

Supporting Planning Statement

Proposed New Bungalow
Land Opposite 44-58 Chapel Lane, Letty Green

May 2023

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1 Introduction

- 1.1 This Supporting Planning Statement accompanies a planning application for a new home on land opposite 44-58 Chapel Lane, Letty Green, on behalf of the Applicant, Ms Naylor. The application site lies within the Metropolitan Green Belt, but also within the village of Letty Green. The site is well related to the built form of the village. The proposed bungalow would comprise infill development within the village, a form of development which is considered acceptable, in accordance with planning policy. Planning permission has previously been granted on appeal for a similar form of infill development on part of the garden of 25 Chapel Lane (a house which is now built and known as 27 Chapel Lane), to the immediate west of the current application site.
- 1.2 These proposals follow the dismissal of two planning appeals for a single dwelling on this site. In each case, the Inspector's reasons for dismissal related to design matters, and the impact of the proposed house on the appearance on the character of the area, due to size and visual prominence. However, in each case the Inspectors concluded that a new home would be acceptable in principle within this location. They also both considered that such a home would accord with Green Belt policy, as limited infilling within a village.
- 1.3 This application has been designed with careful regard to the previous proposals, to ensure that it would represent a suitable addition to the local area. These proposals are for a single-storey bungalow which would not be easily visible, due to existing landscaping, which could be managed and enhanced with new planting. The building itself would also be of an attractive design, which would relate positively to its context.
- 1.4 The proposed house would be highly rated in terms of its energy and thermal efficiency. Full details are set out in the separate Sustainability Checklist and Sustainable Construction, Energy, Water and Carbon Reduction Statement by Bryant and Moore Architects, which accompany this application.
- 1.5 The provision of a new house in this location would bring economic and social benefits, which also weigh in favour of the proposed development. New housing in this location accords with national policy, which seeks the provision of housing in rural communities, where it will provide an opportunity for a village to grow and thrive (NPPF, paragraph 79). The previous appeals have confirmed that this is a sustainable location, which is suitable in principle for new homes. It would also make a useful contribution towards the supply of deliverable housing land in East Hertfordshire, which has recently been found at appeal to be inadequate.
- 1.6 We believe that the proposals are entirely acceptable in planning terms, and that they benefit from the presumption in favour of sustainable development. As such, the Local Plan policies which are the most important for the determination of the application are rendered out of date, and this limits the weight which can be accorded to them in decision-making. Furthermore, the application can only be refused if there would be adverse impacts which would significantly and demonstrably outweigh the benefits it would bring, and as we explain throughout this statement, there would be no such adverse impacts. We consider that the application should be approved without delay, in accordance with local and national planning policy.

2 Contextual Appraisal

The Site's Location

- 2.1 The application site lies within the village of Letty Green. The village lies around 3.5km from Hertford, 4.5km from Welwyn Garden City and 5.5km from Hatfield. All of these towns are accessible via the A414 dual carriageway. The site also lies immediately adjacent to the Cole Green Way, a former railway line which is now part of National Cycle Route 61 and provides a high-quality walking and cycling route between Hertford and Welwyn Garden City; each of these towns are therefore within easy cycling distance.
- 2.2 Hertford and Welwyn Garden City both offer mainline rail services, including regular connections to London. Welwyn Garden City is connected to the East Coast Mainline, and provides fast services to various places, including London and Cambridge.

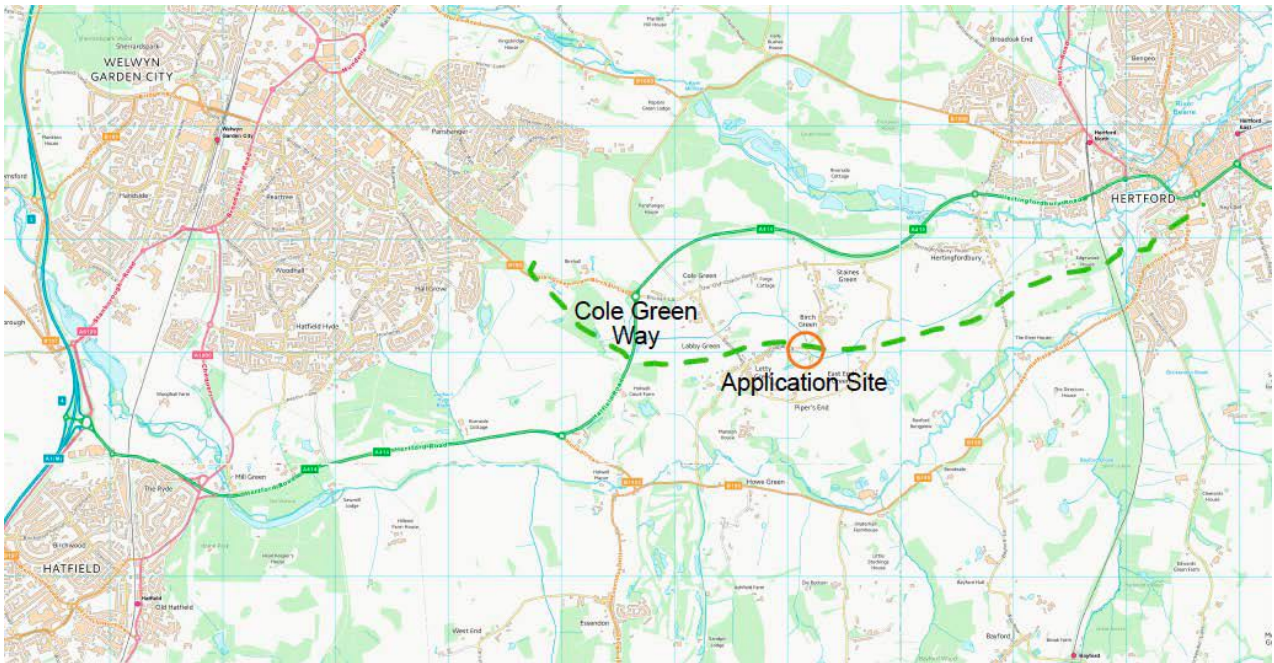


Figure 1: The Site's Location, close of Hertford, Welwyn Garden City and Hatfield

- 2.3 The 641 bus service stops in nearby Cole Green connecting the area with Hatfield, Hertford, Hoddesdon and Broxbourne. The service runs 6 times a day, Monday to Saturday.
- 2.4 Letty Green is one of a cluster of villages which together provide a good range of services within walking distance of the application site. These include a pub on the edge of Letty Green, a popular childrens' day nursery in Cole Green and a pre-school and primary school in Birch Green.

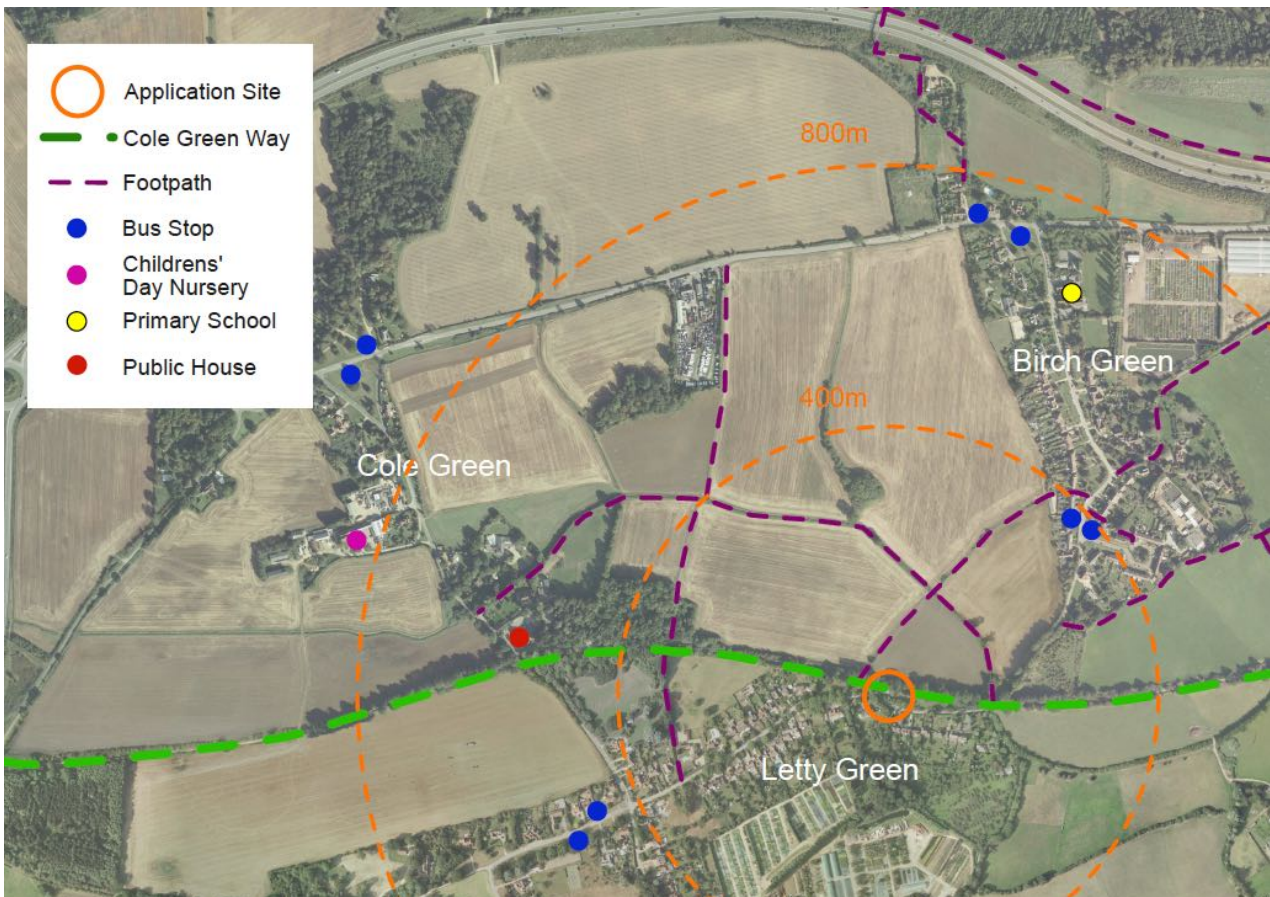


Figure 2: Map of the local area, showing facilities and walking routes

2.5 In one of the previous appeal decisions¹ relating to this site, the Inspector commented that *“The appeal site is in proximity to a number of facilities and services with good links to the wider settlements.”* Similarly, the adjacent land was found to be a suitable location for new housing, when planning permission was granted at appeal for a new house².

Chapel Lane and Surroundings

2.6 We understand that the application site, and the land to the west closer to 25 Chapel Lane, were both previously part of the garden for 25 Chapel Lane. However, since around the 1970’s, the application site has been used as a paddock for keeping horses.

2.7 Planning permission was granted³ for an infill residential development of a single house, on garden land belonging to 25 Chapel Lane, to the west of the current application site. The site of the recently approved house is shown on the annotated aerial photograph below, outlined in blue with the house shaded in grey.

2.8 Chapel Lane is characterised by large, detached houses in spacious plots. It also has an attractive landscaped environment, with mature trees and hedgerows within front gardens contributing to the character of the area. The housing appears to have been built piecemeal over time, and there is little uniformity in design or form along the lane (see Figures 4 and 5).

¹ APP/J1915/W/18/3207743, 4th April 2019.

² Planning application 3/16/2773/FUL, and appeal APP/J1915/W/17/3174337.

³ Ibid.

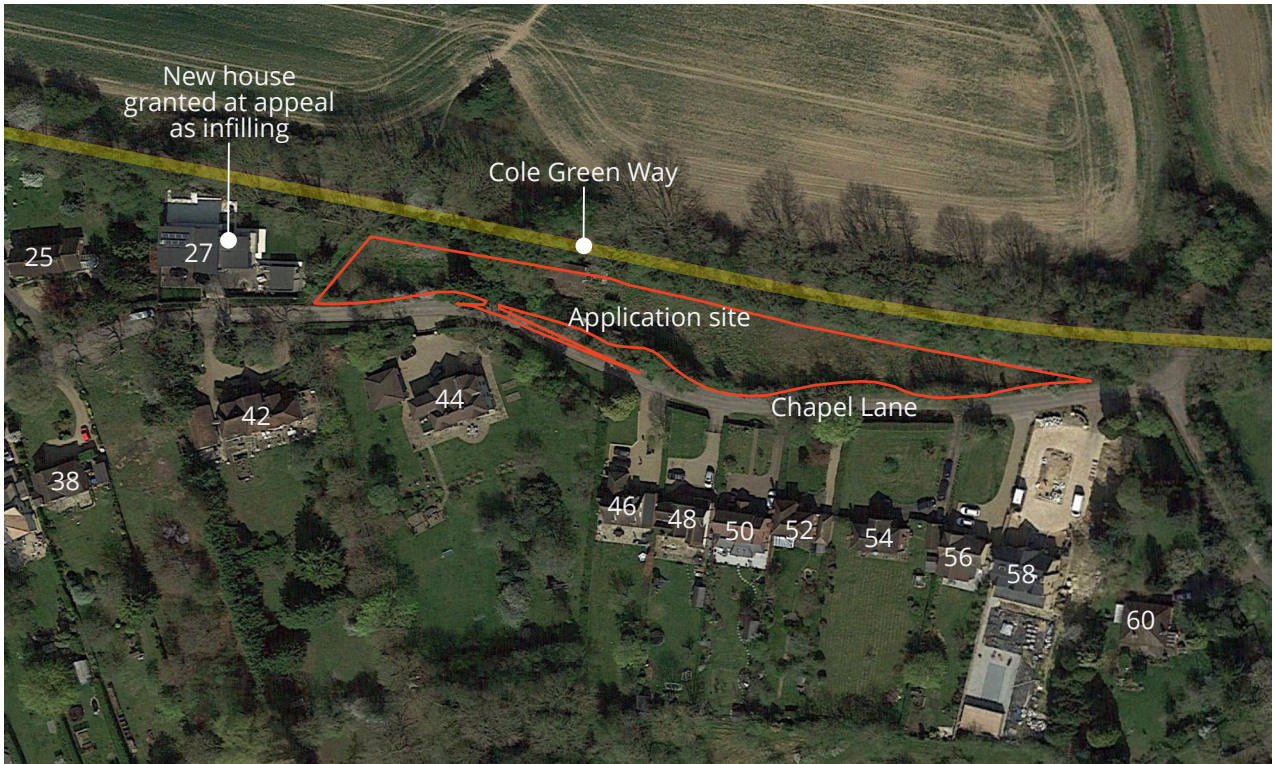


Figure 3: The application site (red) and recently approved proposals for an infill house on adjacent land (blue, with the house indicated in white)



Figure 4: Some examples of the disparate architectural styles of houses on Chapel Lane

2.9 The house approved at appeal was of a more modern design, as shown in Figure 5 below. The Inspector considering the appeal⁴ commented that:

“The dwelling would be of a contemporary design of an intrinsically good architectural quality that would satisfy LP Policy ENV1. There would be no conflict with the Framework’s core planning principle to always seek to secure high quality design.”



