelling. The appellants referred me to the 2006 appeal decision. The dwelling differed from these plans.
- The significance of these difference is a matter which I explore more closely. There is no one set of plans available to me which accurately depicts the dwelling as built. Nevertheless, the dwellings are complete and occupied and are capable of being assessed on the ground. I am therefore satisfied that I can deal with them on the basis of the dwellings as seen.
- **Appeal Ref: APP/B1930/C/09/2105910**
- I direct that the enforcement notice be corrected. I allow the appeal. I grant planning permission .
- **Appeal Ref. APP/B1930/C/09/2105912**
- I allow the appeal and notice be quashed. I grant planning permission.
- **Appeal Ref. APP/B1930/C/09/2105914**
- I direct that the enforcement notice be correct. I allow the appeal and direct that the enforcement notice be quashed.
- The Council does not consider whether and to what extend differences are materials or what harm arises.
- Both parties are largely agreed on measured dimensions and distances. I consider the differences to be of no consequence.
- The difference in the amount of space created are minor, similar rooms could have been readily accommodated within the roof space as approved.
- Where operational development is carried out as a single act, in a way which differs materially from approved plans, it amounts to development without planning permission. All three dwellings were built and completed not in accordance with the approved plans. The decision on this ground therefore turns on whether the departures were material or de minimis.
- The cumulative effect is that of dwellings which, as built, in my judgment differ materially from those approved.
- I conclude, on the basis of fact and degree, that the departures from the approved plans in respect of all three dwellings result in development which is not covered by the previous grant of planning permission. A breach of planning control has therefore occurred and the ground (c) appeal fails.
- Main issue: The dwellings are located within a self-contained, relatively secluded site. The changes have not altered these relationships to any significant degree. The dwellings are most prominent in views from the access driveway within the development and from neighbouring rear gardens.
- With No. 1, the projecting gable it makes the dwelling appear taller than the neighbouring nos.2 and 3. The separation distance to No. 23 would remain unchanged. Any increase in depth would not be noticeable. The increased height of the main ridge would add to an impression of tallness but not to an extent that would give the dwelling an overbearing appearance in relation to its setting.
- The changes to No. 4 foster the impression of a greater roof mass. It is this and the slightly raised ground level that makes the most important contribution to an appearance of increased bulk. The increase in the ridge height is relatively minor. While noticeable, therefore, the changes do not make the dwelling appear harmfully top heavy or over-sized in its context, in spite of now accommodating rooms in the roof space.
- With regard to No. 5, by far its most prominent feature is its roof mass. An increase in the height of the roof would give an appearance of increased mass. The dwelling as built involves no increase in height and the increase in its depth is not in any event visible from within the development. Its relationship to the front part of the plot and coverage of the plot width remains largely as shown on the approved plans.

- I conclude that the departures from the approved plans do not, in respect of any of the dwellings, give rise to harm to their character and appearance. They do not result in a cramped over-development of the site, as is claimed in the case of nos. 1 and 4. No conflict arises with Policy 69 or with Policy 70, any harm arising is limited to this less well used part of the garden, which is separated off from the main part of it by a hedge.
- With regard to the roof mass, it is more prominent than it would have been under the approved plans but not to an extent which renders it an overbearing feature. I accept that their presence could create a perception for occupiers of being overlooked. The appellants offered to remove those roof lights closest to the garden, which would provide a degree of mitigation, and I was able to observe that this could be achieved without any appreciable loss of amenity to occupiers of No.4. Turning to No. 336, a 1.23 m increase in the depth of No. 5 has resulted in an increase in its prominent roof mass.
- The roof mass would be a feature of slightly increased prominence. I consider that an increase would not be so material as to result in harm to the outlook of the garden.
- I conclude that the departures from the approved plans do not give rise to harm to occupiers' living conditions. There is no conflict with the requirements of Policy 70.
- Increase in the number of rooms in nos. 1 and 4 may result in more intensive occupation. I saw nothing to persuade me that this would necessarily result in harmful noise or disturbance to neighbouring occupiers, while car parking is adequately provided for within the development,
- I conclude that the appeals should succeed and planning permission will be granted in respect of each of the dwellings.

APPEAL ALLOWED

(Officer Recommendation Grant – Committee Refusal)

2665

5/09/0694

APP/B1930/A/09/2110298

27.11.09

Appeal by D B Rees (Builders) Ltd against refusal to grant planning permission for demolition of existing public house, new residential comprising 7 x 2 bed flat, 4 x 3 bed flats, 1 x 4 bed house, plus associated parking at 222 High Street, London Colney AL2 1JQ.

