



Appeal Decision

Site visit made on 24 January 2018

by **J Gilbert MA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Wednesday 14th March 2018.**

Appeal Ref: APP/J1915/W/17/3185288

Long Meadow, Ware Road, Widford SG12 8RQ

- 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 T Baxter against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1008/FUL, dated 26 April 2017, was refused by notice dated 20 July 2017.
 - The development proposed is demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings at Long Meadow, Ware Road, Widford SG12 8RQ in accordance with the terms of the application, Ref 3/17/1008/FUL, dated 26 April 2017, subject to the attached schedule of 11 conditions.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed development would accord with the development strategy of the East Herts Local Plan Second Review (2007) (the Local Plan);
 - whether the proposed development would preserve or enhance the character or appearance of Widford Conservation Area, the setting of the nearby listed buildings at St John the Baptist Church, The Old Rectory, The Coach House, Ashview Nursing Home, and Walnut Tree Lodge to the eastern side of Ashview Nursing Home, and trees;
 - the effect of the proposed development on protected species; and
 - the effect of the proposed development on highway safety.

Reasons

Development Strategy

3. As the appeal site lies outside the village boundary of the Category 2 Village of Widford as defined by the Local Plan, the appeal site falls within the Rural Area beyond the Green Belt where inappropriate development is restricted other than for purposes set out in policy GBC3 of the Local Plan, none of which would

apply to the proposed development. There is therefore a conflict with the settlement strategy aims of policy GBC3. I will return to this issue, and the implications of the Council not having a 5 year supply of housing land, under the Planning Balance section below.

Character and Appearance

4. The appeal site lies within the Widford Conservation Area and consists of an area of unmanaged grassland surrounded by trees and native hedging, which adjoins Ware Road to the north and arable farmland to the south. The road runs in an easterly direction from Widfordbury to the junction of Abbott's Lane, where it is possible to look down towards the River Ash valley and countryside beyond. This northward view is described as the most important view within the Conservation Area¹. A cemetery, a bungalow, and an adjoining piece of land where 2 houses are currently being built² lie on the southern side of the road. The eastern end of the appeal site adjoins Abbott's Lane.
5. Widford Conservation Area covers much of the village and extends as far as Widfordbury to the west, where development is dispersed. The settlement pattern appears to have existed largely since the 19th century, although there are more recent housing developments along Ware Road. The significance of the Widford Conservation Area is derived from the village's rural character and appearance, with a mixture of historic buildings interspersed with more modern residential development. It is also characterised by clusters of buildings with views between the buildings out into the surrounding countryside.
6. Situated at Widfordbury, the grade II* listed St John the Baptist Church and its grade II listed former rectory (The Old Rectory) are visible to the west of the appeal site and form part of a small group of buildings along Ware Road. At the junction of Ware Road and Abbott's Lane, there is a small group of listed buildings including The Coach House (Grade II); Ashview Nursing Home (Grade II); and Walnut Tree Lodge to the eastern side of Ashview Nursing Home (Grade II). All these listed buildings form part of a pleasant approach into Widford, with the church and its former rectory providing an attractive introduction to the Conservation Area. The church and its former rectory's significance derive much from their architectural interest as fine examples of buildings dating from the medieval period through to the Victorian era, as well as their historic interest, while the eastern group of listed buildings derives much of its importance from the grouping it forms and its architectural and historic interest.
7. The significance of the Conservation Area is strongly informed by its pattern of development along and behind the main roads through the village with key views in gaps between developments. While the WCAAMP identifies that views into the appeal site are limited by vegetation, glimpsed views are presently of a number of outbuildings, which are in poor condition, and some storage containers. Moreover, as the appeal site is neither open agricultural land nor expansive pasture land and is well-screened by established trees and hedging, the gap currently formed by the appeal site does not play a key part in the view across the valley. While the proposed development would elongate the ribbon of development running along Ware Road, the appeal site's screening

¹ Paragraph 4.10, Widford Conservation Area Appraisal and Management Plan (WCAAMP)(2013).

