

## 6. APPEALS UPDATE

### A. LODGED

- 4/00245/19/FUL C/o Agent  
NEW DWELLING AND EXTENSION TO EXISTING DWELLING  
(AMENDED SCHEME)  
HIGHLANDS, KINGS ROAD, BERKHAMSTED, HP4 3BP  
[View online application](#)
- 4/02137/18/ROC Russell  
VARIATION OF CONDITION 2 (APPROVED PLANS) ATTACHED TO  
PLANNING PERMISSION 4/01142/17/FHA (DEMOLITION OF  
EXISTING SINGLE STOREY SIDE EXTENSION AND  
CONSTRUCTION OF NEW SINGLE STOREY SIDE EXTENSION.)  
2 NORTH ROAD, BERKHAMSTED, HP4 3DU  
[View online application](#)
- 4/03165/18/FHA Baumard  
REPLACE EXISTING GARAGE AND SUMMER HOUSE WITH  
OUTBUILDING TO PROVIDE NON-HABITABLE ANNEX WITH  
GARAGE AND HOBBY ROOM  
32 STOCKS ROAD, ALDBURY, TRING, HP23 5RU  
[View online application](#)
- 4/03174/18/FHA Baumard  
A NEW SECTIONAL TIMBER FRAMED BUILDING TO REPLACE AN  
EXISTING GARAGE AND SUMMER HOUSE.  
32 STOCKS ROAD, ALDBURY, TRING, HP23 5RU  
[View online application](#)

### B. WITHDRAWN

- 4/02205/18/MFA Gleneden Plant Sales Ltd  
DEMOLITION OF ALL BUILDINGS AND CONSTRUCTION OF A MAIN  
BUILDING AND TWO OUTBUILDINGS COMPRISING OF 46  
DWELLINGS WITH ASSOCIATED SOFT AND HARD LANDSCAPING,  
BIN STORE, ENTRANCE GATES AND HIGHWAYS IMPROVEMENTS  
CADDINGTON HALL, LUTON ROAD, MARKYATE, ST ALBANS, AL3  
8QB  
[View online application](#)

**C. FORTHCOMING INQUIRIES**

None

**D. FORTHCOMING HEARINGS**

None

**E. DISMISSED**

4/00871/18/FUL      Simco Homes Ltd  
DEMOLITION OF EXISTING DWELLING AND CONTRUCTION OF  
THREE DWELLINGS  
AMBERLEY, HEMP LANE, WIGGINTON, TRING, HP23 6HF  
[View online application](#)

The main issue is the effect of the proposal on the character and appearance of the area.

In summary the Inspector considered that the combined impacts of the proximity of the three dwellings' two storey flanks to one another, the large area of frontage hardstanding with only limited landscaping, the siting of the covered parking areas, and the loss of the roadside bank, would significantly harm the prevailing pattern and layout of development in the area.

The proposal would therefore conflict with those parts of Core Strategy Policies CS6, CS11, and CS12 which, in broad terms, require development to be sympathetic to its surroundings, having regard to the streetscape and local character, visual impact, spaces between buildings, the dominance of car parking, and landscaping.

As it would harm this stretch of the Hemp Lane streetscape, the scheme would also harm the Chilterns Area of Outstanding Natural Beauty ('AONB'). It would therefore also conflict with Policy CS24, and with saved Local Plan Policy 97.

In general terms, and with reference to the Core Strategy and the Chilterns AONB Management Plan, they seek to conserve the area's special qualities and its beauty, by reinforcing local distinctiveness, and at 3.79 of the Chilterns Buildings Design Guide, by avoiding dominant parking areas.

**F. ALLOWED**

4/00534/18/FUL      BELGRAVE PROPERTY DEVELOPMENTS LTD  
DEMOLITION OF EXISTING GARAGE & WORKSHOP BUILDING AND  
CONSTRUCTION OF 1 NO. 3 BEDROOM DWELLING, DETACHED  
CAR PORT AND ASSOCIATED HARD AND SOFT LANDSCAPING  
R/O 114-138, PICCOTTS END, HEMEL HEMPSTEAD, HP1  
[View online application](#)

## Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage & workshop building and construction of 1 no. 3 bedroom dwelling, detached car port and associated hard and soft landscaping, at R/O 114-138, Piccotts End, Hemel Hempstead, Hertfordshire HP1 3AU in accordance with the terms of the application, Ref 4/00534/18/FUL, dated 26 February 2018, subject to the attached Schedule of Conditions.

