

## Appeal Decision

Site visit made on 13 March 2018

by **D J Board BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> July 2018

**Appeal Ref: APP/J1915/W/17/3188988**

**Chestnuts, 5 Green End, Braughing, SG11 2PE**

- 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 Ben Stephens against the decision of East Hertfordshire District Council.
- The application Ref 3/17/0239/FUL, dated 31 December 2016, was refused by notice dated 21 June 2017.
- The development proposed is the construction of 4 new dwellings to the rear of the listed building "Chestnuts" comprising of 2No 3 bed semi detached, 1 No 4 bed detached facing onto hull Lane, and 1No 5 Bed detached and all associated parking and access facilities. The construction of a new detached garage for Unit 4 and the construction of a cart lodge type garage for use by "Chestnuts". The demolition of an existing detached swimming pool building.

### Decision

1. The appeal is allowed and planning permission is granted for construction of 4 new dwellings to the rear of the listed building "Chestnuts" comprising of 2No 3 bed semi detached, 1 No 4 bed detached facing onto hull Lane, and 1No 5 Bed detached and all associated parking and access facilities. The construction of a new detached garage for Unit 4 and the construction of a cart lodge type garage for use by "Chestnuts". The demolition of an existing detached swimming pool building at Chestnuts, 5 Green End, Braughing, SG11 2PE in accordance with the terms of the application, Ref 3/17/0239/FUL, dated 31 December 2016, subject to the conditions in Annex A.

### Procedural Matters

2. The Braughing Neighbourhood Plan (NP) has been subject to public consultation but has yet to be examined and adopted. The emerging District Plan has been submitted for examination but has not yet been found sound. Therefore the weight that can be attributed to these documents is very limited.

### Main Issues

3. The main issues are (a) whether the scheme would preserve or enhance the character or appearance of the conservation area and (b) the effect of the provision of four dwellings on highway safety.

### Reasons

#### *Character and appearance*

4. The appeal scheme is formed of two parts. Units 1-3 would address Hull Lane whereas Unit 4 would sit to the side and rear of Chestnuts and front the street

scene of Green End. The Councils decision notice focusses on the assimilation of the three dwellings that would front Hull Lane into the street scene. However the representations from interested parties also raise matters relating to Unit 4. As such I have included this within consideration of character and appearance.

5. There is no dispute that the appeal site is located within the Braughing CA. The character of the area in this part of the CA contains dwellings that front the road being hard against the footpath and some set back behind gardens. Beyond this the pattern becomes sparser with development in depth along Hull Lane and Green End. Along Hull Lane itself the existing dwellings have a mixed appearance. The plot widths and depths also vary. Chestnuts is a large detached dwelling which fronts Green End and is set behind a strong planted frontage. In contrast to the opposing side of Green End this part of the CA and Hull Lane are characterised by buildings in a landscaped setting which allows the buildings to be glimpsed within the street scene. The buildings sit within the wider rural area and are mainly two storeys with simple traditional materials evident.
6. Unit 4 would be a substantial detached dwelling. It would be set back from the road behind a driveway and garden area. It would have a generous plot allowing space around it. This would provide setting and relief to the built form. Furthermore it would be well proportioned and the details and material choices indicate that it would sit comfortably within the street scene of Green End. I note that there would be accommodation within the roof space. Nonetheless the space around the building would serve to lessen the impact of this.
7. There is a level change along Hull Lane with the land rising from Green End. The scheme would include a detached dwelling and a pair of semi detached dwellings that would face onto Hull Lane. They would be positioned between the end of the gardens of Chestnuts and Grove Barn and the dwelling known as Larkspur. The new dwellings would have simple footprints and proportions and would be two storeys in height. I understand that they would be taller than the nearby bungalows and chalet bungalows further along and opposite on Hull Lane. Nevertheless the site is a gap within Hull Lane. Whilst taller the heights of the dwellings would not appear excessive with the heights effectively stepping up from Grove Barn. Furthermore, the layout would also place space to the front and sides of the buildings which would serve to reduce the impact of the introduction of built form into the gap. Overall, the dwellings would be well designed and positioned and as a result would not appear out of place on Hull Lane.
8. Residents have also raised concerns regarding the change to the hedge along Hull Lane. In particular the removal of the existing and its replacement with a new boundary treatment set back from the road. This would allow for provision of access points. The Council point out that the hedge is not protected and that the new boundary treatment would be appropriate mitigation. Hull Lane has a variety of frontage treatments including hedges, walls, fences and some open. The replacement native species, albeit with gaps would not look out of place. Overall, for these reasons, these changes along the frontage would have a neutral effect within the CA.

