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## Appeal Decision

Site visit made on 6 August 2012

by **John Bell-Williamson MA MRTPI**

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

Decision date: 10 September 2012

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**Appeal Ref: APP/P0240/A/12/2174107**  
**2 High Street, Stotfold, Hitchin SG5 4LL**

- 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 David McNeill against Central Bedfordshire Council.
  - The application Ref CB/12/00466/FULL is dated 2 February 2012.
  - The development proposed is erection of one detached dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of one detached dwelling at 2 High Street, Stotfold, Hitchin SG5 4LL. The permission is granted in accordance with the terms of the application, Ref CB/12/00466/FULL, dated 2 February 2012, subject to the conditions included in the Schedule at Annex A.

### Preliminary Matters

2. The Council indicates that in this case planning permission would be refused because the development by reason of its size and siting and lack of rear amenity space would result in a cramped form of development that would be harmful to the character and appearance of the surrounding area.
3. In coming to a view on this proposal, I have had regard to the recently issued National Planning Policy Framework, on which both parties have been consulted. Despite the fact that the Central Bedfordshire Core Strategy and Development Management Policies document (the Core Strategy) was adopted in November 2009, the relevant policy relied upon in this case is not at odds with the new Framework. Therefore, whilst the policies in the Framework have been considered, in light of the facts in this case, they do not alter my overall conclusion.
4. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

### Main Issue

5. The main issue is the effect on the character and appearance of the appeal site and surrounding area.

## Reasons

6. The appeal property is a two storey detached house set back from the High Street and with a long rear garden. Uses in the surrounding area are varied and include residential, shops, commercial and other buildings. This is reflected in the immediately neighbouring uses to the appeal property, with a pair of semi-detached houses on one side and a public footpath, with beyond that a large church building, on the other.
7. The proposal involves development in a private residential garden. In accordance with Annex 2 to the National Planning Policy Framework, such land is now excluded from the definition of previously-developed land. However, neither the new Framework nor local policies that have been drawn to my attention preclude development on such sites. In essence, these policies require that new housing should not harm the character and appearance of an area. Furthermore, in this case the Council takes the view that the principle of development in this location is not unacceptable.
8. Two recent decisions are relevant in this case. One is an appeal decision<sup>1</sup> concerning a two storey dwelling in the rear garden of the appeal property. The other is the Council's granting of a Lawful Development Certificate (LDC) for erection of a building of broadly the same size and in the same location as the appeal proposal, for use as a garage, office and playroom with access and hardstanding. In this case, I have no evidence or other reasons to suggest that the building the subject of the LDC may not be built were the appeal to fail.
9. The proposed dwelling would be visible in views from the High Street between Nos 2 and 4. While in the previous appeal it was found that the proposed house would be an intrusive structure, in that case a larger, two storey building was involved compared to the single storey dwelling in this case. Furthermore, given the existence of the LDC, it is possible that a structure of similar size and appearance could be erected in broadly the same location. While the appeal proposal would be in a separate use rather than an ancillary building, it would not have a materially different visual effect to the appeal proposal, which due to its size and height would not be intrusive or harmful.
10. The Council contends that the difference in appearance and use between the current proposal and the ancillary building would be most apparent from the public footpath to the west. However, a tall, close-boarded fence runs the full length of the rear garden boundary of No 2 with the public footpath. While both the appeal and ancillary building would stand close to this boundary, in both cases the height of the building above the fence would be similar and not visually incongruous. Moreover, due to the height of the fence, direct views into the site from the footpath would not be possible. For these reasons, any differences in use between the two buildings would not be obviously apparent and the appearance and height of the appeal building would not be uncharacteristic or otherwise harmful.
11. With regard to the position of the proposed house, while it would be a relatively short distance from the rear and eastern boundaries of the appeal site, given

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<sup>1</sup> APP/P0240/A/10/2142428 dated 7 March 2011.

that a small two-bedroom, single storey house is proposed, I do not consider that its appearance would be cramped or incongruous or, while acknowledging the greater intensity of use that would arise compared to an ancillary building, that this positioning would adversely affect its reasonable use as a dwelling house. Furthermore, the Council has not contested the appellant's assertion that sufficient amenity space would be provided in total to meet the relevant standards.

12. For all these reasons, I conclude that the proposal would not have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. As such, there is no conflict with Policy DM3 of the Core Strategy, which sets out criteria against which all development proposals will be assessed, including requiring development to be appropriate in scale and design to its setting.