### Application for costs

2. An application for costs was made by Palmer of Belgrave Property Developments Ltd against Dacorum Borough Council. This application is the subject of a separate Decision.

### Procedural Matter

3. The National Planning Policy Framework was revised in February 2019 (the Framework) and this post-dates the Council's refusal notice. I have taken the framework into account as part of the determination of this appeal.

### Main Issues

4. The site lies within the Green Belt and an appeal for a dwelling on the same site was dismissed in 2016<sup>1</sup> on the basis that that proposal would have harmed the openness of the Green Belt. This appeal proposal is also for a dwelling on the site, but it is not the same in terms of its scale. There is no dispute between the parties that the proposed development does not amount to inappropriate development in the Green Belt. I have considered the proposal against Green Belt policy in the Framework, in particular paragraph 145, and I have no reason to disagree with the Council that the proposed development would not be inappropriate development in the Green Belt. Consequently, the main issues are:

- whether or not the proposal would preserve or enhance the character or appearance of the Piccott's End Conservation Area (CA) and on the effect of the development on the setting of the neighbouring listed buildings;
- the effect of the proposed development on the ground stability of the Grade I listed buildings and wall to the rear of the site;
- the effect of the construction of the development on local water supply; and
- whether or not the proposal would provide a safe and satisfactory means of access for all users including refuse and emergency services.

### Reasons

#### Conservation Area

5. Piccott's End Conservation Area (CA) is characterised by historic vernacular architecture in a variety of styles. Its significance lies in the evidence of its evolution as a small rural settlement. The terraces along Piccotts End include listed historic cottages and houses that provide an attractive contribution to the street scene. The appeal site lies behind Grade I listed buildings and their significance lies in the retention of original detailing and craftsmanship as well as internal wall paintings which add to the significance.

6. There are also a number of other more modern houses in the vicinity of the site set back from Piccotts End. Consequently, although the site is currently overgrown and is occupied by a garage which appears to need some maintenance, given its proximity to the neighbouring buildings which include listed buildings, the site provides a moderate contribution to the character and appearance of the CA.

7. From the evidence before me, the proposed development would be no higher than the existing building and given its position behind the terraces and the access along the narrow track, visibility of the development from the street would be limited. Consequently, the proposed development would not harm the character and appearance of the street scene.

8. The proposal would be of a form that is similar in roof profile, height and footprint to the existing building. The proposed timber cladding and sedum roof would be sympathetic to the immediate surroundings given that the overgrown nature of the site contributes to a green and pleasant atmosphere. It would also echo the materials of the existing building as well as the use of timber on other buildings in the CA. Although the design would be modern in style, its simple form and use of natural materials would complement the adjacent listed buildings without appearing dominating. In addition, the landscaping scheme has been designed to allow the proposed timber clad building to further blend into the landscape. The proposed development

would therefore be in harmony with the CA.

9. The proposed building would be sited a substantial distance away from the listed buildings and given the use of materials and modest scale as well as the form which would echo the existing building, as described above, it would preserve the setting of the listed buildings without diminishing their significance.

10. Consequently, I conclude that the proposed development would preserve the character and appearance of the CA and that harm would not be caused to the setting of the listed buildings. Therefore, the proposal would accord with Policies CS11 and CS12 of the Dacorum's Local Planning Framework Core Strategy Adopted 25 September 2013 (CS) which together require developments to enhance the general character and integrate with the streetscape character among other things. It would also accord with CS Policy CS27 which requires heritage assets to be protected, conserved and if appropriate enhanced.

#### Ground Stability

11. The proposed building would be modest in scale, occupying a small portion of the site, with the proposed basement occupying an even smaller footprint. The building would be sited a substantial distance from the listed buildings such that any effect on the stability of the terraces would be likely to be minimal.

12. I acknowledge the evidence regarding the wall paintings and the concern relating to the effect that any ground vibrations may have. However, while I do not doubt the fragility of the wall paintings, given the distance between the proposed building and the listed buildings and the limited increase in traffic that would use the existing access track, the evidence does not persuade me that the works would lead to levels of vibration that would cause harm to the stability of the listed buildings, or the wall paintings within.

13. While the proposal involves demolition of the existing garage which is in close proximity to the rear wall, the proposed building would be sited further away from it. Given the evidence before me indicating that no obtrusive building methods such as piling would be employed, I am satisfied that the proposed development would not result in damage to the rear wall.