Figure 5: Left: The new house granted permission at appeal as an infill dwelling (27 Chapel Lane); Right: Housing opposite the application site, showing 46-58 Chapel Lane

2.10 Opposite the application site are the houses of 44-58 Chapel Lane. These houses present a near-continuous built frontage, given the way that they have been extended to fill their plots. The plots are generally open, and they represent a change from the more enclosed nature of the Lane a short distance to the west, in front of numbers 25 and 44. The way that the Lane opens out again by these houses gives it a more suburban character, at the point where the new house is proposed.

2.11 To the rear of the application site is the Cole Green Way, a former railway line, which is now part of the National Cycle Network (Route 61), and the Lea Valley Walk. As we have noted above, it stretches between Welwyn Garden City and Hertford, and provides a direct and level route for walkers and cyclists. At the point of passing the application site it is surrounded by dense vegetation including mature trees. It forms a strong northern boundary for the site.



Figure 6: The Cole Green Way - left: a view from immediately north of the application site, Right: The rear of 27 Chapel Lane, seen from the Cole Green Way

⁴ APP/J1915/W/17/3174337, included at Appendix 1.

The Application Site

- 2.12 The application site is a paddock. It is largely open, with mature trees and shrubs at its boundaries. It contains a single stable building, consistent with its established use.
- 2.13 The photographs below show the site's road frontage, which is covered by mature vegetation. This largely prevents views into the site, particularly along the length of the road (the most common view of the site), where the vegetation is seen obliquely, meaning it forms a denser screen.



Figure 7: Views of the application site from Chapel Lane (left, looking east – right, looking west)

- 2.14 The site also benefits from an existing highway access; it is intended to use this access for the proposed development. This is marked in the photograph at Figure 7 by a row of 4 traffic cones.
- 2.15 Internally, the site is an open, grassed area, which has previously been used as a paddock for keeping horses and other animals, but which is now vacant.

Planning History

- 2.16 Two planning applications and subsequent appeals have been submitted and determined in relation to a new dwelling on this site in recent years, we provide details of both applications and appeals below.
- 2.17 The Council refused planning permission for application 3/18/0972/FUL in June 2018, for the following reason:

“The proposed development would constitute inappropriate development in the Green Belt and would also result in harm by reason of loss of openness and visual amenity. Very special circumstances have not been identified that would clearly outweigh the harm by reason of inappropriateness and other harm. The proposed development would therefore be contrary to Policy GBC1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.”

- 2.18 The house proposed under application 3/18/0972/FUL was designed to complement the style of the house on the adjacent site approved at appeal (now 27 Chapel Lane - see Figures 5 and

6 above). As we have noted, the design of that house was complemented by the Inspector who considered the appeal.



Figure 8: The proposed house under planning application 3/18/0972/FUL



Figure 9: the proposed site plan for application 3/18/0972/FUL

- 2.19 Following the Council's refusal of planning permission in June 2018, the proposed house was considered at appeal, with a decision issued in April 2019⁵. Between the Council's determination of the planning application and the decision on the appeal both local and national policy was updated. The new East Hertfordshire District plan was adopted in October 2018, and the National Planning Policy Framework was updated twice, first in July 2018 and then in February 2019.
- 2.20 Considering the appeal proposals against the newly updated local and national planning policies, the Inspector concluded that the principle of residential development in this location is acceptable, as infill development, commenting as follows:

⁵ APP/J1915/W/18/32007743, 4th April 2019 - see Appendix 2.

“There is no definition of limited infilling in the Framework and the previous Local Plan definition has been superseded by the adoption of the new District Plan. In this instance, the appeal site adjoins the built form of the village to the west, albeit with the presence of the narrow footpath which does not significantly separate the appeal site from the adjoining development. Furthermore, residential properties run opposite the site. I acknowledge that the appeal site is not bounded to all sides by the built form, and infilling is often considered to be a site located between existing buildings. However, in this instance I have had regard to the presence of the railway embankment and the tapering of the site. I find that this would prevent any further extension of the built form beyond the appeal site and it serves to enclose the site so that it is well related to the main built up part of the village.

Accordingly, I find that as a result of the location of the site, the immediate surroundings, and the limited amount of development proposed, namely one property, the proposed development would comprise limited infilling in a village and would therefore not be inappropriate in the context of the Framework and Policy GBR1 of the District Plan. As the development would not be inappropriate it is not necessary for me to consider openness nor is there a need to consider any very special circumstances which would outweigh the harm to the Green Belt.”

- 2.21 However, the Inspector dismissed the appeal on grounds of the scale of the proposed house, commenting as follows (the underlining is ours):

“The appeal site is considerably shallower than the surrounding plots which has the effect of pushing the dwelling forward to the front of the site so that it would be closer to the road than the prevailing form of development. I note the contemporary property under construction on the adjacent site. I have also had regard to the varied designs in the immediate vicinity of the site. However, the reduced depth of the site would result in the dwelling being visually prominent and incongruous within the street scene. This would be exacerbated by the proposed first floor overhang which would result in a dominant feature along Chapel Lane.

I note the proposed landscaping and the retention of several trees and hedging that exist on and around the site. However, I find that the positioning of the property would result in limits to the landscaping that could be provided in front of the proposed dwelling and whilst the proposed landscaping would be likely to soften some of the longer views to the site, I do not find that it would be sufficient to mitigate the overall visual impacts of the development to an acceptable level. As a result, the visual characteristics of the site would fundamentally alter to a harmful degree.

I note that the adjoining dwelling is on a plot with a reduced depth than the surrounding properties. However, the undulation of the front boundary of the appeal site would result in a shallower site in parts which would constrain the positioning of the dwelling to a greater degree than the adjacent property. Furthermore, the adjacent site does not form a prevalent character in terms of site size and therefore the development of the proposed site would still be at odds with the predominant character of large plots with dwellings set back from the road.

Consequently, the proposed development would introduce a dominant feature along this part of Chapel Lane which would fail to reflect, and be harmful to, the character and appearance of the area. It therefore fails to comply with Policies VILL3 and DES4 of the

District Plan which seek to ensure that development is in keeping with the character of the village, and reflects and promotes local distinctiveness, amongst other things."

- 2.22 Reflecting on these comments, it is clear that it was the combination of the building's positioning, and design, which led the Inspector to conclude that it would create a "dominant feature along Chapel Lane".
- 2.23 Following the dismissal of the first appeal, a new planning application was submitted to the Council in September 2019, reference 3/19/2003/FUL. This sought to respond to the Inspector's concerns regarding the design of the house. The proposed house was reduced to a mixture of single-storey and two-storey elements, with the intention that they would appear as two smaller houses when viewed through the break in the landscaped screen to the front of the site, to some extent replicating the collection of houses on the opposite side of the road. The proposed house was also set further back from the Lane, into the site.



Figure 10: The proposed house under application 3/19/2003/FUL



Figure 11: the proposed site plan for application 3/19/2003/FUL

- 2.24 The Council refused the second planning application for the following reason:

"The proposed development would introduce an incongruous and dominant feature into the street scene, which would cause harm to the character and appearance of the site and the surrounding area. The constraints of the site have resulted in a design that would be against the pattern of development in the surrounding area, would be out of keeping and would fail to reflect the local distinctiveness of the village. Therefore, the proposed scheme would be contrary to Policies VILL3 and DES4 of the East Herts District Plan, 2018."

- 2.25 This decision was taken to appeal⁶, which was again dismissed. It was by this time common ground that the proposed house would constitute limited infilling within a village, and so would accord with Green Belt policy. However, the Inspector again dismissed this appeal on grounds relating to the character and appearance of the proposed house, commenting as follows (the underlining is ours):

"I acknowledge that the appellant has sought to address the concerns of the Inspector on the previous decision, particularly, through moving the proposed development further away from Chapel Lane to a distance of approximately 7.8m, which is a reported increase of 3m from the previous scheme, and at 2-storeys, a setback of approximately 10.6m from Chapel Lane would be provided. The proposed development in the scheme before me now comprises single storey and 2-storey elements in its composition. I accept that this would result in articulation of its built form, due to the varying roof heights, in conjunction with its glazed links.

My attention has been drawn by various parties to the contemporary dwelling at No 27 Chapel Lane and the associated appeal decision². I accept that this dwelling does not form a prevalent character in terms of site size, nonetheless, it is a material consideration in the determination of this appeal. Policy DES4 of the Council's District Plan 2018 (DP) requires proposals to make the best possible use of the available land by respecting or improving upon the character of the site and surrounding area, amongst other things. Furthermore, a criterion of DP Policy VILL3 is for development to be in character with the character of the village.

Whilst I recognise that in isolation the proposed development has some innovative features present in its design, I consider that due to the shape/size of the site, the appeal scheme would be distinctly at odds with the prevailing character of neighbouring dwellings particularly through its orientation. The proposed development would be read as a large dwelling with a notable footprint, which would further contribute to its discordant and strident appearance that would be readily visible from Chapel Lane and Cole Green Way. In this instance, I do not consider that the proposed landscaping scheme would provide sufficient mitigation against the identified harm, nor do I consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.

For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. As a consequence, it would conflict with the design, character and appearance aims of DP Policies VILL3, DES4 and the requirements of the National Planning Policy Framework (the Framework)."

- 2.26 We note the particular comments in relation to the problems the Inspector considered were caused by the design of the house, with its "orientation" and the fact it would be seen to be a "large dwelling" with a "discordant and strident appearance".
- 2.27 The current application proposals have been designed with great care to respond to the above comments, as we explain further in Section 3 below.

⁶ APP/J1915/W/20/3247686, 25th November 2020 – see Appendix 3.

3 The Proposed Development

The Proposed Design

- 3.1 This planning application proposes the construction of a new detached and modestly sized single-storey bungalow. This would have an attractive modern design, which would make a positive contribution to the character of the village. We have noted in Section 2 that Chapel Lane is characterised by large, detached houses and bungalows, of varying architectural styles.
- 3.2 The bungalow would be positioned within the site in a way which would ensure that the building would be well screened by the existing dense areas of existing trees and vegetation on the site's boundaries. It would have a compact footprint, with its garage attached to the end of the building, and enclosed by trees. This would be served by the existing driveway, meaning there would be no need to form a new entrance onto the Lane. The existing landscape screen would be managed, to remove poor quality, dead and dying trees, and ivy, and it would then be enhanced with new planting to provide a suitable screen in the future.

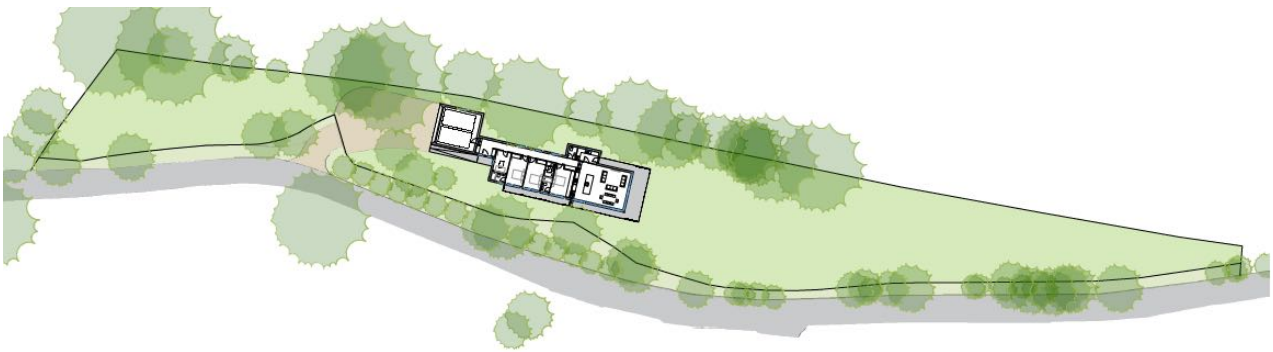


Figure 12: The proposed site plan (drawing 21_455_PL02)

- 3.3 The bungalow has been designed to have a simple and unobtrusive appearance. It would be clad in grey bricks and timber, and its design and materials are intended to ensure it would be a suitable addition to the lane.



Figure 13: The proposed south elevation

- 3.4 The land within the site slopes gently downwards to the east. The proposed bungalow would take account of the change in levels and would follow the contours of the land, stepping down slightly between each section of the dwelling, i.e., between the garage, the bedroom area and the living area, as can be seen in Figure 13 above.