### **Other Matters**

13. The appellant has submitted a Unilateral Undertaking to secure contributions towards a range of infrastructure and service requirements sought by the Council.
14. The Council refers to its *Planning Obligations* Supplementary Planning Document, which supports Policy CS2 of the Core Strategy and sets out the basis for seeking and calculating contributions from new development. In each case, the need for provision of the relevant services and facilities is set out in relation to the district and, where relevant, to Stotfold; and that new development should provide equitably towards provision of these. Therefore, there is a demonstrable need for the additional facilities and requirements sought, which arises from the development, and the contributions sought towards these are calculated on an equitable basis in relation to new development and, therefore, are reasonable and proportionate.
15. For these reasons, I conclude that the statutory tests in Regulation 122 of the CIL Regulations and the policy requirements now included in the National Planning Policy Framework (paragraph 204) have been met with regard to the Unilateral Undertaking and, accordingly, I have taken it into account in reaching a decision in this case.
16. I have had regard to the issues raised by the occupants of neighbouring properties. In the previous appeal, the Inspector found that there would be a loss of privacy from overlooking of the garden of No 4 High Street from the first floor window of the proposed two-storey house. In this case, there would not be a similarly harmful effect because the proposed dwelling is single storey. Furthermore, as the Council indicates, any concerns in this regard could be addressed through a condition requiring a higher boundary fence than currently exists. I do not consider that the straightforward design of the proposed building or the amount of car parking would be uncharacteristic or harmful in its setting.
17. While I acknowledge concerns about the potential noise and disturbance from use of the access drive, which was a basis for refusal of the previous proposal, I am particularly mindful of the points made by the Council in this regard. The current and previous proposals are not directly comparable as in this case the turning area is twice as far away as in the earlier appeal from the patio area of

No 4. Moreover, while the access road is adjacent to the boundary with No 4, the relationship is the same as the permitted ancillary building. While the use in this case is for a separate dwelling, given its small scale I consider that the level of use and movements generated would not be comparable to the larger house proposed previously and would not therefore be unacceptably harmful to neighbours' living conditions. For these reasons, while I have had full regard to these matters, they have not led me to reach a different overall conclusion.

### **Conditions**

18. Of the Council's suggested conditions, I have imposed the standard time condition and, to avoid doubt and in the interests of good planning, one which requires development to be carried out in accordance with the approved plans.
19. I agree that a condition requiring approval of materials for external surfaces is necessary in the interests of the appearance of the new property and surrounding area. Furthermore, despite the limited scale of the development, it is important that appropriate landscaping is approved and implemented for its visual integration into the site and surrounding area. I have combined the Council's suggested conditions on this matter. Similarly, approval of the appearance of any means of enclosure is necessary in the interests of the appearance of the site and surrounds; and I agree as indicated above that a higher boundary fence with No 4 is necessary.
20. Conditions requiring approval and implementation of the access arrangements, on-site surfaces and positioning of gates are necessary in the interests of highway safety, although I have combined these where appropriate. The appellant refers to a previous appeal decision<sup>2</sup> in support of his contention that a turning space is not needed in a development of this limited size. While both this case and the one referred to involve single dwellings, I am not familiar with the access details related to the earlier case and cannot, therefore, compare them directly. In this case, a vehicle visiting the new dwelling in circumstances where all the parking spaces relating to the new dwelling and No 2 were occupied, would need to reverse down the drive onto the High Street to leave the site. This would have implications for highway safety and for this reason I consider that the condition requiring the turning space is necessary and I have added to it that it should be retained for that use.
21. I agree that the refuse and recycling storage facilities should be approved and, additionally, in place before occupation of the dwelling, in the interests of amenity and public health. Conditions requiring approval of construction traffic access and parking are needed in the interests of highway safety, and approval of the levels of the new dwelling in relation to other properties is necessary to ensure a satisfactory relationship between the existing and new properties.

### **Conclusion**

22. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

*John Bell-Williamson* INSPECTOR

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<sup>2</sup> APP/P0240/A/10/2130949 dated 17 November 2010.