Summary of Appeal Decision: ALLOWED

Written Representations David Stephenson

Procedural Matters:

- The Inspector corrected the description to accurately reflect the proposed development shown on the plans.

Main Issues:

- The effect of the proposal on the provision of infrastructure in the area.

Conclusions:

- Planning permission already exists for exactly the same development as proposed in this case, but for which contributions were sought and agreed for £62,698 towards secondary education, youth, library and leisure facilities, and highway measures.
- The Council is now not seeking contributions towards leisure facilities in this case it is, however, seeking financial contributions, based on the POG Toolkit totaling £45,852.
- ODPM Circular 05/2005 advises that Planning Obligations are 'intended to make acceptable development which would otherwise be unacceptable in planning terms'. It also seeks a plan-led system. Saved policies 35 and 143B of the St Albans District Local Plan Review, adopted in 1994 (LP), are relevant.

- LP policies referred to above provide the high level policy principles sought by paragraph B25 of the Circular. Paragraph B26, however, advises that more detailed policies applying to the principles ought to be included in Supplementary Planning Documents (SPD). The District Council has no Supplementary Planning Guidance (SPG) or Supplementary Planning Document (SPD).
- A Planning Obligations Guidance Toolkit (POG Toolkit) has been issued by Hertfordshire County Council for use throughout the County, and expected to be used to inform the production of Local Development Documents within the Local Development Framework process, though it was admitted that this POG Toolkit has not been adopted formally as SPG or as SPD.
- I accept that the POG Toolkit does provide background information, but in view of its lack of adoption I can give it little weight as planning guidance. I consider therefore, that each requirement needs to be justified in individual cases.
- Education: The County Council could not, however, identify what improvements in what schools would be made that could take account of the additional child yield from this development.
- Youth, Childcare and Library Facilities the increase in demand was not clearly quantified in the evidence given, and neither was the capacity clearly shown to be lacking. Quantifiable improvements, were not identified.
- Sustainable Transport The Highway Authority advised the District Council at the application stage that the development would have no adverse effect on the highways. I find it difficult to see, therefore, that mitigation measures are needed in accordance with LP Policy 35.
- I readily accept that new development would increase the population within the District and may in principle require some extra facilities. I consider there was no adequate explanation as to why infrastructure local to the site could not cope with the additional demands that would be placed on it by this proposal. I am not persuaded that the contributions sought would be necessary as a consequence of this development and neither could I ascertain where the monies sought might be spent, on what or when. I was not referred to any list or lists of specific projects to which the contributions would be directed.
- The Circular advises that developers may reasonably be expected to pay for or contribute to the cost of all, or that part of, additional infrastructure provision which would not have been necessary but for their development. paragraph expects a 'clear audit trail between the contribution made and the infrastructure provided'. Although I was told that the County maintains such a trail, no example or evidence was produced. The County Council also stated that repayment of funds unspent within 10 years would be made, as advised by paragraph B24 of the circular, but again no evidence of how this was ensured was produced.
- If an obligation is to directly relate to the development such that the development ought not to be permitted without it, there should be a functional or geographical link between the development and the item being provided as part of the developer's contribution. I was not persuaded by the evidence to indicate there being such links here. The Circular seeks a predictable, transparent and accountable system for planning obligations, which I consider is not in place here.
- I conclude that the evidence provided at the Hearing is insufficient to show that there would be an unacceptable effect on the provision of infrastructure for the area or that the contributions sought in this case are either necessary to make the proposed development or fairly and reasonably related in scale and kind. There would be no conflict with LP Policies 35 or 143B.
- The appellant has submitted a Unilateral Undertaking. I give it little weight in reaching my decision.
- The District Council raised no objections on any other matters regarding the proposed development and, as permission has already been granted for an identical scheme, I see no reason to disagree.
- I conclude that the appeal should succeed.

Application for costs

I consider that the Council acted unreasonably in requiring the Application to enter into a planning obligation that does not accord with the tests in ODPM Circular 05/2005, inconsistent with paragraph B29 of CLG Circular 03/2009, and this prevented or delayed development which should have been permitted, inconsistent with paragraph B15 of CLG Circular 03/2009.

The applicant was required to bring the case to Appeal on this single issue,

APPEAL ALLOWED (Officer Recommendation Grant – Committee Refusal)

2666

5/09/0521

APP/B1930/A/09/2110056

30.11.09

Appeal by Mr & Mrs J Robertson against refusal to grant planning permission for single storey side and rear extensions with pitched roofs. Rear extension with two dormer windows in new single pitched roof. Removal of existing conservatory and concrete hardstandings in garden and in front of garage at 11 Riverside Road, St Albans AL1 1RX.