- 3.5 The new dwelling has been carefully positioned within the site to minimise any impact upon the existing trees and landscaping. It would benefit from a generously sized garden, with ample space for new planting; this could include native species such as holly or beech to provide year-round screening. A Tree Survey, Arboricultural Impact Assessment and Method Statement prepared by Elizabeth Greenwood is submitted alongside this planning application, and this provides details of the of the existing trees and mitigation measures to ensure any impacts to the trees are kept to a minimum.
- 3.6 Covered and secure cycle parking could be provided within the double garage, or in a storage unit within the garden. There would be ample space to also provide covered refuse and recycling bin storage to the front of the bungalow, within easy drag distance of the roadside.
- 3.7 The bungalow would be designed to have large areas of glazing, to create bright, airy rooms, and this would in turn increase the opportunity for passive solar gain to help heat and light the building in an energy-efficient way.
- 3.8 The new bungalow would be of a high-quality design, using modern materials, modern construction techniques and would be installed with energy efficient appliances.

Comparison with Previous Proposals

- 3.9 We have noted above that the proposed design has been strongly influenced by the previous proposals, and in particular the way they were considered by Inspectors at appeal. We have explained in Section 2 that the comments made in relation to the previous designs were broadly that both their position within the site, and the design, size and visibility of the houses, would have made each proposal excessively prominent, and that this would have had a negative effect on the character of this part of Chapel Lane.

Position Within the Site

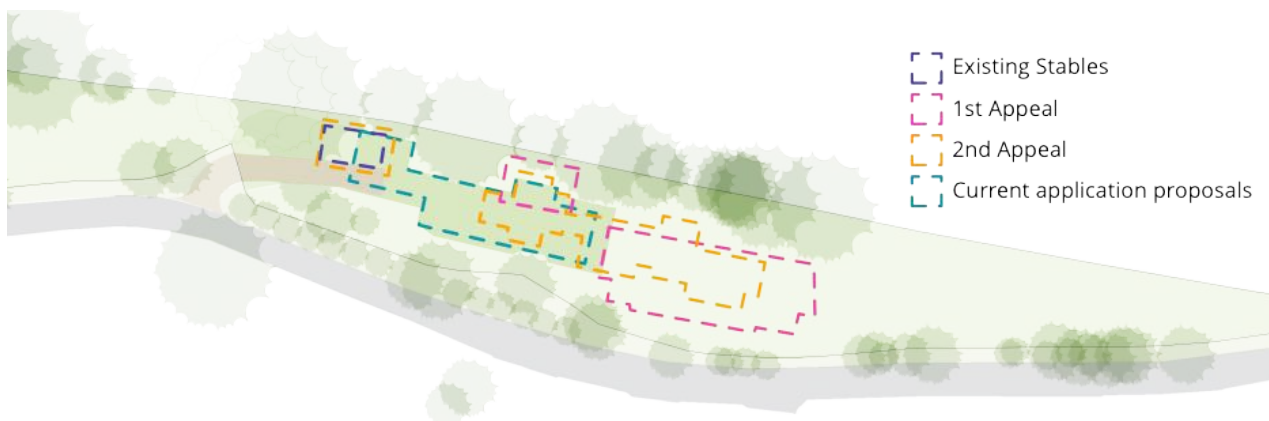
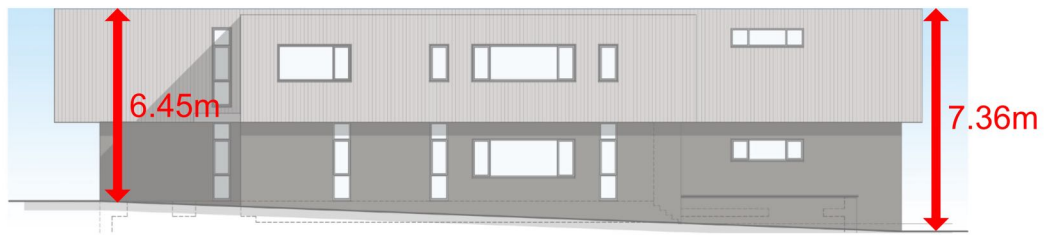


Figure 14: Built footprint comparisons

- 3.10 Firstly, with regard to the position of the proposed building within the site, Figure 14 above sets out the difference between the current proposals and those which have preceded them. This clearly shows that the two appeal schemes (the yellow and pink lines) positioned the majority of the proposed buildings in the widest and most open part of the site. In comparison, the current proposals would position the building in a narrower part of the site which is more completely enclosed by existing trees. The attached garage would be positioned largely on the footprint of the existing stable block, which is itself largely hidden

from view from the Lane. The building's position would ensure it would be far less visible than the previous appeal proposals.

Height



First Appeal Proposals



Second Appeal Proposals



Current Application Proposals

Figure 15: Comparison of proposed elevations

- 3.11 Secondly, the proposed building would have only a single storey, and its height would be substantially less than that of the previous proposals, as can be seen in the comparative images in Figure 15 above (note that whilst these images are not to a specific scale, they are at the same scale as one another). As with the building's position, its limited height would also help to make it far less easily visible from Chapel Lane. Should it be seen, it would be of a similar scale to the existing stable building, which is in a similar position to the building's western end.
- 3.12 This design approach would respond directly to the comments of both appeal Inspectors. The Inspector considering the first appeal proposals noted that the stepped design would be "visually prominent", and that "the proposed first floor overhang... would result in a dominant feature along Chapel Lane". The Inspector considering the second appeal commented that the building "would be read as a large dwelling with a notable footprint, which would further contribute to its discordant and strident appearance". The proposed bungalow would not be visually prominent, and it would not have a strident appearance; it would be a subtle addition to the site, with a low profile, and a ridge line well below the level of the surrounding trees.

Landscape Planting

- 3.13 The site's southern boundary is dominated by well-established, large trees, which provide a natural visual screen, as can be seen in Figure 7 above, and Figure 16 below. The proposed

bungalow has been positioned exclusively behind one of the densest areas of foliage, to ensure it would be largely hidden in views from Chapel Lane; this is a contrast with the previous appeal proposals, as noted above.



Figure 16: View of the application site from Chapel Lane, facing east

- 3.14 The view in Figure 16 is towards the site's access, which is marked by a row of 4 traffic cones. It is clear in this view that the area near the access is entirely screened from view.



Figure 17: View of the central part of the application site from Chapel Lane

- 3.15 The view in Figure 17 is of the central part of the site. The cover provided by vegetation in this area is still considerable, but it is less dense, meaning that a new building, and particularly one of 2 storeys as proposed by both appeals, would be far more easily visible to anyone stood in front of it, on Chapel Lane. This explains the comments from both Inspectors, given that both of the appeal proposals were positioned largely in this area. In contrast, the current application proposals would leave this area open and free of buildings.
- 3.16 Many of the trees on the site's boundary with Chapel Lane are in a poor condition, and are identified as being Category C within the Arboricultural Assessment which accompanies this application; these are defined as *"trees of low quality, with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter of below 150mm"*. All of these trees are suffering from a lack of management, and they are covered in ivy. They do not provide an attractive outlook from Chapel Lane, and this application provides an opportunity to remove the ivy, and to either manage the trees to bring them back to better health, or replace them with new planting of suitable species. These are necessary and long overdue management actions, which would greatly improve the character of Chapel Lane.
- 3.17 Many of the trees which surround the part of the site in which it is proposed to build the bungalow are Category B, defined as *"trees of moderate quality with an estimated remaining life expectancy of at least 20 years"*. These trees would continue to help screen the proposed bungalow from view, and again they could be supplemented with new planting, of species

such as holly or beech, which could help to provide a perennial screen, and form a new hedgerow.

- 3.18 It is also important to note that the Tree Constraints Plan confirms that the proposed development has been positioned in a way which would ensure it would not harm the trees which are to be retained, which are the majority of trees within the site.



Figure 18: View of the application site (on the right), looking west along Chapel Lane



Figure 19: View of the application site (on the left) looking east along Chapel Lane

- 3.19 Bryant and Moore Architects have produced 3D views of the proposed development, both within the site, and as it would appear from Chapel Lane. These are shown above in Figures 18 and 19, and they show that existing and new planting on the site's road frontage would largely hide the building from view, with the top of the bungalow just visible within one of the views.

4 Compliance with the Development Plan

4.1 Planning law requires that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan for East Hertfordshire is the East Herts District Plan 2018 and the Hertfordshire County Council Minerals and Waste Local Plan.

East Herts District Plan October 2018

4.2 Policy INT1 sets out a presumption in favour of sustainable development. It states that planning applications which accord with the development plan should be approved without delay, unless material considerations indicate otherwise. This policy is in fact slightly inconsistent with national policy, as it varies a little from paragraph 11 of the NPPF, which simply states at 11(c) that development should be approved without delay where it is consistent with an up to date development plan; see Section 5 below for an explanation of the current wording of national policy in this regard.

4.3 The District Plan states that a windfall allowance of 75 dwellings per annum for the District has been made, calculated on the analysis of past windfalls⁷. The proposed development would comprise windfall development, contributing to meeting this annual requirement.

4.4 The relevant policy concerning new development in the Green Belt, Policy GBR1, states that *“Planning applications within the Green Belt, as defined on the Policies Map, will be considered in line with the provisions of the National Planning Policy Framework”*. We discuss this in Section 5.

4.5 Letty Green is identified as a Group 3 village in accordance with Policy VILL3. In Group 3 villages, Policy VILL3 allows for limited infill development identified in an adopted Neighbourhood Plan. Letty Green does not have a Neighbourhood Plan. However, this policy is rendered out of date due to its inconsistency with national policy, and this limits the weight which can be accorded to the policy in decision taking; this is also discussed in Section 5.

4.6 Part III of Policy VILL3 also states that all development in Group 3 villages should:

- a) *“Relate well to the village in terms of location, layout and connectivity;*
- b) *Be of a scale appropriate to the size of the village having regard to the potential cumulative impact of development in the locality;*
- c) *Be well designed and in keeping with the character of the village;*
- d) *Not represent the loss of a significant open space or gap important to the form and/or setting of the village;*
- e) *Not represent an extension of ribbon development or an addition to an isolated group of buildings;*

⁷ Paragraph 3.3.10 East Herts District Plan, October 2018

f) *Not unacceptably block important views or vistas and/or detract from the openness of the countryside;*

g) *Not be significantly detrimental to the amenity of neighbouring occupiers."*

4.7 We consider that the proposed house would accord with these criteria. Residential development in this location would relate well to the village; it would not result in the loss of a significant space or gap; it would not be an extension of ribbon development or be isolated; and it would not block important views or be significantly detrimental to the amenity of neighbouring occupiers. We discuss these points further in Section 5 below.

4.8 Policy DES3 concerns landscaping, and it requires development proposals to “*demonstrate how they will retain, protect and enhance existing landscape features which are of amenity or biodiversity value*”. As we have discussed in Section 3, it is proposed to retain and protect those existing trees and hedges which are worthy of retention, and to replace any which are removed due to their poor condition. The Arboricultural Impact Assessment which accompanies this application details the condition of the trees within the site, and also shows how the proposed development has been designed to avoid adverse impacts on the better quality trees within the site.

4.9 Policy DES4 concerns the overall design of the development, requiring new developments to be of a high standard of design and layout that reflects and promotes local distinctiveness. To achieve this, the policy sets out a list of criteria that the proposals are expected to meet. Below we note the relevant requirements and how these proposals meet them.

| Policy DES4 Criteria | | Application’s Response |
|----------------------|---|--|
| (A) | Make the best possible use of the available land by respecting or improving upon the character of the site and the surrounding area, in terms of its scale, height, massing (volume, shape), orientation, siting, layout, density, building materials (colour, texture), landscaping, environmental assets, and design features, having due regard to the design opportunities and constraints of a site. | The land is currently unoccupied, the stables are no longer in use and the land is vacant and in need of a new use. As we have explained in Section 3 above, the proposed bungalow would be a very subtle addition to Chapel Lane, which would not have any notable effect on its existing character. The bungalow would not be easily visible, and what would be seen would be an unobtrusive home which would be in harmony with its surroundings. |
| (B) | Incorporate homes, buildings, and neighbourhoods that are flexible to future adaptation, including the changing needs of occupants and users, and changes in wider employment and social trends. | The proposed bungalow would be built to a high standard, and it would provide accommodation which would appeal to a wide variety of people. It would be designed to be easily adaptable for the changing needs of future occupants. It would help to meet the need for accommodation for an ageing population. |
| (C) | Avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land, and ensure that their environments are not harmed by | The proposed bungalow would not cause any detrimental impacts on the amenity of neighbouring residents. |

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| | noise and disturbance or by inadequate daylight, privacy or overshadowing. | |
| (D) | Incorporate high quality innovative design, new technologies and construction techniques, including zero or low carbon energy and water efficient design and sustainable construction methods. Proposals for residential and commercial development should seek to make appropriate provision for high-speed broadband connectivity, ensuring that Fibre to the Premises (FTTP) is provided. | The proposed bungalow would be designed to a high standard, with the aim that it could exceed standard building regulation requirements. Modern techniques would be employed to ensure a low-carbon and sustainable construction. Further details are set out in the Sustainable Construction, Energy, Water and Carbon Reduction Statement that accompanies this application. |
| (E) | Make provision for the storage of bins and ancillary household equipment. Garages and driveways should be capable of accommodating family sized vehicles. Dwelling design and layout should make provision for electric vehicle charging points in safe and accessible locations. | A double garage would provide parking for two vehicles and electric charging points could easily be installed. There is plenty of room on site to store refuse bins, which could be wheeled to the lane for collection. |
| (F) | All new residential developments should meet the requirements of Policy HOU7, and ensure all internal rooms are of an appropriate size and dimension so that the intended function of each room can be satisfactorily achieved. All dwellings shall be identified by their square metreage. | The new development would exceed the requirements of the Council's and Government's minimum space standards. All rooms would be of a generous size and would easily be able to accommodate their intended functions. |

- 4.10 Policy NE3 states that *“development should always seek to enhance biodiversity and to create opportunities for wildlife”*. The site was previously garden land associated with 25 Letty Green. It is mainly laid to close cropped grass. A Preliminary Ecological Appraisal prepared by Green Ecology accompanies this application. The report states that the site has been valued at *“Zone of Influence”* due its very low ecological value, and the results of the assessment found that no further surveys for protected species are required. The proposals would introduce new landscaping that could include opportunities for improving and enhancing biodiversity within the site. This could, for instance, be achieved by planting native trees, hedgerows and plants, and by including animal and insect refuges such as bat and bird boxes, insect hotels and log piles in the proposals. This matter could be addressed by a suitably worded planning condition.
- 4.11 Policy TRA3 requires secure, covered and waterproof cycle storage in new residential developments. The policy also states that *“car parking should be integrated as a key element of design in development layouts to ensure good quality, safe, secure and attractive environments”*. An integrated double garage is proposed, and cycle storage could be provided within the garage or in a safe and secure store in the garden.