² APP/J1915/W/15/3140702: Greenacres, Ware Road, Widford, Hertfordshire SG12 8RL. Decision issued 6 June 2016.

- would diminish the effect of further buildings and the proposed development would improve the site's overall condition.
8. The proposed development would be intermittently visible within the surrounding area dependent on the time of year. At close range, the proposed houses would be visible from Ware Road itself. However, intervisibility between the appeal site and surrounding land is limited by the presence of trees and other vegetation on the appeal site's boundaries. This forms a generally effective screen from the majority of public viewpoints and reduces the appeal site's openness in relation to the surrounding area. Moreover, with a detailed programme of replacement native planting and active management of proposed soft landscaping, the proposed development would provide vegetation which would maintain this limited presence in the streetscene and the wider area. This would, in my view, respect the character of the wider area and would not cause harm to either views or the setting of the aforementioned listed buildings to the east and west of the appeal site.
 9. In referencing the concerns about suburbanisation of the site, the Council has noted the Inspector's findings at neighbouring Greenacres with regard to the area's open, green, and spacious rural character. The Inspector found in that instance that the character of this part of Ware Road was rural, green and spacious. I concur with this view and consider that the proposed development would not fundamentally alter any of those characteristics of the Conservation Area. However, the references to openness in the appeal decision for Greenacres appear to relate to its nature as an open grassed site, which provides an open setting to the heritage assets of the Conservation Area and listed buildings. The appeal before me differs significantly from the adjacent site in terms of the level of openness.
 10. Although I note that the Council's Conservation Officer would prefer individual accesses to the houses along a more uniform alignment facing the road, I concur with the Council's officer report that the tree and hedgerow screen is of importance and should be retained, wherever possible. Given the vegetation along the site frontage and the long and narrow nature of the appeal site, this would result in the proposed development taking a cul-de-sac form. This would require an access road, which would be screened from the road by planting. While I am mindful of the amount of hard surfacing to be introduced on the site, the layout of the vehicular and pedestrian access would not render it any more suburban in nature than the recent development of 6 houses at Wilmoor to the north-east.
 11. The proposed development would provide reasonable gaps between the proposed houses on relatively spacious plots. Units 1 and 4 would be positioned at an angle to Ware Road, with unit 4 at a right angle to the road. Most of the nearby houses face the road. However, the existing bungalow at Greenacres is angled towards the road in much the same way as unit 1 would be. Unit 4 would be largely screened from the road by planting at the eastern end of the site, and would not be highly visible. Given the intervening vegetation adjacent to both units 1 and 4, I do not consider this would detract from the Conservation Area's character and appearance or detrimentally affect the setting of nearby listed buildings.
 12. While the proposed development does not seek to replicate the design of the surrounding buildings, the proposed houses would be generally respectful of

the scale of buildings within the wider Conservation Area and would not appear unduly prominent. Although there are a number of architectural features employed differently on units 1 and 4, and units 2 and 3, particularly with regard to the proposed houses' roofs, I do not consider that the aforementioned architectural features would be incongruous with their surroundings, particularly given the presence of other recent housing development of varying design at Greenacres and at Wilmoor.

