
Appeal Decision

Site visit made on 25 September 2025

by Janine Laver BA (Hons) MSc PGDL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2025

Appeal Ref: APP/J1915/W/25/3369076

The Grange, 2 Lower Farm Lane, East End, Furneux Pelham SG9 0JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Lindsay Loxley against the decision of East Herts Council.
 - The application Ref is 3/24/2038/FUL.
 - The development proposed is the erection of four detached dwellings, four detached outbuildings, associated landscaping and amenity space, and a new access from the highway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address provided on the appeal form differs to that cited on the planning application form, the Council's delegated report and the decision notice, which was 'The Grange, 2 Lower Farm Lane, East End, Furneux Pelham'. I have amended the appeal address to accord with the planning application address for consistency purposes.
3. I also note there is some discrepancy over the name of the road adjacent to the south boundary of the site from which the new access is proposed to be taken. The block plan and site plan label it as Ginns Road, the application form states it is Lower Farm Lane, and the Council's officer report states that the Hertfordshire County Council's highway authority record calls it East End. For the avoidance of doubt, I shall refer to it as East End, in line with the highway authority record.

Main Issues

4. The main issues are:
 - (i) the effect of the proposed development on the character and appearance of the area, including landscape character;
 - (ii) whether the proposed development would avoid harm to protected species and provide sufficient Biodiversity Net Gain; and
 - (iii) the effect on highway safety and convenience.

Reasons

Character and Appearance

5. The appeal site is located in the hamlet of East End, which is approximately 1.4km east of the small village of Furneux Pelham and approximately 1.8km south of the

village of Stocking Pelham, in a rural area of north-east Hertfordshire comprised predominantly of agricultural land and ribbon residential development between these villages.

6. The site is an undeveloped parcel of land that wraps around three sides of a very large residential garden (The Grange) and includes a strip of the rearmost part of The Grange's garden. The planning application describes the appeal site as a small holding and paddock, but the parcel proposed to be developed on the western side is primarily grassland with some redundant timber structures at the rear edge.
7. It is bounded to the north by arable land, to the west by a residential property and garden (Old Clamp Barn), and to the south by East End which runs through the hamlet, with a handful of detached dwellings in large gardens on the opposite side of the road. The site is also bounded on the north and south sides by a mix of mature to semi-mature mixed native trees and a surface water drainage ditch in front of the banked tree line on the south side, which lies between the site and East End. The site is elevated by approximately 1.5 – 2m above road level, with a gentler slope up to the northern boundary, such that the very rear of the site sits about 3m above road level.
8. The proposal is to construct four large, detached 4+ bedroom dwellings and four large detached outbuildings off a central access driveway, taken from a proposed new access off East End, which would be constructed over the existing ditch and up the bank. The dwellings and outbuildings have taken their design cues from the local built vernacular and would be in keeping with other dwellings in the nearby area, whilst also being reflective of agricultural structures found in this rural area through the use of brick plinth and timber clad exteriors and slate roofs.
9. However, whilst the size and design of the individual dwellings and their outbuildings are not at odds with the design of other dwellings and outbuildings in this rural area, the subdivision of this plot into four separate parcels with the central access drive, the separating timber boundary fences, the small gardens to plots 1 and 2 and the limited spacing between all of the buildings do not reflect the loose knit spaciousness of other properties in this hamlet.
10. Furthermore, whilst acknowledging that the site is a grassland site with landscaping primarily at its boundary edges, the proposed plans lack the introduction of meaningful landscaping between the proposed plots, which is a prevailing feature of most residential plots in this area. The proposed development's grid like layout, together with the lack of space for meaningful landscaping, would result in development that would be out of character with the spacious, organic and mature landscape setting of the surrounding residential land parcels.
11. In addition, the proposed engineered access and splays over the drainage ditch would require excavations and land reprofiling to the vegetated and treed bank, and new bituminous surface to the highway boundary. These works would result in further detriment to the landscape character of this rural area, particularly when considered cumulatively with the imposing wide and tarmacked access created for the newly constructed property on the adjacent site to the west (Old Clamp Barn).
12. I acknowledge the arboricultural information submitted with the appeal, which suggests that the trees to be removed to create the access are a group of semi-

mature Elms in poor condition. However, it is important to the character and appearance of this area that the site boundary vegetation is not only retained where possible but also enhanced. This is similarly applicable to the wider site.