4.12 Policies CC1 and CC2 require new developments to demonstrate how they would positively contribute to climate change adaptation, and minimise carbon dioxide emissions. In addition, Policy WAT4 also requires new residential development to be designed so that mains water consumption will meet a target of 110 litres or less per head per day. The accompanying Sustainable Construction, Energy, Water and Carbon Reduction Statement sets out how the proposed development would accord with these policies.

5 Material Planning Considerations

National Planning Policy Framework (July 2021)

- 5.1 The policies of the National Planning Policy Framework (NPPF) 2021 constitute important material considerations in the determination of this application.
- 5.2 Paragraph 8 sets out the three aspects of sustainable development, which include economic, social and environmental objectives. The social objective includes a requirement *“to support strong, vibrant and healthy communities, by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations”*. The environmental objective includes a requirement to make *“effective use of land”*.
- 5.3 Plans and decisions are required to apply a *“presumption in favour of sustainable development”*. This is set out at paragraph 11. For decision taking this means:
- c) *“approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*
- 5.4 Footnote 7 clarifies that the policies referred to in d(i) are only those in the NPPF, and not those in development plans. It also clarifies that these are policies relating to various matters, including Green Belt land, Local Green Space, Areas of Outstanding Natural Beauty, irreplaceable wildlife habitats, designated heritage assets and areas at risk of flooding. The only one of these which relates to the application site is Green Belt land, but as we explain below, the proposed development is an appropriate form of development within the Green Belt, meaning that footnote 7 is not engaged.
- 5.5 Footnote 8 states that the clause in (d) relating to where *“the policies which are most important for determining the application are out of date”* includes *“for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year housing land supply of deliverable housing sites... or where the Housing Delivery Test indicate that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*. A recent appeal decision concluded that East Herts District are currently unable to demonstrate a 5-year supply of deliverable housing land. This means that the policies within the adopted District plan which are most important for the determination of this application

are rendered out of date, and they cannot be accorded full weight in planning decisions. We discuss this further below.

- 5.6 Paragraph 38 states that *“local planning authorities should approach decisions on proposed development in a positive and creative way”*, and that they *“should seek to approve applications for sustainable development wherever possible”*.
- 5.7 Paragraph 60 identifies the government’s objective of *“significantly boosting the supply of homes”*. In this context, paragraph 74 requires local planning authorities to identify a supply of specific deliverable sites for the immediate 5-year period.
- 5.8 Paragraph 78 states that *“in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs”*. Paragraph 79 states that *“Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby”*.
- 5.9 Paragraph 81 requires significant weight to be given to *“the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”*. Paragraph 82 requires planning policies to address barriers to investment, including inadequate housing.
- 5.10 Paragraph 105 recognises that *“opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making”*.
- 5.11 Paragraph 120 states that planning policies and decisions should promote and support the development of under-utilised land and buildings. It also requires planning policies and decisions to *“give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs”*.
- 5.12 Paragraph 147 states that inappropriate development in the Green Belt *“is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”*. Paragraph 148 states that *“Very Special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”*. However, paragraphs 149 and 150 state that there are various forms of development which are not considered inappropriate in the Green Belt. Paragraph 149(e) allows for *“limited infilling in villages”*. We discuss matters relating to Green Belt further below.
- 5.13 Paragraph 219 of the NPPF clarifies that development plan policies should be accorded *“due weight... according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”*.

Compliance with Green Belt Policy

Principle of Development

- 5.14 As we have noted above, Policy GBR1 of the District Plan states that planning applications for new development within the Green Belt *“will be considered in line with the provisions of the*

National Planning Policy Framework". As such, if the development accords with the NPPF, it also accords with the development plan.

- 5.15 A recent outline planning application for infill development at 111 Burnham Green Road, Burnham Green (3/22/0701/OUT), was accompanied by a written Advice by Peter Goatley KC of No5 Barristers Chambers (see Appendix 4). Mr Goatley's Advice considered the Local Plan's Green Belt policy, and he noted that the wording of Policy GBR1 *"in effect allows for some limited updating of this aspect of the development plan"*, in relation to changes in national policy relating to Green Belt land. As we have noted above, paragraph 149(e) of the NPPF allows for *"limited infilling in villages"* within the Green Belt. This means that Policy GBR1 also allows for this form of development.
- 5.16 We have also noted in Section 4 that Policy VILL3 only envisages infill development within Group 3 villages, such as Letty Green, where this is identified in an adopted Neighbourhood Plan. There is no Neighbourhood Plan for Letty Green. However, this matter is also considered in Mr Goatley Advice. Mr Goatley explains that the approach taken by Policy VILL3 is based on the wording of the 2012 version of the NPPF, upon which the Local Plan is itself based. Paragraph 89 of the NPPF 2012 allowed for *"limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan"*. The 2018, 2019 and current 2021 versions of the NPPF each simplified this aspect of Green Belt policy, and shortened the allowance to simply refer to *"limited infilling in villages"*. Mr Goatley explains that VILL3 is inconsistent with paragraph 149(e) of the NPPF, and that in light of paragraph 219 of the NPPF, the weight which can be afforded to VILL3 is diminished.
- 5.17 The context for this Advice was that an infill house was proposed on land within the village of Burnham Green, which is like Letty Green a Group 3 village, without a Neighbourhood Plan; as such, these comments apply just as much to Letty Green as they do to Burnham Green. That application was granted permission by the Council in July 2022. Mr Goatley's Advice also specifically mentions both of the appeal decisions mentioned in Section 2 above, which relate to the current application site, and also the appeal which related to the adjacent land (now the house at 27 Chapel Lane). These support his view, which is as follows:

"Either the policy is out of date, for the purposes of NPPF decision-making (in which case paragraph 149 (e) should be accorded greater weight) or the policy is updated in accordance with Part I of GBR1. In either instance, it is clear that the formulation for exceptional infilling in villages contained in the Local Plan must defer to that which is now in the NPPF (2021)."

"Ultimately, the determination of any planning application is a matter for the local planning authority. As a matter of principle, I see no reason why a proposal for residential development on the Site should not be considered favourably in accordance with policy set out in paragraph 149 (e) of the NPPF. Provided that the proposal is one that reflects the character and appearance of the locality, and not cause material harm to that character and appearance, then I would expect any such proposal to be determined favourably."

- 5.18 Further to this, we also note another recent planning application for infill development in Letty Green itself, planning reference 3/22/0594/FUL. This site lies just west of the site subject to this application, also on Chapel Lane, and on land adjacent to St John's Church. This application was recommended for refusal for reasons of design regarding the character of the area, nearby listed buildings and access. However, regarding the principle of development the Delegated Officer's report states the following:

“The site lies within the Green Belt. Notwithstanding the provisions of District Plan Policy VILL3 it has previously been held on appeal and by the subsequent grant of planning permissions that similar applications for single house development in Letty Green comprises limited infill development within a village and therefore appropriate development in the Green Belt having regard to paragraph 149 of the NPPF.

The principle of development is therefore acceptable, subject to compliance with the more detailed policies of the District Plan.”

- 5.19 In light of the previous appeal decisions relating to this site, the permission at Burnham Green, the Council’s comments in regard to infill development in Letty Green and the above Advice provided by Mr Goatley KC, it is very clear that limited infill development within the village of Letty Green is acceptable in principle.

Infill Development

- 5.20 With regard to the appeal decisions relating to the site which are detailed in Section 2, and provided at Appendices 2 and 3, it is clear that a single dwelling within the site would comprise *“limited infilling in villages”*, and so would accord with Green Belt policy. As the appeal decisions explain, this means that this would be an appropriate form of development, and there is no need to consider the effect the development would have on the openness of the Green Belt.

The Need for Housing

Five Year Housing Land Supply

- 5.21 The Government places great importance on the provision of sufficient housing meet local needs. Paragraph 60 of the NPPF notes that it is the Government’s objective to significantly boost the supply of homes. National policy also requires the provision of a rolling 5-year supply of deliverable housing land.
- 5.22 The Council’s 5 year housing land supply position was recent challenged at appeal⁸. The decision concerns 3 appeals at the same site, each for a slightly different type of application, but all three sought new housing. The Inspector considered the deliverability of 4 individual sites that the Council relied upon as part of their Housing Land Supply and Position Statement dated November 2022, and concluded as follows (see paragraphs 60 and 61 of the decision letter):

“All of the above leads me to question the overall deliverability of the Council’s anticipated supply of housing. In line with the appellants’ assessment, the four sites above account for circa 1800 dwellings. As such, in omitting these sites from the anticipated 5-year HLS, the Council’s deliverable supply of housing would fall short of the 5-year HLS requirement by approximately 760 dwellings. This would represent a moderate shortfall.

⁸ Appeals APP/J1915/W/22/3303408 (Appeal A), APP/J1915/W/22/3303413 (Appeal B) and APP/J1915/W/21/3288702 (Appeal C) all relating to the Council’s decision at 1 Whempstead Road, Benington SG2 7BX (A copy is provided at Appendix 5)

Nevertheless, this means that the Council are unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 68 of the Framework. Therefore, the policies which are the most important for determining these schemes are deemed to be out of date. In such circumstances, paragraph 11d(ii) of the Framework indicates that 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.”

- 5.23 The development plan seeks to deliver a minimum of 18,458 new homes over the plan period. Their 5 year requirement at the time of their HLS statement in November 2022 was 6,483 dwellings. Falling short by 760 dwellings, as set out by the Inspector above, means that the Council can now only demonstrate 4.4 years housing land supply.
- 5.24 The shortfall in the supply of housing land automatically engages the presumption in favour of sustainable development, and renders the District Plan’s key policies out of date, in accordance with paragraph 11 and footnote 8 of the NPPF; this limits the weight which can be attributed to the most important policies in decision-making. This is a strong automatic policy response, which reflects the importance national policy places on the need to deliver housing. Although this application only seeks the provision of one new dwelling, it nevertheless would make a useful contribution to the provision of housing within the village, which could both meet the needs of a family, and help to ensure the long-term vitality of the village; this is a matter which weighs heavily in favour of the application proposals.

Most Important Policies

- 5.25 Due to the shortfall in the supply of housing land, paragraph 11 and footnote 8 of the NPPF state that the Local Plan policies which are the most important for determining the application are rendered out of date. In this case, we consider that these policies include the following:
- Policy GBR1 – Green Belt
 - Policy VILL3 – Group 3 Villages
 - Policy DES3 - Landscaping
 - Policy DES4 – Design of Development
- 5.26 As such, should the decision-maker consider that the proposed development would conflict with any of these policies, the weight that could be accorded to any conflict in the planning balance is diminished.

6 Planning Balance

- 6.1 This application proposes a new bungalow. This would be limited infill development within a village washed over by the Green Belt. The application site is within the village of Letty Green and is surrounded by existing housing and the strong boundary formed by the Cole Green Way to the north. It has already been determined at appeal that a new house within the site would constitute limited infilling within a village. As such, the proposed house would be an appropriate form of development within the Green Belt which would accord with local and national planning policy. This matter is explained further within Sections 2 and 5 of this statement, with reference to the relevant appeal decisions and also Advice from Peter Goatley KC.
- 6.2 There is a shortfall in the supply of housing within East Hertfordshire, meaning that the presumption in favour of sustainable development automatically applies to this application, in accordance with paragraph 11 of the NPPF. There are no footnote 7 matters which imply this would not be the case, as the proposed development would accord with Green Belt policy. This means that the Local Plan policies which are the most important for the determination of the application are rendered out of date, in accordance with NPPF paragraph 11 and footnote 8. This limits the weight which can be accorded to these policies, in accordance with paragraph 219 of the NPPF.
- 6.3 The most important Local Plan policies for the determination of this application include GBR1 (Green Belt), VILL3 (Group 3 Villages), DES3 (Landscaping) and DES4 (Design of Development). Should the decision-maker consider that the proposed development would conflict with any of these policies, the weight that could be accorded to any conflict in the planning balance is diminished.
- 6.4 National policy supports the provision of housing such as this in the rural area, within an existing village or a cluster of settlements which have a mutually-supporting relationship (NPPF, paragraph 78). The previous appeal decisions relating to this site have established that they are in a sustainable location, which is suitable in principle for new homes.
- 6.5 National policy seeks to boost the supply of housing across the country, and it recognises that there is a need to provide new homes in both rural and urban locations, in order to ensure the sustainability of local communities from social and economic perspectives. Without new homes, communities such as this would be starved of their vitality. The proposed development would make an important contribution towards the continuing social and economic sustainability of Letty Green and other nearby villages.
- 6.6 The proposed bungalow has been designed with great care to ensure it would fit in well with the character of the area, and respond positively to the concerns raised by the Inspectors who considered the previous appeals relating to this site. The new bungalow would have only a single storey, and it would be substantially shorter than the houses which were previously proposed. In contrast with the previous appeal proposals, it would also be positioned exclusively within the site at a point where it would be well screened by vegetation, and this screen could be further enhanced by additional planting. The proposals would result in little or no change to the existing street scene.