13. Trees on the appeal site's northern and southern boundaries are subject to a Tree Preservation Order³ (TPO) and lie within the Conservation Area. The proposed development would involve the removal of 2 areas of trees and hedging. Given the siting of the proposed vehicular access, this would necessitate the removal of a dead elm and some scrub, and a further area of blackthorn⁴. A small portion of the root protection zones of 2 trees⁵ on the appeal site's southern boundary would potentially be affected by the proposed development.
14. From what I observed on my site visit, the large mature trees on the appeal site and the native hedging create an important cohesive element within the Conservation Area, which will remain prominent throughout the year. As such they are a significant aspect of the rural and green character and appearance of this part of the Conservation Area. The existing trees soften and screen the appeal site from the road and the farmland beyond the appeal site to the south. I note that the WCAAMP⁶ suggests that near total screening of the appeal site would be achieved by additional roadside planting and that the appellant is supportive of this approach.
15. I consider that the appellant's Arboricultural Report addresses the risks to trees T8 and T9 appropriately. The appellant's Arboricultural Report also deals with the issue of the trees on the southern boundary satisfactorily by means of regular maintenance. On that basis, I find that there would not be pressure for removal of those trees. However, the appellant's Arboricultural Report does not address the likely clearance of trees and hedging to allow for the visibility splays required by the Highway Authority. While it may be technically possible to deliver the visibility splays without removing trees, it is not entirely clear that this is achievable. It seems to me that the potential loss of a limited number of trees and hedging along the site's northern frontage would reduce the substantial green boundary and would have a negative effect on this section of the road. Thus, there would be some minor harm to the character and appearance of the Conservation Area and to its significance.
16. Concluding on this main issue, although I consider that the proposed development would preserve the setting of the aforementioned listed buildings, I find that the proposed development would not preserve the character and appearance of the area and would result in less than substantial harm to the significance of the Widford Conservation Area. This is due to the potential loss of a limited number of trees on the appeal site's frontage in order to provide visibility splays. Therefore, the development would not accord with policies ENV1, ENV2, ENV11 and BH6 of the Local Plan.

³ TPO 420 dated 13 March 1996.

⁴ Marked as G2 on Tree Protection Plan dated 11 April 2017.

⁵ Common Oak (T8) and an Ash (T9) marked on Tree Protection Plan dated 11 April 2017.

⁶ Paragraphs 6.19 and 6.20.

17. Policy ENV1, amongst other things, seeks to minimise the loss or damage of any important landscape features. Policy ENV2 states that existing landscape features should be retained and enhanced, and confirms that proposals on prominent sites will be required to give special consideration to landscape treatment. Policy ENV11 seeks maximum retention of existing hedgerows and trees. Policy BH6, amongst other things, states that development in conservation areas should not affect trees which materially contribute to the character of the area.
18. Paragraph 134 of the National Planning Policy Framework (the Framework) requires less than substantial harm to the significance of designated heritage assets to be weighed against public benefits. I address this matter in the Planning Balance section below.

Protected Species

19. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. Paragraph 118 of the Framework confirms that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Policy ENV16 of the Local Plan only allows development which may have an adverse effect on protected species where harm to those species can be avoided.
20. Hertfordshire Ecology confirmed in their response to the planning application that they held no biological records for the appeal site. However, the absence of data does not necessarily indicate that no protected species are present on site.
21. Concerning bats in particular, the appellant submitted a bat survey⁷ with the original application. This indicated that no evidence of bats was discovered and that no potential roosting places were found. It was recognised, however, that it was probable that bats from nearby roosts would forage across the site and in the gardens of nearby properties. The proposed development would not, in my view, prevent bats from foraging across the site in the future.
22. During the application process, Hertfordshire Ecology recommended that a preliminary ecological appraisal be carried out on the appeal site, given its potential suitability for breeding birds, reptiles, amphibians, badgers, dormice, and other protected and priority species. The appeal is accompanied by a protected species survey⁸, which indicates that no evidence of any protected or priority species was found on the appeal site. Given the findings of both surveys, I therefore consider that there is not a reasonable likelihood of protected species being present and being affected by the development. As such, in accordance with Circular 06/2005⁹, I do not consider that further ecological surveys should be required by means of condition.

⁷ Bat Survey of Long Meadow Outbuildings London Road Widford, Essex Mammal Surveys, dated August 2016.

⁸ Protected Species Survey of Long Meadow London Road Widford, Essex Mammal Surveys, September 2017.