Summary of Appeal Decision: DISMISSED

Written Representations David Green

Procedural Matters:

- The applicant produced modified plans. These have not been considered by the Council or subject to public consultation.

Main Issues:

- The effect on the character and appearance of the area.
- Whether the proposed development would preserve or enhance the character or appearance of the St Albans Conservation Area.

Conclusions:

- This part of Riverside Road accommodates a mixture of residential buildings. Due to the falling land levels, the house is prominently positioned.
- In my opinion that part of the rear extension to be located immediately behind the existing house would reasonably reflect the character and appearance of the host building. Although the Council has concerns relating to the incorporation of dormer windows, I do not find that element visually harmful to any material degree.
- In my judgement side projections, which would be particularly prominent in the street scene due to the elevated position of the house, would appear as incongruous additions that would be out of keeping with the existing house. The use of differing roof forms, particularly the incorporation of a gable to the side extension, would result in an unbalanced appearance, which would be further emphasised by a front elevation unrelieved by any opening.
- The proposed development would be harmful to the character and appearance of the area, contrary to policies 69 and 72.
- I have concluded also that the development would fail to preserve or enhance the character or appearance of the St Albans Conservation Area, it would conflict with Policy 85.
- I am required to assess the appeal development on its individual merits and that is the approach that I have adopted.
- The appellants have suggested that the proposed extensions could possibly be erected as 'permitted development'. I note that no application has been lodged with the Council for a certificate of lawfulness of proposed development and the appellants' suggestion has not been tested in that regard. It is not a matter before

me for determination. Permitted development does not negate my findings on the planning merits of the proposed extensions. It is on that basis that I have concluded that the development is unacceptable.

- I have had full regard to all other matters arising in this case.
- I have found nothing of sufficient weight to change my decision in this case.

APPEAL DISMISSED

(Officer Recommendation – Delegated Refusal)

2667

5/9/0932

APP/B1930/D/09/2112903

27.11.10

Appeal by Mrs Chris Berendt against refusal to grant planning permission for a lean-to conservatory extension to the existing cottage at Paddock View Cottage, Ayres End Lane, Childwickbury, St Albans AL3 6JL.

Summary of Appeal Decision: DISMISSED

Written Representations David Green

Main Issues:

- Whether the proposed lean-to conservatory would constitute. In appropriate development in the Green Belt.
- The effect on the openness of the Green Belt and the character and appearance of the area.
- If inappropriate, whether harm would be clearly outweighed by very special circumstance.

Conclusions:

- Paddock View Cottage comprises an attractive, detached, two storey dwelling on the edge of Childwickbury Conservation Area within the Metropolitan Green Belt.
- The extension or alteration of dwellings does not constitute inappropriate development in a Green Belt, provided that it does not result in disproportionate additions over and above the size of the original building.
- Taking into account the additional accommodation added to date, this would result in a cumulative increase over the size of the original dwelling in floorspace terms of 110.8%.
- In my judgement, the proposed erection of a further extension would result in a building significantly larger than, and disproportionate to, the size of the original dwelling. St Albans District Local Plan Review requires extended dwellings to be amongst other things, modest in scale and not significantly larger than the building as originally constructed. The Council regards the normally acceptable, maximum cumulative increase in floorspace to be 40%. The proposed development would clearly exceed those limitations.
- I find that the erection of the proposed conservatory would constitute inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt.
- The increased size of Paddock View Cottage would affect the openness of this part of the Green Belt. It would consolidate the amount of built development on this part of the appeal site and would increase building mass close to the adjacent garage/tractor store. The Conservatory would reduce and consequently harm the openness of the area around the dwelling.
- Although it would be secluded from public view, its appearance would be in keeping with the architectural style of the host building. In my opinion, it would not, in itself, be harmful to the character or appearance of the area. It would satisfy the requirement of preserving or enhancing the character or appearance of Childwickbury Conservation Area.

- Whilst sustainability is a laudable factor, it reflects national planning policies for all development and carries limited weight in the balancing exercise required in this case.
- I am required to assess the appeal development on its individual merits.
- I have considered the appellant's submission that no harm would be caused to the ecology, amenity or natural beauty of the Countryside.
- The considerations advanced do not clearly outweigh the significant harm to the Green Belt.

APPEAL DISMISSED

(Officer Recommendation – Delegated Refusal)