6.7 The presumption in favour of sustainable development requires planning permission to be granted in this case, provided that there would not be adverse effects which would *“significantly and demonstrably outweigh the benefits”*. It is clear that there would not be any adverse effects, and certainly nothing which would meet this very high test. Accordingly, we respectfully request that planning permission should be granted without delay.

Appendix 1



Appeal Decision

Site visit made on 8 August 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 21st August 2017

Appeal Ref: APP/J1915/W/17/3174337

25 Chapel Lane, Letty Green, Hertfordshire SG14 2PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sam Spears against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2773/FUL, dated 14 December 2016, was refused by notice dated 24 February 2017.
 - The development proposed is construction of a new house, garage and driveway.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of a new house, garage and driveway at 25 Chapel Lane, Letty Green, Hertfordshire SG14 2PA in accordance with the terms of the application, Ref 3/16/2773/FUL, dated 14 December 2016, subject to the conditions set out in the Schedule at the end of the decision.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the area.
 - If the proposal were to be inappropriate development in the Green Belt whether the harm for this reason, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. The development plan comprises the saved policies of the East Herts Local Plan Second Review of 2007 (LP). The proposal relates to the side garden of 25 Chapel Lane which is a dwelling within a section of ribbon housing development in the village of Letty Green. This settlement is defined a Category 3 village under LP Policy OSV3 which restricts development to that appropriate in the Green Belt as set out in Policy GBC1.

4. The LP and Policy GBC1 predate the Framework and the Government's current approach for protecting Green Belt land set out in Part 9. Paragraph 89 of the Framework regards the construction of new buildings as inappropriate in Green Belt. A number of exceptions to this are set out including the 'limited infilling in villages' stated in the fifth bullet point. Letty Green is a village where LP Policy GBC1 would not provide for limited infilling. Therefore, with regard to paragraph 215, this clear inconsistency with the Framework must mean that LP Policy GBC1 be given limited weight.
5. The Framework does not define 'limited infilling'. However, infill development is defined in the LP Glossary as the subdivision of an unusually large plot in an otherwise built-up area normally capable of taking only one or two houses without damage to the character of the village.
6. No 25 marks the clear limit of the eastward extent of the housing plots along the northern side of Chapel Lane where the available depth of land decreases with the increasing convergence with the railway embankment running in this direction. Without this physical restraint housing continues further to the east along the south side of Chapel Lane.
7. I am not persuaded that the dwelling proposed would qualify as infilling due to the presence of the small outbuilding beyond it within the appeal site or the stables further to the east. The outbuilding is a relatively small structure and does not individually define the built-up area of the village, beyond which the stables further to the east are clearly located. However, because No 25 does fall within the built-up area of Letty Green and its side garden provides a plot capable of accommodating a dwelling, with the benefit of its own road frontage, the proposal would in principle be in reasonable accord with the LP glossary definition of infill development.
8. Whilst infill development is also commonly understood to be the development of a small gap within an otherwise built-up frontage or group of houses, in this case the alignment of the former railway line effectively closes the lacuna for further development and defines a physical limit. Consequently, I consider that this proposal would be the limited infilling in villages deemed as not inappropriate in the Green Belt through the Framework and that this would outweigh the conflict found with LP Policy GBC1 in this regard.

Effect on openness

9. Paragraph 89 of the Framework adds no further qualification to the consideration of limited infilling of villages as not inappropriate development in the Green Belt. As a consequence the impact of the dwelling on the openness of the Green Belt has been implicitly taken into account through Government policy and this does not become a further issue in respect of assessing this proposal. Therefore, I conclude that the proposal should not be regarded as harmful to the openness of the Green Belt or to the purposes of including land within it and find no further conflict with LP Policy GBC1 in this respect.

Character and appearance

10. The dwelling would be of a contemporary design of an intrinsically good architectural quality that would satisfy LP Policy ENV1. There would be no conflict with the Framework's core planning principle to always seek to secure high quality design. The plot dimensions and the size of dwelling, sited quite

forward towards the road and coupled with the loss of frontage trees, would provide the development a quite dominant visual appearance in the street scene when compared to the generally less obtrusive, further set-back housing in this area. The double garage sited to the front of the dwelling would add to the overall quite dominant appearance of the scheme.

11. I find that the scale and visual prominence of the proposed dwelling would give rise to some material conflict with the aims of LP Policy HSG7 that development is well-sited in relation to that surrounding it and does not appear obtrusive or over intensive.

Other considerations

12. As the proposal would not be inappropriate development in the Green Belt very special circumstances are not required to justify the dwelling. The current LP policy does not provide the five year supply of housing land required under paragraph 47 of the Framework. Paragraph 49 goes on to state that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
13. Where relevant development plan policies are out-of-date the presumption in favour of sustainable development set out in paragraph 14 of the Framework applies. This would mean granting permission 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 or specific policies in this Framework indicate development should be restricted.
14. Paragraph 6 of the Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development, based on performing economic, social and environmental roles which should be sought jointly and simultaneously.
15. For the reasons given, Green Belt policy would not in this case indicate the development should be restricted. The single dwelling would provide only a very small contribution to housing supply but would offer the modest benefit of a self-build scheme of a high level of design sustainability. Whilst the scale and position would result in a quite prominent development its impact would be softened by landscaping and, whilst the contemporary scheme would contrast with the nearby more traditionally built homes, the proposal would provide an example of good quality modern architecture complementing the existing and quite varied design pattern along this street.
16. For these reasons any adverse impacts from permitting this dwelling would not significantly and demonstrably outweigh the benefits and this development would therefore be the sustainable development sought by the Framework.

Conditions

17. I have considered the conditions suggested by the Council against the advice contained in paragraph 206 of the Framework and made some minor amendments. In addition to the standard time limit for commencement it is necessary that a condition specifies the approved drawings, in the interest of certainty.

18. In the interests of the character and appearance of the area conditions are necessary requiring external materials and hard and soft landscaping to be agreed and the development implemented accordingly. In the interests of highway safety it is necessary that a condition requires the car parking and turning space shown to be provided and retained for those purposes.

Conclusion

19. For the reasons given, having taken into consideration all other matters raised, I conclude that the appeal should be allowed subject to the conditions set out in the Schedule below.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/J1915/W/17/3174337
25 Chapel Lane, Letty Green, Hertfordshire SG14 2PA

- 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 following approved plans: 688.17.4, 318.ELP.01, 318.PLP.01, 318.FP.01, 318.SL.01, 318.GFP.01 and 318.SSP.01.
- 3) No development shall commence above ground level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence above ground level until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) means of enclosure and retaining structures;
 - ii) boundary treatments;
 - iii) hard surfacing materials;
 - iv) planting plans, including schedule of plants, species, planting sizes and proposed numbers/densities where appropriate.

The landscaping works shall be carried out in accordance with the approved details before the development is first occupied.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. 318.SL.01 for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

End of Conditions

Appendix 2



Appeal Decision

Site visit made on 12 March 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2019

Appeal Ref: APP/J1915/W/18/3207743

Land opposite 44 - 58 Chapel Lane, Letty Green, Hertford SG14 2PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mick Sandford, Stay New Homes Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0972/FUL, dated 26 April 2018, was refused by notice dated 21 June 2018.
 - The development proposed is the construction of a new house, garage and driveway, with new landscape planting.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The new National Planning Policy Framework (the Framework) was published in July 2018 and further revised in February 2019. I have had regard to this in my consideration of the appeal.
3. Since the Council determined the application, the new East Herts District Plan was adopted (October 2018) (District Plan). The policies of the new development plan therefore supersede those referred to in the Council's decision notice and I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and the relevant development plan policies; and
 - The effect of the development on the character and appearance of the area.

Reasons

Inappropriate Development

5. The appeal site is located within the Green Belt. Paragraph 143 of the 2019 Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. Paragraph 145 lists the exceptions to the new buildings which are classed as inappropriate. These include limited infilling in villages (part e) and limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (part g). Policy GBR1 of the District Plan states that proposals within the Green Belt will be considered in line with the provisions of the Framework.

6. The appeal site is shallow in depth but runs for some distance along Chapel Lane. It is currently covered with vegetation, with trees, hedging and some fencing to the boundaries of the site. Opposite the site, on the other side of Chapel Lane, are dwellings and to the west is a new property under construction. A narrow public footpath runs between the site and the new property.
7. There is no definition of limited infilling in the Framework and the previous Local Plan definition has been superseded by the adoption of the new District Plan. In this instance, the appeal site adjoins the built form of the village to the west, albeit with the presence of the narrow footpath which does not significantly separate the appeal site from the adjoining development. Furthermore, residential properties run opposite the site. I acknowledge that the appeal site is not bounded to all sides by the built form, and infilling is often considered to be a site located between existing buildings. However, in this instance I have had regard to the presence of the railway embankment and the tapering of the site. I find that this would prevent any further extension of the built form beyond the appeal site and it serves to enclose the site so that it is well related to the main built up part of the village.
8. Accordingly, I find that as a result of the location of the site, the immediate surroundings, and the limited amount of development proposed, namely one property, the proposed development would comprise limited infilling in a village and would therefore not be inappropriate in the context of the Framework and Policy GBR1 of the District Plan. As the development would not be inappropriate it is not necessary for me to consider openness nor is there a need to consider any very special circumstances which would outweigh the harm to the Green Belt.

Character and Appearance

9. There are existing properties located opposite the site on Chapel Lane and to the west. Accordingly, the area is characterised mainly by residential development. However, the existing dwellings are predominantly large and set within reasonably deep plots which allow for a degree of set back from the road.
10. The appeal site is considerably shallower than the surrounding plots which has the effect of pushing the dwelling forward to the front of the site so that it would be closer to the road than the prevailing form of development. I note the contemporary property under construction on the adjacent site. I have also had regard to the varied designs in the immediate vicinity of the site. However, the reduced depth of the site would result in the dwelling being visually prominent and incongruous within the street scene. This would be exacerbated by the proposed first floor overhang which would result in a dominant feature along Chapel Lane.

11. I note the proposed landscaping and the retention of several trees and hedging that exist on and around the site. However, I find that the positioning of the property would result in limits to the landscaping that could be provided in front of the proposed dwelling and whilst the proposed landscaping would be likely to soften some of the longer views to the site, I do not find that it would be sufficient to mitigate the overall visual impacts of the development to an acceptable level. As a result, the visual characteristics of the site would fundamentally alter to a harmful degree.
12. I note that the adjoining dwelling is on a plot with a reduced depth than the surrounding properties. However, the undulation of the front boundary of the appeal site would result in a shallower site in parts which would constrain the positioning of the dwelling to a greater degree than the adjacent property. Furthermore, the adjacent site does not form a prevalent character in terms of site size and therefore the development of the proposed site would still be at odds with the predominant character of large plots with dwellings set back from the road.
13. Consequently, the proposed development would introduce a dominant feature along this part of Chapel Lane which would fail to reflect, and be harmful to, the character and appearance of the area. It therefore fails to comply with Policies VILL3 and DES4 of the District Plan which seek to ensure that development is in keeping with the character of the village, and reflects and promotes local distinctiveness, amongst other things.

Other Matters

14. The appeal site is in proximity to a number of facilities and services with good links to the wider settlements. It would also consist of a highly sustainable form of construction incorporating measures to minimise energy usage and carbon emissions. However, these benefits are not sufficient to outweigh the harm to the character and appearance of the area identified above.

Conclusion

15. For the reasons given above, and having had regard to all matters raised including the previous use of the site and the local representations, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR

Appendix 3



Appeal Decision

Site visit made on 22 October 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/J1915/W/20/3247686

Land opposite 44-58 Chapel Lane, Letty Green, Hertfordshire SG14 2PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mick Sandford of Stay New Homes Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2003/FUL, dated 3 October 2019, was refused by notice dated 4 December 2019.
 - The development proposed is described as: 'construction of a new house, garage and driveway, with new landscape planting'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and precision, I have taken the address in the banner heading above from the Council's decision notice and application form, as this corresponds with other documents in the appellant's submission, including his Appeal Statement. I have also used 'Hertfordshire' as it is listed on the appeal form.

Background and Main Issue

3. There is agreement between the main parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. On the evidence before me, including the decision¹ by the previous Inspector (the previous decision), I have little reason to disagree with the main parties on this matter.
4. Therefore, the main issue of this appeal is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

Reasons

5. The appeal site is an irregular parcel of land that is located between Chapel Lane and Cole Green Way. Opposite the site are detached dwellings located in generous plots, set back by an appreciable distance from the road, with generous front and rear gardens. These neighbouring dwellings are positioned in an orderly arrangement fronting the road, which gives a distinct sense of spaciousness and ordered pattern of development on this section of Chapel Lane.