14. Whilst I am not aware of any objective evidence of past ground instability, due to the nature of the listed buildings, a condition would be necessary which would negate the potential for the proposal to negatively impact the stability of the listed terraces. The appellant has provided details of construction methods and vehicles that would be used during construction. Given the modest scale of the building and basement, I am satisfied that these measures would be likely to contribute towards mitigating against any harm to the listed buildings. Taking into account the fact that there are listed buildings close by, I also consider that the approval of a groundworks methodology report would also be necessary.

15. Subject to the imposition of the aforementioned conditions, I conclude that the proposed development would not detrimentally affect the ground stability of the Grade I listed buildings and wall to the rear of the site. It would therefore accord with CS Policy CS27 which relates to heritage assets and with Saved Policy 119 of the Dacorum Borough Local Plan 1991-2011 Written Statement Adopted 21 April 2004 as amended by the Core Strategy and Site Allocations DPD (LP) which relates to development affecting listed buildings.

#### Local Water Supply

16. The evidence before me indicates that the Grade I listed buildings rely on a borehole for their water supply. Concerns have been raised locally regarding contamination of the water table. Furthermore, since the site is contained within

the footprint of the former 'Old Infirmary Yard' adjacent to the former Cottage Hospital site, and the existing building was used for storage, there is a potential risk of ground contamination on the site. However, there is no evidence before me to indicate that these issues warrant refusal of planning permission on these grounds alone. Indeed, I am satisfied that such matters could be controlled by means of the imposition of a suitable condition.

17. Consequently, I conclude that the construction of the development would not have a detrimental effect on local water supply and that the proposed development would therefore accord with CS Policy CS32 which relates to soil and water quality among other things.

#### Highways Safety

18. The site is accessed via a relatively narrow track that runs between the existing buildings on Piccotts End. I acknowledge local concerns regarding the highway safety implications of the

appeal scheme. However, taking into account the fact that the site already has a use, I do not consider that the proposal would lead to any significant highway safety impacts in relative terms. In reaching the above view, I also note that the Highway Authority has not objected to the proposal subject to conditions and that the previous Inspector who also considered a proposal for one dwelling on the site raised no objection on these grounds. I reach similar conclusions to the previous Inspector that any additional traffic flows associated with this development would not be significant and that as there has been no specific objection from the emergency services or from the Council's refuse collection service, there would not be any significant concerns in respect of such matters.

19. For the above reasons, I conclude that the proposed development would provide a safe and satisfactory means of access for one dwelling including for refuse and emergency services. Therefore, the proposal would accord with CS Policy CS12 which requires that developments provide a safe and satisfactory means of access for all users and provide sufficient parking and sufficient space for servicing.

#### Other Matters

20. I note local concerns including those regarding noise pollution during construction and ownership of the access. Any noise or disturbance at construction stage would be temporary and the Council has separate powers to deal with any statutory nuisance. I have no reason to doubt that the correct ownership certificates were completed as part of the planning application. I acknowledge the ownership issues relating to the lane that runs to the rear of the site. However, this has not altered my decision.

21. None of the other matters raised outweigh or alter my conclusions on the main issues.

#### Conditions

22. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in paragraph 55 of the National Planning Policy Framework and the guidance contained in the Planning Practice Guidance. I have amended some of the wording of the conditions in the interests of precision and clarity. 23. In addition to the standard time limit condition, I have included a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty and to safeguard the character and appearance of the area. It is not necessary to include reference to the submitted heritage statement in the plans condition.

24. Conditions relating to the proposed external materials, the hard landscaping and the boundary walls are also required in the interests of the character and appearance of the area. The Council's suggested condition relating to external materials has been amended to be more precise and does not need to be pre-commencement as it relates to the external materials above ground only.

25. Conditions relating to the parking spaces and turning space are required in the interests of highways safety.

26. Given the previous uses of the site, the proposed underground works and potential water supply issues, a contaminated land condition is necessary. This needs to be pre-commencement as it would affect works to be carried out early in the construction phase. The Council's suggested contamination land condition has been amended so that it is more concise and so that it is more appropriate to the scale of the proposal.

27. In this case, there is exceptional justification for removing specified permitted development rights in order to protect the character and appearance of the CA and the setting of the nearby Grade I listed buildings. In order to ensure that the nearby listed buildings would not be harmed during construction, a condition detailing construction methods is necessary. Since it would affect works to be carried out early in the construction phase, this condition needs to be pre-commencement.