⁹ Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

23. In terms of general biodiversity gain, Hertfordshire Ecology has suggested that the landscaping plans should be augmented with features that would benefit biodiversity. While I note the enhanced planting suggested in the appellant's Arboricultural Report, I am satisfied that a condition requiring a scheme for landscaping should include a requirement for features which would benefit biodiversity. No specific conditions relating to biodiversity have been put forward by the Council in this instance.
24. Concluding on this main issue, I consider that on balance that the proposed development would not cause material harm to protected species. There would, in my view, be no conflict with policy ENV16 of the Local Plan and paragraphs 109 and 118 of the Framework as referred to above.

Highway Safety

25. The appeal site lies on the edge of Widford adjacent to Ware Road, which is at the national speed limit entering Widfordbury. The speed limit then drops to 40mph outside Greenacres and then drops again to 30mph at the eastern end of the appeal site. The proposed development would involve the stopping up of the existing vehicular access and the creation of a new vehicular access slightly further to the east. There is an existing pavement on the northern side of Ware Road between the village and the buildings at Widfordbury.
26. Although the Council raised concerns about whether it would be possible to achieve appropriate visibility splays required to secure safe vehicular access and egress to and from the site, as part of the appeal documentation the appellant has provided a plan entitled Long Meadow Ware Road Widford (dated 28/07/2017). This indicates that the remaining land required to form the 66m visibility splay to the west would involve County Council highway land. As the splays would cross land in the control of the highway authority, it would be possible to impose a negatively worded planning condition that seeks to secure those splays and ensure they are kept clear of obstructions to visibility. Therefore, despite concerns raised by the Parish Council, I am satisfied that the proposal would not harm highway safety and thus accord with paragraph 35 of the Framework which requires the creation of safe and secure layouts which minimise conflict between traffic and cyclists or pedestrians.

Planning Balance

27. Balanced against the less than substantial harm to the significance of the Widford Conservation Area, caused by the limited potential loss of roadside vegetation, are the overall improvements to the appearance of the site by the removal of dilapidated buildings and containers. Moreover, the proposed development would provide 4 houses with the social benefits of introducing more family housing to Widford, and economic benefits of work for the local construction industry and greater demand for local services and facilities in the longer term. Therefore, even accounting for the considerable importance and weight to the need to have special regard to the desirability of preserving the character or appearance of the Conservation Area, I find that the public benefits would outweigh the less than substantial harm. The development should not therefore be restricted on heritage grounds.
28. The appellant and the Council have both confirmed that the Council is unable to demonstrate 5 year Housing Land Supply (HLS). As such, paragraph 49 of the Framework applies. This sets out that relevant policies for the supply of

housing should not be considered up to date where HLS cannot be demonstrated. Paragraph 14 of the Framework indicates that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole.

29. There would be minor harm to the character and appearance of the Conservation Area by reason of the potential loss of a limited number of trees. Because the harm would be minor I attach only limited weight to the conflicts with policies ENV1, ENV2, ENV11 and BH6 of the Local Plan. The proposed development would also conflict with policy GBC3 as it lies outside the settlement boundary defined in the Local Plan. However, it would be located adjacent to 2 new houses (currently under construction) and close to the existing house at Greenacres to the west, and the Ashview Nursing Home to the east, and within easy walking distance of the services and facilities of Widford. I therefore consider that the harm arising from this conflict would be also be very limited.
30. Reference has been made to the pre-submission East Herts District Plan, which has been submitted for examination and has not yet been adopted. I consequently give this plan very limited weight in this instance.
31. Whilst the 4 houses proposed would make only a modest contribution to the supply of housing, they would nonetheless provide positive benefits in a district where there is a shortfall in housing land supply. I consider the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The scheme would thus represent sustainable development. This is a material consideration which outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.