¹ APP/J1915/W/18/3207743

6. The size and layout of the surrounding residential plots provides a notable rhythm of development, which contributes positively to the character and appearance of the surrounding area. I also noted during my visit that some properties along Chapel Lane towards the junction with Letty Green/Station Road and Woolmers Lane comprised of both single storey and 1.5 storey dwellings, with an overall variety in design.
7. I acknowledge that the appellant has sought to address the concerns of the Inspector on the previous decision, particularly, through moving the proposed development further away from Chapel Lane to a distance of approximately 7.8m, which is a reported increase of 3m from the previous scheme, and at 2-storeys, a setback of approximately 10.6m from Chapel Lane would be provided. The proposed development in the scheme before me now comprises single storey and 2-storey elements in its composition. I accept that this would result in articulation of its built form, due to the varying roof heights, in conjunction with its glazed links.
8. My attention has been drawn by various parties to the contemporary dwelling at No 27 Chapel Lane and the associated appeal decision². I accept that this dwelling does not form a prevalent character in terms of site size, nonetheless, it is a material consideration in the determination of this appeal. Policy DES4 of the Council's District Plan 2018 (DP) requires proposals to make the best possible use of the available land by respecting or improving upon the character of the site and surrounding area, amongst other things. Furthermore, a criterion of DP Policy VILL3 is for development to be in character with the character of the village.
9. Whilst I recognise that in isolation the proposed development has some innovative features present in its design, I consider that due to the shape/size of the site, the appeal scheme would be distinctly at odds with the prevailing character of neighbouring dwellings particularly through its orientation. The proposed development would be read as a large dwelling with a notable footprint, which would further contribute to its discordant and strident appearance that would be readily visible from Chapel Lane and Cole Green Way. In this instance, I do not consider that the proposed landscaping scheme would provide sufficient mitigation against the identified harm, nor do I consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
10. For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. As a consequence, it would conflict with the design, character and appearance aims of DP Policies VILL3, DES4 and the requirements of the National Planning Policy Framework (the Framework).

Other Matter

11. I have had regard to the proposed energy saving features to be incorporated within the proposed development, but on the evidence before me this is not a reason to grant permission in the face of the harm identified. I have considered this appeal scheme on its own particular merits and concluded that it causes harm for the reasons set out above.

² APP/J1915/W/17/3174337

Planning Balance and Conclusion

12. Whilst I accept the absence of other harm arising from the proposed development and the modest social and economic benefits that would arise through the construction phase and subsequent occupation of the proposed development, these factors, do not outweigh my assessment of the main issue.
13. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
14. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

Appendix 4

IN THE MATTER OF LAND AT 111 BURNHAM

AND

MR PAUL SMITH

ADVICE

- 1 I am asked to advise Mr Paul Smith regarding a site located at 111 Burnham Green Road, Burnham Green (“the Site”) which is being considered for promotion for limited residential development. The Site comprises an area of approximately 0.15ha fronting on to Burnham Green Road, with existing residential development to the east, west and south of the Site.

Policy Background

- 2 The Site is located within the Metropolitan Green Belt. The relevant development plan is the East Herts District Plan which was adopted in 2018, and it is based on the 2012 NPPF. I will deal with national policy in a little more detail below but I would observe in passing that that version of the NPPF was permissive (as an exception to the application of green belt policy), so far as is relevant (at paragraph 89): “ *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan* ”.
- 3 It may be noted that Policy GBR1 Green Belt provides that
“*I. Planning applications within the Green Belt, as defined on the Policies Map, will be considered in line with the provisions of the National Planning Policy Framework*”
and also paragraph 4.4.2 confirms
“*There are however some uses that are appropriate in the Green Belt and these are listed in the NPPF*”.

This is not expressed to be restricted to the NPPF 2012 and it would appear that the development plan policy GBR1 in effect allows for some limited updating of this aspect of the development plan.

- 4 The District Plan contains policies relating to different categories of villages, referred to respectively as Group 1, Group 2 and Group 3. Group 1 are the largest villages, and they share an allocated pot of the housing requirement that must be provided. Group 2 villages have defined settlement boundaries, within which infill development is accepted, subject to compliance with various criteria. Group 3 villages do not have settlement boundaries, and in these villages infill development is only permitted where it is identified in an adopted Neighbourhood Plan, and again subject to compliance with various criteria.
- 5 Burnham Green is not listed in this chapter as a Group 1 or Group 2 village with the consequence, by its omission, that it is considered to be a Group 3 village.
- 6 It may be noted that the NPPF 2021 contains different wording on infill developments within the Green Belt, at paragraph 149 (e): “*limited infilling in villages*”. This omits the requirement for a policy in a Local Plan to define where infill development is appropriate – it is simply permissive of limited infilling in villages.
- 7 It is to be noted that paragraph 219 of the NPPF provides that the weight to be given to a Local Plan’s policy relates to its degree of conformity with the NPPF. That is in addition to my observation above regarding the first part of Policy GBR1. In either instance, it is clear that the formulation for exceptional infilling in villages contained in the Local Plan must defer to that which is now in the NPPF (2021).

Other relevant decision letters dealing with limited infilling.

- 8 I have helpfully been provided with a number of decision letters in respect of sites, both within the East Herts administrative area, and one in other administrative area where like matters have fallen for consideration. Whilst it is trite law that each proposal falls to be considered upon its own merits it is nonetheless pertinent for the purposes of understanding the approach, in principle, taken by inspectors in dealing with similar matters. I do not consider them as establishing any precedent but they are, nonetheless, helpful. I have

emphasised certain text in the identified paragraphs in the decision letters which are of assistance in understanding other factors which might be relevant to taking decisions upon such cases.

Within East Herts administrative area

21st August 2017 Appeal Ref: APP/J1915/W/17/3174337 - 25 Chapel Lane, Letty Green, Hertfordshire SG14 2PA

9 This proposal was for one new house and the appeal was allowed. The Inspector found, so far as is relevant,

(1) [DL3] – Like Burnham Green, Letty Green is a “*settlement [that] is defined a Category 3 village under LP Policy*”

(2) [DL4] *The LP and Policy GBC1 predate the Framework and the Government’s current approach for protecting Green Belt land set out in Part 9. Paragraph 89 of the Framework regards the construction of new buildings as inappropriate in Green Belt. A number of exceptions to this are set out including the ‘limited infilling in villages’ stated in the fifth bullet point. Letty Green is a village where LP Policy GBC1 would not provide for limited infilling. Therefore, with regard to paragraph 215, this clear inconsistency with the Framework must mean that LP Policy GBC1 be given limited weight.*

(3) [DL5] *The Framework does not define ‘limited infilling’. However, infill development is defined in the LP Glossary¹ as the subdivision of an unusually large plot in an otherwise built-up area normally capable of taking only one or two houses without damage to the character of the village.*

4th April 2019 - Appeal Ref: APP/J1915/W/18/3207743 - Land opposite 44 - 58 Chapel Lane, Letty Green, Hertford SG14 2PA

10 This proposal was for one new house. The appeal dismissed for reasons related to the adverse impact upon the character and appearance of the proposed development.

¹ This was from the previous local plan, not the East Herts District Plan, which contains no such definition of infilling

11 The Inspector found, so far as is relevant,

- (1) [DL5] *“The appeal site is located within the Green Belt. Paragraph 143 of the 2019 Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 lists the exceptions to the new buildings which are classed as inappropriate. These include limited infilling in villages (part e) and limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (part g). Policy GBR1 of the District Plan states that proposals within the Green Belt will be considered in line with the provisions of the Framework.*
- (2) [DL8] *“Accordingly, I find that as a result of the location of the site, the immediate surroundings, and the limited amount of development proposed, namely one property, the proposed development would comprise limited infilling in a village and would therefore not be inappropriate in the context of the Framework and Policy GBR1 of the District Plan. As the development would not be inappropriate it is not necessary for me to consider openness nor is there a need to consider any very special circumstances which would outweigh the harm to the Green Belt.*

20th November 2020 Appeal Ref: APP/J1915/W/20/3247686 - Land opposite 44-58 Chapel Lane, Letty Green, Hertfordshire SG14 2PA

12 Again, this proposal was for one dwelling. The appeal was dismissed because of the adjudged adverse impact of the proposed design on character and appearance. The Inspector found, so far as is relevant:

- (1) [DL3] *There is agreement between the main parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. On the evidence before me, including the decision² by the previous Inspector (the previous decision), I have little reason to disagree with the main parties on this matter.*

² APP/J1915/W/18/3207743

A further potentially relevant Decision Letter from another administrative area

St Albans – 2nd October 2020 - APP/B1930/W/20/3249093 - Queen Elizabeth The Queen Mother Centre, Station Road, Bricket Wood AL2 3PJ

13 This proposal was for 9 supported housing units to be used by people with learning disabilities and autism, incorporating two detached bungalows, four semi-detached bungalows, three apartments and staff facility in two storey building with habitable accommodation in loft, and associated parking, access and landscaping, following demolition of existing buildings. The appeal was allowed and the Inspector found, so far as relevant:

- (1) [DL4] “ *The National Planning Policy Framework (February 2019) (the Framework) sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, unless one of several stated exceptions apply. These exceptions include limited infilling in villages.*”
- (2) [DL5]. *The site is situated to Bricket Wood’s eastern edge and has a close physical relationship to a variety of other developed sites. For the purposes of Green Belt assessment, I am content that the site forms part of the village. In the absence of either a nationally or locally prescribed definition for limited infilling, I must fully consider the specific circumstances to hand, including the site’s relationship to existing adjoining developments and the nature and size of the proposed development itself, in order to assess whether or not the proposal would represent limited infilling. (emphasis added)*
- (3) [DL6] *The appeal site is approximately centrally positioned within a loosely laid out row of development that either addresses or is setback from Station Road. The site currently contains buildings concentrated towards its northern side as well as landscaped grounds with often well-planted boundaries. Beyond the appeal site’s northern boundary, two sizeable buildings exist upon the adjacent site alongside soft landscaped grounds and hard surfaced areas. To the appeal site’s southern side, to the opposite side of Drop Lane, is located residential development that includes a spacious plot set alongside the Lane.*
- (4) [DL7] *The alignment of the site’s rear boundary closely corresponds to where the eastern boundaries of developed plots to the south sit. To the northern side of the site,*

the hard-surfaced areas that are in place jut out beyond the alignment of the appeal site's rear boundary line. Furthermore, hard surfacing in the form of a multi-use games/parking area partly borders the site's rear boundary.

- (5) [DL8] *The lands situated to the rear (east) of the site (except for the above-mentioned multi-use games/parking area) tend to be open and rural in their makeup. Indeed, the site's eastern boundary adjoins, for most of its extent, a grassed field that is bound to much of its perimeter by planted hedgerows. Nevertheless, even in these circumstances, it is not the case that a site must be fully surrounded by adjoining development to potentially offer an infill development opportunity. (emphasis added)*
- (6) [DL9] *The appeal site's rear boundary position is respectful of the extent of existing development contained upon the site itself and the rear boundary positions of adjoining developed sites. The hard-surfaced areas that abut the site, whilst open in their makeup and not containing of any significant buildings/structures, still constitute development and influence how the eastern edge of the settlement is read and experienced. To my mind, the proposed scheme would be sufficiently enclosed or surrounded by adjoining developments to represent infill development. (emphasis added)*
- (7) [DL10] *The various blocks of replacement development that are proposed, would introduce built form to open grassed areas of the appeal site and, when compared to the existing buildings to be demolished, would provide for an increase in volume, floorspace and footprint terms. I will consider the implications of this in a character and appearance context later. Nevertheless, for the purposes of assessing whether the proposal would represent limited infilling within a village, it is important to note that the site, when considered in the context of the village of Bricket Wood as a whole, is of modest proportions. When factoring in the relatively low number of proposed new units, the development proposal can, to my mind, be considered to represent limited infilling within a village. (emphasis added)*

Advice sought

14 My advice is sought upon the following matters:

- (1) Whether this proposed house would constitute “limited infilling in villages”, in accordance with paragraph 149(e).
- (2) What the consequence are, of the East Herts District Plan's policies being rendered out of date, due to their conflict with the current 2021 version of the NPPF?

(3) How do you consider that a planning application for infill development, as suggested by the Application strategy Drawing, should be determined.

Points of Advice

(1) Whether this proposed house would constitute “limited infilling in villages”, in accordance with paragraph 149(e)?

15 Having regard to the size of the site and its disposition relative to other built form features in the village in my view the proposed dwelling would constitute limited infilling in villages in accordance with paragraph 149 e) of the NPPF (2021).

(2) What the consequence are, of the East Herts District Plan’s policies being rendered out of date, due to their conflict with the current 2021 version of the NPPF?

16 For the reasons identified earlier, the policy and terms of the Local Plan do not accord with the relevant policy contained in the NPPF (2021). I would observe that Local Plan policy also did not comply with the earlier versions of the NPPF in 2018 and 2019.

17 Either the policy is out of date, for the purposes of NPPF decision-making (in which case paragraph 149 (e) should be accorded greater weight) or the policy is updated in accordance with Part I of GBR1. In either instance, it is clear that the formulation for exceptional infilling in villages contained in the Local Plan must defer to that which is now in the NPPF (2021).

(3) How do you consider that a planning application for infill development, as suggested by the Application strategy Drawing, should be determined?

18 Ultimately, the determination of any planning application is a matter for the local planning authority. As a matter of principle, I see no reason why a proposal for residential development on the Site should not be considered favourably in accordance with policy set out in paragraph 149 (e) of the NPPF. Provided that the proposal is one that reflects the

character and appearance of the locality, and not cause material harm to that character and appearance, then I would expect any such proposal to be determined favourably.