Annex A

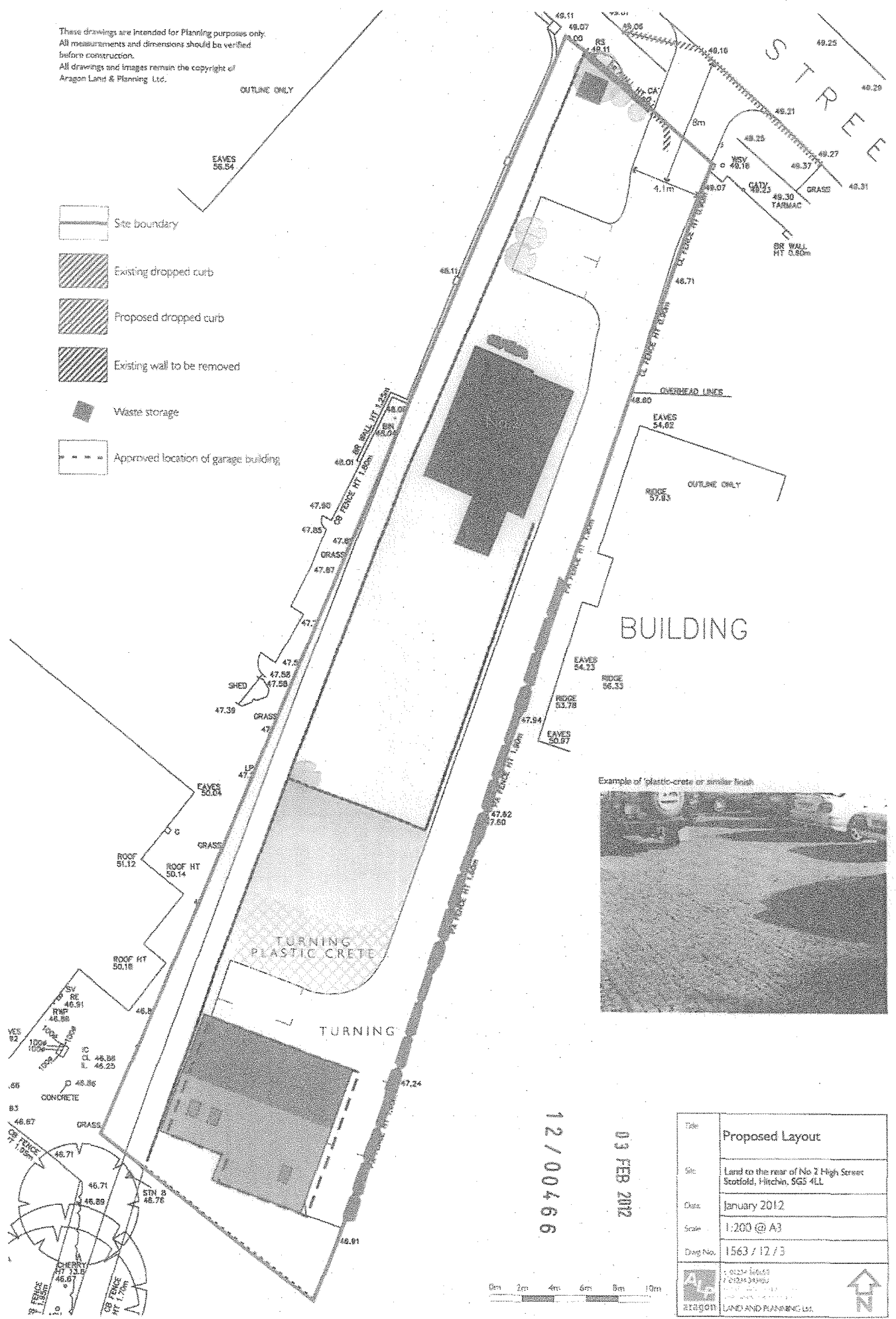
**Schedule – conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1563/11/1, 1563/11/2, 1563/12/3 and 1563/12/4.
- 3) No development shall take place until samples 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 take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The scheme as approved shall be carried out in the first planting season 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 of 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.
- 5) No development shall take place until details of the position, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the local planning authority. This shall include a boundary fence to a minimum height of 1.8 metres along the boundary with No 4 High Street. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of the junction of the modified vehicular access with the highway have been submitted to and approved in writing by the local planning authority and the dwelling hereby approved shall not be occupied until the junction has been constructed in accordance with the approved details.
- 7) Any gates provided shall open away from the highway and be set back a distance of at least 5 metres from the nearest edge of the carriageway of the adjoining highway.
- 8) The dwelling hereby permitted shall not be occupied until the vehicular access shown on plan no. 1563/12/3 has been constructed and surfaced for a distance of 8 metres into the site, measured from the highway boundary; and all on-site vehicular areas have been surfaced, all in accordance with details to be submitted to and approved in writing by the local planning authority. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
- 9) The turning space for vehicles illustrated on the approved plan no. 1563/12/3 shall be constructed before the dwelling hereby permitted is occupied and thereafter retained for that use.