13. The design and access statement submitted with the application suggests that the new access would be rural in its styling with proposed tree, shrub and semi-woodland type planting. However, a detailed landscape plan has not been provided, and the red line boundary is inconsistent on several plans, with the site plan, block plan and drainage layout plan excluding the front part of the access, drainage ditch and green verge from the application site. It is therefore difficult to determine whether and where any proposed tree, shrub and semi-woodland planting would be created and secured to soften the impact of an engineered access. Overall, I consider that the proposed development has failed to give due regard to the established landscape character of this area and has presented limited landscape enhancement.
14. I conclude that the proposed development would therefore harm the character and appearance of the area and would be in conflict with Policies DES2, DES3 and DES4 of the East Herts District Plan (October 2018) (the EHDP), which collectively require development to respect or improve upon the character of the site and surrounding areas through, amongst other things, siting, layout, density and landscaping, as well as seek to retain, protect and enhance existing landscape features and landscape character.

Protected Species and Biodiversity Net Gain

15. The Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether European Protected Species (EPS) would be affected by the development and whether associated mitigation measures would be effective.
16. Great crested newts (GCNs) are a EPS, and I am advised that the appeal site lies within GCN dispersal distance from several ponds and that GCNs were recorded from a pond approximately 0.5km to the west of the appeal site in 2018 and 2019, which indicate that GCNs may be present on site. Policy NE3 of the EHDP states that proposals should avoid impacting on EPS; however, there is insufficient information to show the development has avoided or would avoid a harmful effect on GCNs.
17. The appellant has submitted an updated ecological appraisal with the appeal, which states that it will enter the Natural England District Level Licensing (DLL) scheme as an alternative to traditional surveys, mitigation and compensation. This is a strategic approach to deliver habitat compensation elsewhere in the district, and requires developers to pay a fee based on the estimated impact on great crested newts.
18. The appellant has provided a copy of a DLL application, however the form has not been signed by the appellant nor countersigned by Natural England. So, whilst the form is an indicator that the appellant may seek to avail themselves of the DLL service, no detailed report or certificate has been provided to confirm the appellant has entered into the DLL.
19. I note the appellant's statement that it remains fully committed to securing the necessary licence prior to commencement, in full compliance with relevant

legislation. However, paragraph 99 of Circular 06/2005¹ states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision

20. Without the information or an alternative DLL in place there is a lack of certainty that mitigation or compensation would be secured. I am therefore unable to determine the full effect of the appeal proposal on GCN.
21. Biodiversity net gain (BNG) is also required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). Every relevant planning permission is deemed to be granted subject to the condition that the biodiversity gain objective is met, in that development delivers at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the on-site habitat. The National Planning Policy Framework (the Framework) paragraph 187(d) also requires planning decisions to contribute to and enhance the natural and local environment, such as through minimising impacts on and providing net gains for biodiversity.
22. The appellant's ecological appraisal submitted with the application concluded that the proposal would deliver a net gain of 24.9%. This has been subsequently revised to 38.56% in the updated ecological appraisal. However, I note that the BNG metric has only been applied to the western side of the appeal site and not the whole of the site within the red line boundary. While I recognise that no built development is shown on the eastern parcel of land or the strip of land to the north of The Grange's garden, those parcels form part of the application site and so BNG calculations need to include all habitat that exists within the application site, whether they may be lost, retained, or improved. I am therefore unable to determine that the proposed development can deliver a minimum of 10% BNG.
23. Overall, I find that the proposal would conflict with Policy NE3 of the EHDP which requires amongst other things that development should improve the biodiversity value of the site and surrounding environment and avoid impacting on Species and Habitats of Principle Importance as published under section 41 of the Natural Environment and Rural Communities Act 2006. In addition, I find that the proposal does not demonstrate sufficient provision of BNG and would conflict with the statutory BNG requirements and paragraph 187(d) of the Framework.

Highway safety and convenience

24. As already discussed above, the proposed development includes the creation of a new access off East End, which would need to be engineered over the existing drainage ditch and cut through the verge and bank, resulting in notable land reprofiling. Visibility splays were not provided at the application stage but have been submitted with the appeal. These fail to show adequate swept paths for HGVs and fire tenders of the correct length, along with a longitudinal section along the centre line of the access road, and information to demonstrate that surface water run-off to the highway would be prevented.