Conditions

32. It is necessary to specify conditions confirming the time limit for development and approved plans to ensure certainty and require approval of the external materials, and hard and soft landscaping for the proposed development in the interests of visual amenity and biodiversity. The Council's suggested conditions for hard and soft landscaping have been amalgamated. Conditions are necessary to ensure that appropriate vehicular access, visibility splays, and parking and turning areas are provided and that the existing vehicular access is stopped up in the interests of highway safety. However, I have separated the Council's proposed condition on the access, parking and turning areas as they do not need to be addressed prior to the commencement of development, while a separate condition for the off-site highway works in terms of visibility splays is necessary, relevant and reasonable to ensure highway safety. It is necessary to require details of these works to be agreed before commencement of development to ensure their delivery is secured. However, it is reasonable to only require the works to be implemented before the development is first occupied, so that development on site can commence.
33. It is also necessary to impose a condition relating to contamination of land and/or groundwater as there is potential for contaminants to be present. Given the site's constrained highway access, I consider it necessary to require the submission of a Construction Management Plan to ensure that the demolition

and construction stage of development does not affect highway safety. Hours of demolition and construction are conditioned to ensure that any detrimental impact in terms of noise and disturbance for nearby residential occupiers is minimised. I have also imposed a condition to ensure that retained trees are safeguarded during construction.

34. Materials details do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works from taking place. However, the Construction Management Plan, trees, and contamination conditions, and details of visibility splays are pre-commencement conditions as they involve elements that need to be addressed before construction works begin.

Conclusion

35. I conclude that the appeal should be allowed.

J Gilbert

INSPECTOR

Schedule of 11 Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans 12658-P001-A House type B; 12658-P002-B Proposals House type A; and Tree Protection Plan dated 11 April 2017.
- 3) No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Management Plan shall provide for:
 - i) phasing of the development of the site, including all highway works;
 - ii) methods of accessing the site including construction vehicle numbers and routing;
 - iii) location and details of wheel washing facilities; and
 - iv) associated areas for parking and storage of materials clear of the public highway; and
 - v) measures to deal with dust and noise through demolition and construction, and any asbestos that may be present on site.

The approved Construction Management Plan shall be adhered to throughout the demolition and construction period for the development.

- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with BS10175:2011, shall have been submitted to and approved in writing by the local planning authority. The assessment shall include all of the following measures:
 - i) A desktop study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the local planning authority shall be fully established before the desktop study is commenced and it shall conform to any such requirements. Copies of the desktop study shall be submitted to the local planning authority without delay upon completion.

- ii) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until (a) a desktop study has been completed which addresses the requirements of paragraph (i) above; (b) the requirements of the local planning authority for site investigations have been fully established; and (c) the extent and methodology have been agreed in writing with the local planning authority. Copies of a report on the completed site investigation shall be submitted to the local planning authority without delay on completion.
 - iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the local planning authority prior to commencement and all requirements shall be implemented and completed by a competent person.
- 5) No development shall commence until all the trees and hedges shown in the Andrew Day Arboricultural Report dated 11 April 2017 as "to be retained" shall have been protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 6) No development shall commence until details of off-site works comprising visibility splays on both sides of the vehicular access between a point 2.4m along the centre line of the access measured from the edge of the carriageway and a point 66m along the edge of the carriageway measured from the intersection of the centre line of the access have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been completed in accordance with the approved details. The area contained within the visibility splays shall be kept free of obstruction between 0.6 – 2.0m in height above the nearside channel level of the carriageway.
- 7) Prior to construction above slab level, samples of the external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 8) Prior to the occupation of the dwellings, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) hard surfacing materials, including the vehicular access, pedestrian link, access road, driveways and car parking and turning areas; and
 - iii) soft landscaping, including planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation; and

iv) biodiversity features.

The hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The hard and soft landscaping shall be retained on site thereafter. Any trees or plants which die, become seriously damaged or diseased, or are removed, within a period of 5 years from planting, shall be replaced in the next planting season with others of similar size and species.

- 9) Prior to the occupation of the dwellings, the vehicular access, pedestrian link, access road, driveways and car parking and turning areas shall be completed in accordance with the approved plans.
- 10) Prior to occupation of the dwellings, the existing vehicular access shall be closed, and the kerbs reinstated.
- 11) Demolition or construction works shall only take place between 0730 and 1830 Monday to Fridays, between 0730 and 1300 on Saturdays, and not at any time on Sundays or on Bank or Public Holidays.