28. Evidence has been submitted to indicate that archaeological work was previously carried out where no archaeological features or finds were revealed. I have not therefore imposed any conditions relating to archaeology matters.

29. Given the risk of presence of bats on the site, a condition is necessary in the interests of biodiversity. The condition needs to be pre-commencement as surveys would be required prior to any demolition or groundworks being started.

30. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has confirmed that they agree to all of the listed pre-commencement conditions.

## Conclusion

31. For the reasons given above, and taking into account all other matters raised, the appeal is allowed subject to conditions.

## Costs Award

### Decision

1. The application for a full award of costs is allowed in the terms set out below.

### Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The planning application was refused by the Council's Development Control Committee (DCC), contrary to the officer's recommendation for approval. Whilst the DCC were not bound to accept the officer recommendation, Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities that risk an award of costs include:

- failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis;
- refusing planning permission on a planning ground capable of being dealt with by conditions;
- where it is concluded that suitable conditions would enable the proposed development to go ahead; and
- persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.

4. This application was refused for 4 reasons, which will be assessed in turn.

### Character and appearance

5. The reason for refusal states that the proposed development by reason of its design would appear incongruous within the street-scene and unsympathetic to the Conservation Area and Listed Buildings. With regard to the effect on the street-scene, the Council's statement merely states that the design wouldn't integrate with the streetscape character and fails to co-ordinate street-scene characters. There is no further analysis of the character of the street scene or the effect of the proposal on the street-scene. From the evidence before me, the visibility of the proposed building and carport from the street would be negligible. I therefore find that the Council has not provided evidence to substantiate this part of the reason for refusal and that it is unsupported by objective analysis.

6. With regard to the effect of the development on the Conservation Area (CA), while the Council stated that whilst it is appreciated that the dilapidated workshop on site isn't ideal, which has become ingrained into the urban fabric and has a neutral impact, it has not provided any reasonable analysis of the significance of the CA. In terms of identifying the harm, the Council stated that the proposal would result in a structure of larger scale and consequent dominance to what currently exists on site. While the basement level would arguably result in a building that would be larger in scale than the existing building, given that the height above ground would not be greater than existing, there is no reasonable explanation of why the proposed building would be more dominant. I therefore consider this part of the reason has not been reasonably substantiated.

7. Turning to the effect on the listed buildings, the Council assert that the proposed development which would constitute a modern building of less than average design would have a negative impact to the setting of the listed buildings. There is a lack of analysis of the significance of the listed buildings and no further assessment of the proposal or how the design would impact the setting of the listed buildings. These concerns are therefore vague and generalised assertions that are unsupported by objective analysis.

8. Consequently, in relation to this reason for refusal, I conclude that the Council has behaved unreasonably.

### Ground instability

9. The Council considered that by virtue of the basement element of the buildings that this could

cause structural instability to the nearby historic assets and no survey or reassurance was submitted with the development. Given the substantial distance between the proposed building and the listed buildings, there was no further assessment of the risk that the proposed development would pose. Furthermore, there is no further mention of the effect on the wall located to the rear of the site which is mentioned in the reason for refusal, or how the proposed development would affect it. Again, these concerns are unsupported by objective analysis and the Council has behaved unreasonably in this regard.

#### Local water supply

10. The Council accepted that if the appeal was allowed local water supply issues could be controlled by planning condition. Given the previous uses of the site, there may be a risk of groundwater contamination which could be mitigated via a suitable condition. Such a condition would allow the development to go ahead and consequently the Council has behaved unreasonably in this regard.

#### Highways

11. The proposal in terms of highways arrangement has not substantially altered from the previous application which was dismissed at appeal in 2016<sup>1</sup>. In that case the highways issues were assessed in detail by the previous Inspector who concluded that the proposal would not cause severe harm to highway safety. In addition, the only comment put forward by the Council was that they were concerned that the development would not conveniently meet safe access for all users. There is no further evidence to substantiate this assertion, and consequently I consider that the Council has behaved unreasonably in this regard.

#### Conclusion

18. For the reasons outlined above, I conclude that the Council has acted unreasonably, and that the appellant has incurred unnecessary and wasted expense in pursuing the appeal. Therefore, a full award of costs is justified.

#### Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dacorum Borough Council shall pay to Palmer of Belgrave Property Developments Limited the costs of the appeal proceedings described in the heading of this decision with such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. Palmer of Belgrave Property Developments Limited is now invited to submit to Dacorum Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.