9. The statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 sets out that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The net effect of the provision of the new dwellings would be neutral as what is special about the CA would not be harmed. In this regard should it be constructed the appeal scheme would reflect the character of the CA and preserve the part of the CA it would be located in.
10. Therefore the scheme would not be in conflict with policies ENV1 and OSV1 of the East Herts Local Plan which amongst other things seek new development to be of a high standard of design and layout and be compatible with the surrounding area and paragraph 17 of the National Planning Policy Framework (the Framework) indicates that planning should conserve heritage assets in a manner appropriate to their significance.

#### *Highway safety*

11. The Council's concern relates to additional vehicular traffic on Hull Lane, its width and that the required visibility cannot be provided at the junction with Green End. This is also raised by the representations made by interested parties who have also submitted an 'Access Appraisal'<sup>1</sup>(AA). The introduction of three new dwellings would increase the number of vehicles using the existing junction. The issue is whether this increase would lead to highway safety issues.
12. The contention of the AA is that additional vehicular movements should not be permitted at the existing junction without improvements being made to the junction. Specifically that there is anecdotal evidence from residents that the number of near misses at the junction is high albeit the Council's report highlights that the last serious accident recorded was in 2013. However, the AA gives no indication what mitigation should be done and the appellant points out that the accident record for this junction has been checked.
13. To accord with standards the AA suggests that visibility splays of 2.4 x 43m would be required at the junction of Hull Lane and Green End. Furthermore that the visibility at this junction is limited due to the hedges either side which would not be within the control of the appellant. The AA also raises the issue of forward visibility for motorists turning left into it from Green End. In particular that a vehicle turning in may have to come to a halt leaving the rear end within the Green End carriageway. The AA also refers to vehicles exiting Hull Lane. In particular that it would be necessary for a motorist to edge forward into the carriageway to be able to see along Green End.
14. Hull Lane is a two way road. It is a relatively straight road and has a gradient change from Green End. The access point for the development would be in two places from an existing access point from Green End for one dwelling and three dwellings would have an access from Hull Lane. Hull Lane currently provides access to about 14 dwellings. The appeal scheme would add 3 dwellings to the lane. At the point of access to Hull Lane the new dwellings would have visibility splays of 2m by 12m. The appellant's statement suggests that this would be commensurate with the low vehicle speeds along Hull Lane.

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<sup>1</sup> Access Appraisal, MLM Group, dated 21/02/2018

15. The appellant has used the TRICS database and considers that the additional movements that would be generated from the scheme would be 2 movements within each of the 2 peak hours. Further that over a typical 12 hour week day the proposal would generate around 18 trips two way and that this level of movement would be modest. This is a residential environment where there are already a number of vehicular movements which these movements would be part of. Based on the information before me I consider the appellant's submission regarding the number of movements to be reasonable. I appreciate that the presence of the convenience store/post office opposite does add to the complexity of movements in this part of the village. However, I have no substantive evidence that the frequency of this occurring is high. In addition Green End is relatively straight at this point allowing approaching drivers to see parked vehicles. The approaches to the junction on Green End are relatively straight and subject to either a 30 or 40 mph speed limit. This would allow a vehicle approaching to see the mouth of the junction and slow down.
16. There is no dispute that Hull Lane is narrow and has banks either side and could not accommodate simultaneous two way movements. However, widening outside of the appeal site, albeit some distance from the junction, would provide some refuge. In addition Hull Road itself is straight which would allow some inter visibility for vehicles using it. Therefore, given the low frequency of movements that would result from the appeal scheme itself, based on this information it I am satisfied that there would not be a significant issue with two cars meeting.
17. I understand that the Braughing Neighbourhood Plan suggests that the only access from Hull Lane for this site should be for pedestrians. I am also aware that it refers to the requirements for an adjoining site, which is not before me for consideration. Nevertheless, noting that there would be an increase in vehicle movements on Hull Lane, I have had significant regard to the likely frequency of the potential conflict. In addition I have no evidence that the appeal proposal would directly increase the instance when conflict between cars and other vehicles would arise to an unacceptable level that would lead to a severe impact. Furthermore there is no dispute that subject to conditions the Local Highway Authority raised no objection to the proposal.
18. Therefore, noting that there would be an increase in vehicle movements on Hull Lane, I have had significant regard to the likely frequency of the potential conflict. In addition overall I have no evidence that the appeal proposal would directly increase the number of vehicles meeting or the instance when such conflict at the junction would be at an unacceptable level. I therefore conclude that the proposal would not have a harmful effect on highway safety and would not be in conflict with policy TRA2 of the emerging District Plan and the Framework which is clear that development should only be prevented on transport grounds where the residual cumulative impacts would be severe.