- 10) The dwelling hereby permitted shall not be occupied until details of the bin storage and collection point have been submitted to and approved in writing by the local planning authority, and provided in accordance with the approved details.
- 11) No development shall take place until a scheme detailing access provision to and from the site for construction traffic and provision for on-site parking for construction workers, which details shall show what arrangements will be made for restricting such vehicles to approved points of access and egress, has been submitted to and approved in writing by the local planning authority. The scheme shall be operated throughout the period of construction work.
- 12) No development shall take place until details of the final ground and slab levels of the dwelling hereby approved have been submitted to and approved in writing by the local planning authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the local planning authority. Development shall take place in accordance with the approved details.

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-  Site boundary
-  Existing dropped curb
-  Proposed dropped curb
-  Existing wall to be removed
-  Waste storage
-  Approved location of garage building

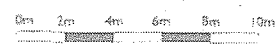



Example of 'plastic-crete or similar finish



12/00466

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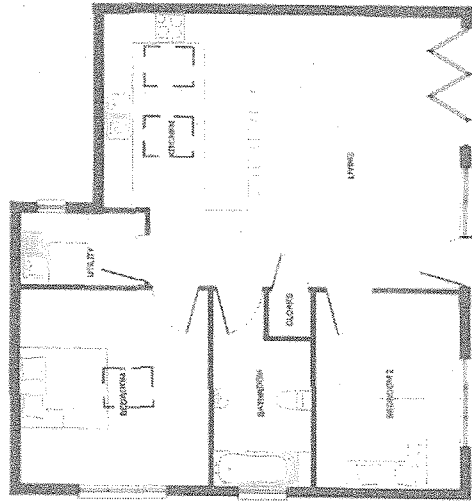
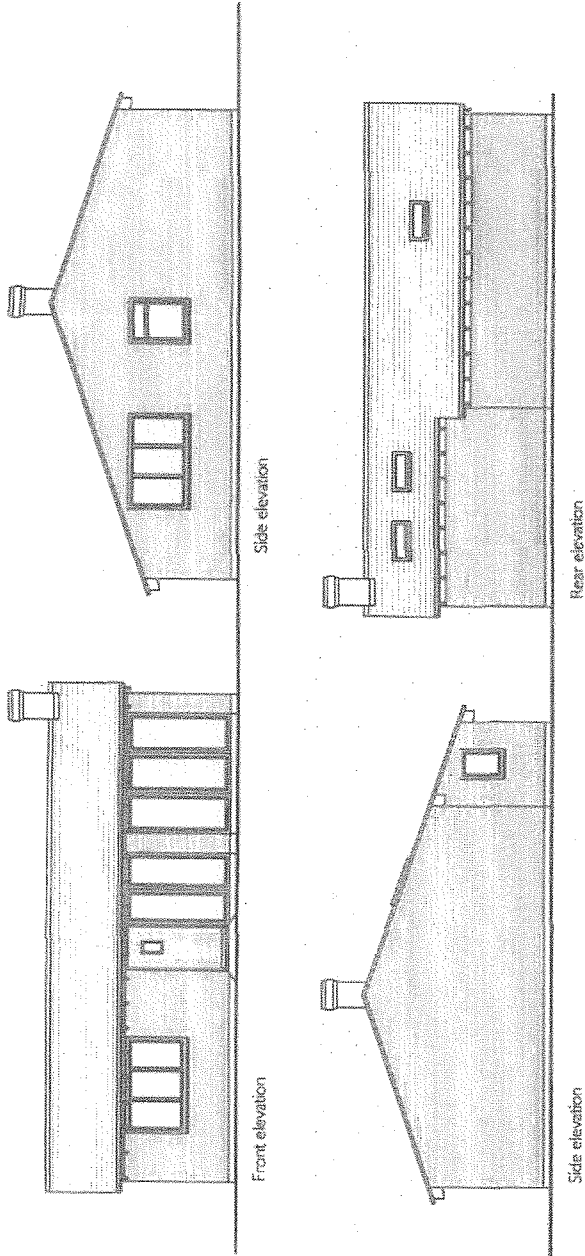


Title	Proposed Layout
Site	Land to the rear of No 2 High Street Scotfold, Hitchin, SG5 4LL
Date	January 2012
Scale	1:200 @ A3
Dwg No.	1563 / 12 / 3
	01234 56789 01234 56789 01234 56789 01234 56789 2185011 LAND AND PLANNING LTD.



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12/00466



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Title	Proposed garage conversion
Site	Land to the rear of No 2 High Street, Steinfeld, Hichin, SG5 4LL
Date	January 2012
Scale	1:100 @ A3
Dwg No.	1563/12/4
1563/12/4 1563/12/4 1563/12/4 1563/12/4 LAND AND PLANNING LTD	