¹ Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, 16 August 2005

25. I note that a surface water drainage strategy has been submitted, which includes ponds and attenuation tanks at the front of the site and a restricted discharge rate equivalent to the greenfield run-off rate. However, given the lack of detail on construction of the access and any land reprofiling required, it is uncertain whether there would be any impact on the existing drainage ditch and how surface water run-off would be prevented from discharging to the public highway. Indeed, the conclusion of the submitted flood risk assessment states that there is a risk of surface water flooding in the main road.
26. In addition, any additional expansion of the visibility splays that may be required to safely accommodate HGVs and fire tenders to and from East End, which is single width in the vicinity of the appeal site, would cause additional detriment to the character and appearance of the area through the loss of more verge and vegetation.
27. For these reasons, it has not been demonstrated that the proposed development would have an acceptable impact on highway safety and convenience or that the rural landscape character can be maintained. Consequently, the proposal conflicts with Policy TRA2 of the EHDP, which seeks to ensure that safe and suitable access can be achieved for all users and that access proposals are acceptable in highway terms and would not have a significant detrimental effect on the character of the local environment.

Planning Balance

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
29. The Council lacks a five year supply of deliverable housing sites, and this engages what is colloquially called the 'tilted balance' in paragraph 11(d) of the Framework, which explains that in these circumstances, planning 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 a whole.
30. The proposal would make a positive contribution to housing supply (albeit larger sized dwellings) with associated social and economic benefits during the period of construction and once the dwellings are occupied. I note the sustainability checklist submitted with the application demonstrates that the dwellings would be constructed with solar panels, air source heat pumps and high performance insulation, amongst other climate conscious features, which would respond to the demands of climate change and therefore provide environmental benefits.
31. However, those environmental benefits would be somewhat offset by the reliance on the use of the car for everyday essentials. While I am aware of an Inspector's decision for Old Clamp Barn (APP/J1915/1/20/32589799) on the adjacent site, which considered that the site was in a sustainable location because the facilities in Furneux Pelham were relatively accessible on foot and by cycle, I am not convinced that it provides a strong precedent for all subsequent residential proposals in this area, because the scale of individual proposals needs to be taken into account.

32. I observed on my site visit that the road into Furneux Pelham from the appeal site is a typical rural road, bounded by high hedges and trees along its length, lacking footpaths and lights and includes passing bays due to its narrowness. While Furneux Pelham is only approximately 1.4 km away from the appeal site and future occupiers of the dwellings may choose to walk in the road or use their bicycles, I consider that it is unlikely to be the primary mode of travel into the village, particularly during inclement weather and when it is dark. I note there is a bus stop nearby, but it seemingly has a limited number of services per day. Given that the appeal proposal is for four 4-5 bedroom dwellings, a substantial number of occupants would therefore need to undertake a considerable number of journeys by car and travel some distance for a good range of facilities and services. The proposed development would therefore result in negative environmental and social effects in terms of the lack of easy access to such facilities and services by a range of transport modes.
33. While I recognise that the Framework is clear that sustainable transport solutions will vary between urban and rural areas and that this should be taken into account in decision making, I consider there would still be poor accessibility for the large number of occupants, which weighs negatively against the proposed development. This finding is consistent with appeal decision APP/J1915/W/18/3197239, which refused permission for three new dwellings at East End Farm, which lies approximately 100m to the south-east of the appeal site.
34. Overall, I have identified conflict with Policies DES2, DES3, DES4, TRA2 and NE3 of the EHDP which are consistent with the Framework insofar as they seek to achieve development that: is sympathetic to local character, including the landscape setting; improves biodiversity and avoids harm to protected species; and provides safe and suitable access. As a result, I find that the adverse impacts of the proposal arising from the harm to the character and appearance of the area, to biodiversity and protected species and to highway safety and convenience would significantly and demonstrably outweigh the proposal's benefits when assessed against the policies of the Framework as a whole. Furthermore, paragraph 193 of the Framework requires that where significant harm to biodiversity cannot be avoided, adequately mitigated, or compensated, then planning permission should be refused.

Conclusion

35. For the reasons given above, the proposal would not accord with the development plan as a whole and the material considerations before me do not indicate that a decision should be taken other than in accordance with the plan. I therefore conclude that the proposed development would not be sustainable and that the appeal should be dismissed.

Janine Laver

INSPECTOR