Peter Goatley

PETER GOATLEY QC

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30th March 2022

Appendix 5

Appeal Decisions

Hearing held on 14 and 15 December 2022

Site visits made on 15 December 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal A Ref: APP/J1915/W/22/3303408

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Newman and Ms C Pepperell against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2907/OUT, dated 17 November 2021, was refused by notice dated 3 March 2022.
The development proposed is demolition and removal of all poultry houses and other buildings and the erection in their place of 12no detached dwelling houses (8no market houses and 4no affordable houses) with garages and car parking including the change of use of the land to C3 residential, together with alterations to the existing vehicular access and driveway off Whempstead Road with childrens' play space, new turning head and visitor car parking.
-

Appeal B Ref: APP/J1915/W/22/3303413

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Newman and Ms C Pepperell against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2908/OUT, dated 17 November 2021, was refused by notice dated 3 March 2022.
 - The development proposed is demolition and removal of all poultry houses and other buildings and the erection in their place of 10 self-build / custom build units with garages and car parking including the change of use of the land to self-build residential plots, together with alterations to the existing vehicular access and driveway off Whempstead Road with childrens' play space, new turning head and visitor car parking.
-

Appeal C Ref: APP/J1915/W/21/3288702

1 Whempstead Road, Benington SG2 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr Phillip Newman against East Hertfordshire District Council.
- The application Ref 3/21/1760/FUL, is dated 2 July 2021.
- The development proposed is a revised 'free go' planning application for the change of use and conversion of 5no poultry house buildings to form dwelling houses and the demolition and removal of two agricultural storage buildings and their replacement with 1no detached one bedroom dwelling house, to provide, overall, 6no dwelling houses, together with car parking, electric charger points, secure cycle storage for 2no bicycles for each dwelling, air source heat pump enclosures, a double garage for one of the

dwelling houses, a turning head, refuse and recycling bins enclosures, and post and rail fencing to define maintenance strips for each of the dwelling houses, and the continued use of the existing vehicular access.

Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is dismissed and planning permission is refused.

Preliminary Matters

4. This decision relates to three appeals which were dealt with at a joint Hearing involving a total of five appeals. The remaining two appeals (Refs: APP/J1915/W/21/3288588 and APP/J1915/W/21/3288595) occupy adjacent lying sites and are dealt with in separate decisions.
5. Appeals A and B involve outline proposals¹ which relate to the same site, although each scheme differs in terms of the type and quantum of housing proposed. Appeal C occupies part of the same site area as Appeals A and B, but it also differs in terms of the type and quantum of housing proposed, and involves the partial conversion of existing buildings. It is a detailed proposal as opposed to an outline. I have considered each proposal on its individual merits. However, to avoid duplication, I refer to the three schemes together, except where otherwise indicated.
6. Appeal C *only* results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council's evidence includes the reasons why the planning application would have been refused had it been empowered to do so.
7. The Council's reasons for refusal in relation to Appeals A and B did not cite a lack of mitigation in respect of infrastructure. However, during the Hearing it was confirmed that financial contributions were deemed necessary by the Council to provide infrastructure and services to support the housing associated with these schemes. As a result, Unilateral Undertakings (UU) under Section 106 of the Town and Country Planning Act 1990 were submitted by the appellants following the Hearing. I address this in my reasoning.
8. Prior to the Hearing, a Statement of Common Ground (SoCG) was submitted setting out the areas of agreement and disagreement in relation to each appeal proposal. I used this in part to form the main issues in each appeal. The SoCG also included disagreement over whether or not the Council could demonstrate a 5-year housing land supply (HLS). I also address this later in my reasoning.

¹ Appeal A reserves appearance and landscaping. Appeal B reserves all matters except for access.

Main Issues

9. As a result of the foregoing, the main issues in these appeals are:

- Whether or not the appeal sites are an appropriate location for housing, having particular regard to local and national policies and the accessibility of services and facilities.
- The extent to which the proposals would affect the employment generating potential of the appeal sites, and any harm arising as a result.
- Whether the proposals would make adequate provision for infrastructure (Appeals A and B).
- The effect of the proposal on the character and appearance of the area (Appeal A).
- The effect of the proposals on highway safety (Appeals A and B).

Reasons

Location

10. According to the East Herts District Plan 2018 (DP) the appeal sites are located within the *Rural Area Beyond the Green Belt*. Policy GBR2 of the DP lists the types of development that will normally be permitted in these areas. Under criterion (e) of this policy, this includes limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations, where appropriate to the character, appearance and setting of the area.
11. There is no definition of 'limited infilling' in the DP. However, the word 'limited' preceding the word 'infilling' indicates to me that only a restricted form of infilling would be acceptable. In the absence of strict criteria, I have not only considered the quantum of development in each case, but also the characteristics of the proposals in relation to their surroundings.
12. In this regard, the built form proposed in each case would be generally situated some distance to the rear of a linear arrangement of housing which faces Whempstead Road. To the south of the appeal sites a scheme involving up to 13 houses was allowed on appeal at *Gosmore Paddock*². Assuming this scheme is built out, it would link the housing along Whempstead Road with the looser arrangement of housing located generally to the south and east of the appeal sites. As a result, housing would occupy land generally beyond the southern, western and eastern boundaries of the proposals.
13. In contrast, the land generally to the north of the appeal sites is considerably more rural in character. This is despite the presence of a large house and associated outbuildings³, along with several agricultural buildings, some of which have permission to be converted to dwellings⁴. Overall, these buildings occupy a relatively small proportion of a much wider area of countryside.
14. Whilst I appreciate that Appeal C would largely involve the conversion of existing agricultural buildings, it would also involve a new build dwelling and a garage along with the use of the surrounding land for residential purposes. Therefore, it would not be an appropriate type of development under criterion (d) of GBR2, nor is this argument advanced by the appellants. Therefore, the

² Appeal Ref: APP/J1915/W/17/3184877 – up to 13 dwellings

³ Referred to as 'Lingfields'

⁴ Including Moles Farm

- proposal would introduce six new dwellings and associated development beyond the built-up area of the village.
15. As a result, and applicable to all the appeal schemes, they would not occupy a space in between areas characterised by housing; rather, they would extend housing in a northerly direction and away from the settlement in a manner which could not be described as 'infilling'.
 16. Moreover, as well as not being a form of infill, the proposals accompanying Appeal A and Appeal B would not be limited either, this due to the footprint and overall scale of the built form proposed which would be greater than the spatial extent of the buildings that currently exist on the site.
 17. In respect of the previously developed nature of the appeal sites, in 2008 a Lawful Development Certificate (LDC) was issued⁵. It certified that specific areas had been used for the storage and maintenance of skips, containers and cages, with the remaining land having been in agricultural use. Furthermore, there is no disagreement between the main parties that a proportion of the appeal sites comprises previously developed land.
 18. However, elements of the new build associated with each of the schemes would occupy land which is not previously developed. In any event, irrespective of the extent of previously developed land utilised, Policy GBR2(e) also requires that such schemes are in sustainable locations.
 19. In this regard, Benington is identified as a *Group 2 village* in the DP⁶, indicative of a smaller village with access to some services and facilities. Policy VILL2 of the DP relates to proposals within group 2 village boundaries, but whilst the appeal sites lie close to Benington, they lie outside of it. Nevertheless, I accept that locations outside settlement boundaries may not necessarily be unsustainable, depending on the accessibility of services and facilities.
 20. The southern part of Benington is the closest part of the settlement to the appeal sites, lying within suitable walking distance. However, this part of Benington contains limited facilities, including an agricultural business with an associated retail area, and a public house. The northern part of Benington lies further away and although still within theoretical walking distance⁷, it offers limited provisions, including a primary school, churches and a village hall. The appellants also refer to a branch doctors' surgery within Benington, although no details concerning the extent of health services available have been provided. In any event, these facilities together would not be sufficient to meet the day to day needs of future occupiers of the proposals.
 21. As a result, residents would have to travel further afield to food stores, shops, larger places of employment, and secondary or higher educational establishments, all of which are located outside Benington and out of range so that walking or cycling would not be a practical or realistic option. I appreciate that bus stops are located along Whempstead Road within comfortable walking distance of the proposals⁸, but the bus services are limited in frequency⁹.

⁵ East Herts Council Certificate Ref - 3/08/0151/CL – under S191 of the TCPA 1990

⁶ Benington comprises two separate boundaries as depicted by document HD4 (annexe A of this decision)

⁷ Approximately 1.6km away from the appeal sites

⁸ Circa 200m according to SoCG

⁹ See paragraph 2.6.1 of appellants appeal statement

22. Therefore, despite proposals to improve access to bus stops in the form of pedestrian footway improvements and potential improvements to cycle infrastructure¹⁰, the fundamental lack of daily bus services would be unlikely to reduce the propensity of future occupiers to travel to access shops, facilities and places of employment by car.
23. As a result, the proposals would not be an appropriate location for housing, having particular regard to local and national policies and the accessibility of services and facilities. The schemes would conflict with Policy GBR2, which requires, amongst other matters, that proposals in rural areas beyond the Green Belt are permitted provided they comprise limited infilling, or the partial redevelopment of previously developed sites in sustainable locations. The schemes would also conflict with Policies DPS2 and TRA1 of the DP which require, in summary, that development is located in places which enable sustainable journeys to be made to key services and facilities, and that sustainable brownfield sites are prioritised.

Employment

24. Policy ED1(iii) of the DP requires that development which would cause the loss of a site/premises which is currently, or was last, in employment use will only be permitted if its retention has been fully explored, including whether improvements to the existing site would make it more attractive, and evidence to show that it has been marketed. Policy ED2(iii) similarly requires evidence to show that agricultural or other businesses in rural areas are no longer viable.
25. The appeal sites are not allocated for employment purposes in the DP. However, the LDC confirms historic storage and maintenance of skips and other containers, along with agricultural uses on the remaining land. In relation to the latter, it was put to me during the Hearing by the appellants that the existing poultry sheds had not been in use for a period in excess of 12 years, and other agricultural activities ceased on the appeal sites approximately 8 years ago. Furthermore, there was no evidence of activities indicative of a current agricultural business when I visited the site, nor do I have any substantive evidence before me to suggest otherwise.
26. Aside from this, the appeal sites have mainly been used for the storage of skips and containers, along with their occasional maintenance and repair. This involves vehicles occasionally travelling to and from the site to collect and return them. According to the appellants, no employee is directly employed at the site, nor have they been in the past. Therefore, whilst the appeal sites support limited current and historic businesses, this land is peripheral, and the associated headquarters and employment base appear to be located elsewhere.
27. Overall, I conclude that the appeal sites have historically made, and currently make, a limited employment contribution to the local area. Nevertheless, their future potential for employment purposes has not been explored. As such there would be conflict with Policies ED1 and ED2 of the DP as there is limited information suggesting marketing or exploration of the sites for employment purposes, or relevant viability justification.

¹⁰ Submitted as planning obligations as part of Unilateral Undertakings associated with Appeal A and Appeal B

Infrastructure (Appeal A and B)

28. The submitted UUs propose financial contributions towards meeting the need for additional infrastructure arising from the developments. Contributions towards library services, education, waste, transport and youth services are proposed in accordance with the Council's guidance¹¹. The Council has provided justification for each of the contributions sought, and I find that they are necessary, related direct to the developments, and fairly related in scale and kind. Therefore, the contributions sought would meet the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the National Planning Policy Framework (Framework).
29. In respect of affordable housing, Policy HOU3 of the DP requires provision to be made for developments of more than 10 dwellings, or any development where the floor space would be greater than 1000m². Appeal A proposes affordable housing in line with this policy. However, no affordable housing is proposed as part of appeal B.
30. In this regard, I am aware that appeal B proposes 'self-build' dwellings¹². However, there is nothing within Policy HOU3 to suggest that self-build developments should not make appropriate affordable housing provision. Whilst this policy allows an exemption for viability reasons, no detailed viability information accompanies this appeal. Moreover, self-build housing is not listed as a type of affordable housing in annexe 2 of the Framework, and the definition of 'self-build' contained in the same annexe recognises that this form of housing can either be market or affordable. Consequently, I see no reason why the proposal should be exempt from providing affordable housing.
31. Based on the indicative details accompanying Appeal B, the floorspace thresholds set out in Policy HOU3 would be exceeded by the proposal¹³. Even if that was not the case, the Framework requires affordable housing to be provided for schemes involving 10 or more dwellings¹⁴. As a result, Appeal B would fail to secure appropriate financial contributions towards affordable housing as required by Policy HOU3 of the DP and the Framework.

Character and appearance (Appeal A)

32. In respect of Appeal A, the proposed dwellings would be a mix of single-storey and one and a half storeys, comprising several courtyards laid out in a linear arrangement. Examples of cul-de-sac housing are evident in the locality along Whempstead Road. Despite the relatively low density of the development proposed in this case, this would also be in keeping with the more dispersed arrangement of housing evident in the locality.
33. Notwithstanding this, the Council are concerned that the proposal would be a departure from the prevailing pattern of existing housing in the area, which either fronts onto the road, or involves dwellings directly facing each other. Whilst that might be the case for housing generally to the west of the site, dwellings to the south have a less regimented pattern, with numerous dwellings set back in their plots and at angles relative to the street and each

¹¹ Hertfordshire County Council – Guide to Developer Infrastructure Contributions 2021

¹² In accordance with the Self-Build and Custom Housebuilding Act 2015 (as amended)

¹³ The Design and Access statement confirms footprints likely to be in excess

¹⁴ Paragraph 65 of the Framework

- other. The style of housing is equally varied. In this regard, the proposal would be in keeping with the varied composition of the streets in the area.
34. In terms of existing trees, Policy DES3 of the DP requires proposals to demonstrate how they will retain, protect and enhance existing landscape features of amenity value. It is noteworthy that whilst the submitted topographical surveys give an indication of tree location and canopy spread, no detailed assessment of existing trees either within or close to the site has been provided in support of the appeal. Therefore, I have based my consideration on the evidence before me and the observations I made on my site visit.
35. The proposed dwellings would occupy land which contains hardstanding, poultry sheds and skips, as well as grassland and an assortment of vegetation. The number of trees in this area is limited, and I saw no evidence on my site visit to suggest that the proposed dwellings would directly impact on trees that make a significant positive contribution to the visual amenity of the area.
36. However, the trees close to the site's boundaries generally make a positive contribution to the area's verdant character, whilst also affording the site a degree of screening from nearby properties. Be that as it may, the proposed dwellings would mostly be positioned a significant distance away from the boundaries thus reducing the likelihood of impacts on these trees through damage to their roots.
37. The Council raises particular concerns that the dwelling associated with proposed plot no.6 would be sited close to an existing boundary tree. The plans suggest that the building would be outside the canopy spread of this tree, but I accept that the construction of its foundations in particular could undermine the tree's roots. However, this tree is one of many along this boundary and individually it makes a limited contribution to the visual amenity of the area. There is nothing to suggest potential harm to any of the other trees close by. Therefore, even if this tree was lost, the verdant character of this boundary would remain.
38. A number of other smaller trees would also be affected by the development. This includes trees located in between the pond and the dwelling proposed in association with plot no.1, along with trees on either side of the existing access. The proposal would involve a new service margin alongside this access, along with partial widening to provide visitor car parking, all of which has the potential to disturb these trees. However, even if I was to assume an unlikely worst-case scenario, that all the trees potentially affected would be lost, the visual contribution they make to the area is limited.
39. Moreover, given that 'landscaping' is a reserved matter, and sufficient space within the site would remain so that compensatory planting could be provided, I am satisfied that planning conditions could be imposed to identify trees to be retained, details of tree protection during construction, and details of compensatory landscaping.
40. Finally, whilst I note the Council's concerns relating to the lack of surveillance of the proposed play area, this could be addressed by the considerate positioning of windows within proposed dwellings as part of reserved matters, 'appearance', appropriate landscaping, and the provision of specific details of the play area. These details could be secured by planning conditions.