*Other matters*

19. I note that the Council did not raise concerns regarding the matter of impact to trees or the effect on the setting of the Grade II Listed Building Chestnuts. I have no reason to disagree with these conclusions.
20. I have carefully considered the other issues raised within the representations from near neighbours. In particular that the new dwellings would appear

overbearing and harm privacy. There would be some distance between the new dwellings and those existing Hull Lane. The relationship would also be front facing front and therefore I do not consider that the resultant relationship would be unacceptable.

21. It has also been put to me that use of Hull Lane by pedestrians would not be safe. In particular due to the absence of refuges and footpaths. The access points to the new dwellings would have appropriate visibility. The widening of the road at this point would create an area that could provide pedestrian refuge. There are other driveways along Hull Lane. The pedestrian environment along the remainder of the lane would not change. Taking these factors and the potential level of movements from the scheme is described as modest then the likely frequency of the potential conflict with pedestrians would be low.

#### **Conditions and conclusion**

22. The Council has not provided a separate list of conditions. Therefore I have considered the ones within the committee report. The development would be acceptable, subject to certain conditions, framed with regard to advice in the Planning Practice Guidance. I have specified the approved plans for certainty. In the interests of the character and appearance of the area conditions are necessary to require submission of samples of materials to be used, a scheme of landscaping (including site levels) and its implementation. To protect the living conditions of existing occupiers it is reasonable to impose a condition that requires a construction method statement. In the interests of highway safety a conditions is necessary to require the provision of the works to Hull Lane. It is also necessary to secure a programme of archaeological work.
23. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should be allowed.

*D J Board*

INSPECTOR

### **Annex A – Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10790/A1/21; 10709/A1/22; 10709/A1/23; 1790/A1/12A; 1790/A1/13A; 1790/A1/19A; 1790/A1/20A; 10709-A1-33A; 10790/A1/01; 1790/A1/02; 10790/A1/03; 10790/A1/04; 10790/A1/05; 10790/A1/06; 10790/A1/07; 10790/A1/08; 10790/A1/09; 10790/A1/10; 10790/A1/11; 1790/A1/14; 1790/A1/15; 1790/A1/16; 1790/A1/17; 1790/A1/18; ARBTECH TCP01.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall commence 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) a statement setting out the design objectives and how these will be delivered;
  - ii) earthworks showing existing and proposed finished levels or contours;
  - iii) existing and proposed finished floor levels;
  - iv) means of enclosure and retaining structures;
  - v) boundary treatments;
  - vi) vehicle parking layouts;
  - vii) other vehicle and pedestrian access and circulation areas;
  - viii) hard surfacing materials;
  - ix) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 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 buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) Hours of operation of plant and machinery;
  - iv) storage of plant and materials used in constructing the development;

- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) Prior to the occupation of the dwellings hereby approved the access and widening including junction visibility splays onto Hull Lane shall be completed in accordance with plan 10790/A1/06 and constructed in accordance with the approved details to the satisfaction of the Local Planning Authority and shall thereafter be retained.
- 8) No development shall take place until a Written Scheme of Investigation (archaeological programme) shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions - and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) the provision to be made for analysis of the site investigation and recording;
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 9) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 8.