41. Overall, I am satisfied that the proposal would not harm the character and appearance of the area. It would not conflict with Policies DES3, DES4 and HOU2 of the DP which require, amongst other matters, that development is of a high standard of design and layout to reflect and promote distinctiveness, and that landscaping features of amenity value, including mature trees, shrubs and hedgerows, are retained, protected and enhanced with provision made for new green infrastructure.

Highway safety (Appeals A and B)

42. The proposals would utilise an existing access from Whempstead Road which serves the existing dwelling at no.1, and historically served the agricultural use, along with the commercial storage element. There is nothing to suggest that the carriageway widths proposed would prevent the safe passing of cars along its length.
43. However, the Council contends that the appellants' swept path analysis of the junction with Whempstead Road tracks a 10.8m long refuse vehicle, as opposed to a vehicle with a length of 12.2m. Therefore, according to the Council, an unsuitable vehicle length has been assessed. Whilst no justification for the accommodation of a larger vehicle has been advanced by the Council, I have assumed that the 12.2m long vehicle is representative of refuse vehicles used in this part of the District.
44. Be that as it may, I see no reason why a larger refuse vehicle would not be capable of safely manoeuvring into the site, notwithstanding the vehicle dimensions detailed on the submitted plans. Refuse vehicles would be infrequent visitors to the schemes. Moreover, the appellants have referred to *Manual for Streets*, which advises *inter alia* that large vehicles that use the street infrequently do not need to be fully accommodated.
45. Furthermore, to my mind drivers of refuse vehicles are generally accustomed to navigating substandard roads and addressing other road vehicles and hazards on a regular basis. There is no robust evidence before me to contradict the observations I made on my site visit, which suggests that Whempstead Road is not particularly busy. As a result and given the limited volume of traffic generated by up to 12 dwellings, drivers of refuse vehicles and cars would have sufficient time and space to manoeuvre safely in order to allow each vehicle to pass both along the proposed access itself, and at its junction with Whempstead Road.
46. For the foregoing reasons, and in the absence of any information concerning local accidents which would lead me to question the overall safety of the junction and this stretch of Whempstead Road, I conclude that there would be no unacceptable impact on highway safety as a result of either proposal.
47. The proposals would, therefore, not conflict with Policy TRA2 of the DP which, amongst other things, requires that development is acceptable in highway safety terms.

Other Matters

48. I acknowledge that there are locational parallels between these appeals and the housing allowed on appeal at Gosmore Paddock. Indeed, my conclusions on the accessibility of services and facilities for future occupiers of these

appeals resonates with that decision. Crucially, however, the circumstances of that case were materially different for several reasons.

49. Firstly, the local policy context was different in relation to that appeal as the current DP had not been adopted at that time. Secondly, the Gosmore Paddock scheme was considered to be *'within a built-up area'*¹⁵, unlike the appeal sites in this case which are outside the defined settlement boundary. Finally, as I will come onto in my planning balance, the Council's housing land supply shortfall at the time of that decision was considered to be more significant than it is in this case.
50. In common with that appeal decision, the acceptability of these appeals involves balancing any findings that would weigh for and against each proposal, which I do in my planning balance. Given the clear differences outlined above, I am not bound to reach the same decision as the Gosmore Paddock Inspector.
51. Other appeals have also been referred to by the appellants¹⁶. However, the policy context in both appeals was different given the sites lie within a different local authority area. Moreover, one of the schemes was found to be reasonably well situated in respect of services and facilities, unlike the appeal schemes before me. The other proposal was considered to be sufficiently enclosed by adjoining developments. Again, that is not the case here. Therefore, the conclusions drawn in these cases are not sufficiently similar to the appeals before me to warrant me reaching the same overall conclusions.

Planning Balance

Housing Land Supply (HLS)

52. The DP seeks to deliver a minimum of 18,458 new homes over the plan period. Accompanying the Council's evidence in the case of these appeals was a Housing Land Supply and Position Statement dated 2019. Shortly before the Hearing the Council provided an updated position statement, dated November 2022. According to this, the Council's HLS is 5.8 years. This equates to 7,516 deliverable dwellings in comparison with the HLS 5-year requirement of 6,483 dwellings¹⁷.
53. The appellants' concerns mainly relate to several of the sites allocated in the DP which the Council considers to be deliverable, and upon which the Council have relied to inform their latest HLS position. Annex 2 of the Framework states *'where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years'*.
54. I note that neither the 2019 nor 2022 position statements produced by the Council follow the annual position statement criteria set out in paragraph 75 of the Framework. Nevertheless, they represent the Council's best available evidence on HLS, and the appellants have had the opportunity to address both position statements as part of this appeal. I have therefore, considered these

¹⁵ Paragraph 51 of appeal ref: APP/J1915/W/17/3184877

¹⁶ Appeal refs: APP/L3245/W/20/3260022 and APP/B1930/W/20/3249093

¹⁷ This also includes the previous shortfall additional buffer requirement – Five Year Land Supply Position Statement – November 2022 – East Herts Council

- documents in determining whether clear evidence exists that those sites contested by the appellants are deliverable.
55. In respect of two of the sites, despite outline planning applications for housing having been submitted in 2019, they have not yet been determined¹⁸. I appreciate that the masterplanning process on both sites has progressed and a statement of common ground has been signed with developer(s) confirming intentions and delivery milestones. However, in both cases anticipated timescales for the delivery of housing were set out in the 2019 position statement, but none of those timescales have been met. This undermines my confidence in the future milestones set out in the 2022 position statement, particularly as no planning permission yet exists, and reserved matters and planning conditions submissions will be required before substantive works can commence in order to deliver housing according to the timescales outlined.
56. Moreover, it is put to me by the Council that one of these schemes has been delayed due to viability issues. However, I have not been provided with specific details of the viability issues, nor the outcome of viability considerations, and this further reduces confidence that planning permission will subsequently be granted as per the anticipated timescales.
57. A further contested site¹⁹ only recently received an associated planning application for housing, but at the time of the Hearing it was yet to be validated. On this basis, the Council's anticipated resolution to grant in the first quarter of 2023 seems incredibly optimistic given the early stages of the formal consultation process.
58. Similarly, an outline planning application was submitted for another allocated site in July 2022²⁰. Not only is this application yet to be determined, but it appears to straddle an adjacent Council's administrative boundary. The implications of this are not immediately apparent, but it seems reasonably likely that this will add further complexity. In addition, I have no assurance that the anticipated March 2023 outline planning application determination is likely.
59. Both the latter sites also have signed statements of common ground with respective applicants, but none of the timescales set out previously in 2019 have been met. Given this, and that there is no planning permission in place on either site, and subsequent reserved matters and condition discharge applications will be required, clear evidence of deliverability is lacking.
60. All of the above leads me to question the overall deliverability of the Council's anticipated supply of housing. In line with the appellants' assessment²¹, the four sites above account for *circa* 1800 dwellings. As such, in omitting these sites from the anticipated 5-year HLS, the Council's deliverable supply of housing would fall short of the 5-year HLS requirement by approximately 760 dwellings. This would represent a moderate shortfall.
61. Nevertheless, this means that the Council are unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 68 of the Framework. Therefore, the policies which are the most important for

¹⁸ Sites GA1:the Gilston Area and HERT3:West Herford North

¹⁹ WARE2: Land north and east of Ware

²⁰ EWEL 1: Land east of Welwyn Garden City

²¹ Annex A – HD1

determining these schemes are deemed to be out of date. In such circumstances, paragraph 11d)(ii) of the Framework indicates that 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.

Benefits

62. The number of dwellings proposed in each of the appeals ranges from 6 to 12. Whilst this is a relatively limited number of houses, in light of the Council's housing land supply shortfall, and the Framework's objective of significantly boosting housing supply, it is a matter which carries moderate weight in favour of the appeals.
63. Moreover, Appeal B proposes 10 self-build plots. The Council accepted during the Hearing that at approximately 39 names were on the Council's register for self-build/custom-build plots. Whilst I was told that plots had been granted planning permission in the District, none of them appear to have been built out. Therefore, limited progress has been made to address the shortfall and associated requirement under the Self Build and Custom Housebuilding Act 2015.
64. As such, the proposed 10 self-build plots associated with Appeal B would make a notable contribution towards addressing a considerable lack of delivery in the District. This attracts significant weight in favour.
65. Affordable housing would be provided in accordance with local policy requirements in association with Appeal A. Whilst the four units proposed would constitute a relatively low level of provision, they would contribute towards an unmet need across the District. Therefore, this attracts moderate weight in favour.
66. There would be benefits to the local economy, both during construction and indirectly through a likely increase in local spending by future residents. There would also be additional Council tax receipts for the Council as a result of residential occupation. In all cases, due to the relatively small scale of the developments, these benefits would be limited.
67. In terms of environmental benefits, the proposals would include sustainable construction techniques and measures to reduce energy demands for future occupiers of each dwelling proposed. There would also be scope to provide additional native planting, and the potential to support biodiversity improvements on site. However, the details provided in respect of biodiversity and landscaping are limited. As a result, and given the limited scale of the developments, the environmental benefits would be limited in all cases.
68. The schemes would result in the removal of the commercial use and HGV traffic associated with it. However, this is a low-key use which does not generate significant activity. Therefore, its removal would provide only limited benefit to the local environment.
69. In terms of harm, the proposals would not comprise limited infilling, and whilst each of the schemes would utilise previously developed land to varying degrees, they would not occupy sustainable locations; with future occupiers being heavily reliant on the private car to make journeys to services and facilities.

70. The Framework²² recognises that proposals that enhance or maintain the vitality of rural communities, including supporting services in villages nearby, may be acceptable even in locations that are not well served by public transport. However, these considerations carry limited weight in these appeals as the proposals would lie outside the settlement boundary, which is where growth should be focused, and in an unsustainable location.
71. Therefore, the schemes would be contrary to Policies DPS2, TRA1 and GBR2 of the DP. Overall, there would be conflict with the development plan when read as a whole. This attracts significant weight against the appeals.
72. There would also be conflict with Policies ED1 and ED2 of the DP. However, the contributions made by the appeal sites to local employment is limited. As such, I attribute only limited weight to these policy conflicts.
73. Appeal B would not address the DP requirement to provide affordable housing. This also weighs significantly against the scheme.
74. Whilst the appeal schemes would not result in harm to the character and appearance of the area or highway safety, these considerations neither attract weight for or against the developments.

To summarise my findings in each case:

75. Appeal A - as a result of the proposal's location outside the settlement boundary, in an unsustainable location, it would be contrary to the development plan. This carries significant weight against. There would be limited conflict with employment policies. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the moderate benefits associated with 12 houses and four affordable units, along with the other benefits outlined. As a result, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
76. Appeal B - as a result of the proposal's location outside the settlement boundary, in an unsustainable location, it would be contrary to the development plan. This carries significant weight against. The lack of affordable housing as required by policy also attracts significant weight against the appeal. There would be limited conflict with employment policies. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the significant weight afforded to the provision of self-build housing, along with the other benefits outlined. As a result, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
77. Appeal C - as with appeals A and B, the proposal's location outside the settlement boundary in an unsustainable location and the conflict with the development plan is a matter which carries significant weight against the appeal. There would also be some limited conflict with employment policies. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the moderate benefits associated with six new houses, along with the other benefits outlined. The proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

²² Paragraphs 79 and 85 of the Framework

Conclusion

78. These decisions should be taken in accordance with the development plan, and no material considerations indicate otherwise. This leads me to conclude that these appeals should be dismissed.

M Woodward

INSPECTOR

Annexe A:

Hearing Documents

HD1 – Appellant document ‘East Herts Five Year Land Supply notes’

HD2 – Appeal decision ref: APP/J1915/W/22/3301655

HD3 – Delegated Officer Report for Application Number: 3/19/1569/ARPN (East Herts)

HD4 – East Herts District Plan 2018 extract showing settlement boundaries of Benington

HD5 – Council and appellant agreed list of ‘approved plans’

HD6 – Council recommended conditions ‘self-build’

Annexe B: APPEARANCES

FOR THE APPELLANT:

| | |
|---------------|------------------------|
| David Lane | DLA Town Planning Ltd. |
| Simon Andrews | DLA Town Planning Ltd. |
| Chris Watts | Agent |
| Mr Newman | Appellant |
| Ms Pepperell | Appellant |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-----------------------------------|---|
| David Lamb BA (Hons) Dip TP MRTPI | Principal Planning Officer (Development Management) |
| George Pavey Bsc (Hons) Msc | Principal Planning Officer (Planning Policy) |
| Ellen Neumann | Assistant Planning Officer (Development Management) |

