



# Appeal Decision

Site visit made on 7 November 2023

**by V Simpson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> November 2023**

## **Appeal Ref: APP/J1915/D/23/3314914**

### **1 Bury Lane, Datchworth SG3 6ST**

- 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 Olek Keenan against the decision of East Hertfordshire District Council.
- The application Ref 3/21/1440/HH, dated 28 May 2021, was refused by notice dated 27 October 2022.
- The development proposed was originally described as 'Ground floor extensions and alterations. Ground floor orangery style extension with tall windows and rooflight above. New link between main house and 'gym' area. New roof over gym. Wall to gym raised and amended. Existing stair within existing house to be replaced with new. First floor extension. Internal remodelling. New windows and doors. Removal of existing chimney. New spiral staircase externally as per drawings'.

## **Decision**

1. The appeal is allowed and planning permission is granted for 'Ground floor extensions and alterations. Ground floor orangery style extension with tall windows and rooflight above. New link between main house and 'gym' area. New roof over gym. Wall to gym raised and amended. Existing stair within existing house to be replaced with new. First floor extension. Internal remodelling. New windows and doors. Removal of existing chimney' at 1 Bury Lane, Datchworth SG3 6ST, in accordance with the terms of the application, Ref 3/21/1440/HH, dated 28 May 2021, subject to the following 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: 000 rev P2, 001 rev P5, 002 rev P5, 003 rev P5, 004 rev P5, 005 rev P7, 006 rev P6, 008 rev P1, and 011 rev P1.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) No demolition or development shall take place other than in accordance with the written scheme of investigation for a programme of archaeological monitoring, prepared by Pre-construct Archaeology, and dated October 2022.

## **Preliminary Matters**

2. The Procedural Guide: Planning Appeals – England advises that if an appeal is made, the appeal process should not be used to evolve a scheme, and it is

important that what is considered by the Inspector is essentially what was considered by the Council and interested parties at the application stage.

3. Prior to the Council's determination of the application, an amended proposed plan was submitted, omitting an external spiral staircase. Drawing number 005 P6 subsequently formed one of the plans on which the application was determined. Although no external spiral staircase is shown on this plan, it contains an annotation making reference to it. Both main parties agree that the proposed development does not include an external spiral staircase, and an amended drawing reference 005 P7 has been submitted as part of this appeal, on which reference to the spiral staircase has been omitted.
4. The appellant has requested that other amended plans also be considered as part of this appeal. I am satisfied the proposed changes to the exterior of the building - which include alterations to the positions and design of glazing and doors - are not significant, and would not fundamentally change the proposal. However, I cannot be certain that no parties would be prejudiced were I to take these amendments into account. Therefore, and with the exception of drawing reference 005 P7, this appeal has been determined based on the plans submitted in support of the application, and upon which the Council's decision was made. I have had regard to the degree of engagement for all parties in coming to this view.

### **Main Issues**

5. The main issues are;
  - whether the extensions and alterations would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies, and, if so, the effect of the development on the openness of the Green Belt; and,
  - if the proposals would be inappropriate development, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

### **Reasons**

*Whether the development would be inappropriate development*

6. The appeal site, which is within the Green Belt, contains a relatively large detached dwellinghouse. It has accommodation arranged over 2 storeys, and much of the house has pitched roofs above the first-floor accommodation.
7. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Framework paragraph 149 goes on to say that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless one of a number of exceptions are met. An exception, at paragraph 149 c), is the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building.
8. Part I of policy GBR1 of the East Herts Council East Herts District Plan – October 2018 (the district plan), indicates that planning applications within the Green Belt will be considered in line with the provisions of the Framework. As

such, part I of this policy conforms with the Framework in respect of Green Belt matters.

9. What is disproportionate in the context of extensions to buildings in the Green Belt, is not defined in either the Framework or policy GBR1. Therefore, the assessment of whether the proposal would amount to a disproportionate addition over and above the size of the original building, is a matter of planning judgment.
10. The house has been subject of previous extensions. In combination with the development proposals subject of this appeal, the evidence indicates that there would be a cumulative increase in the floorspace of the original buildings of 50.2%. While such an increase would be significant, it is reasonable to also consider size and scale when assessing whether a proposal would amount to a disproportionate addition.
11. The ground floor extensions would increase the overall footprint of the dwelling, but only by a little. Furthermore, and while parts of the walls of the link and gym would be taller than the existing link, these parts of the scheme, and the orangery, would be single-storey and have flat roofs. Moreover, their heights would be significantly lower than the majority of the original buildings.
12. Much of the proposed first-floor side extension would be constructed above an existing single-storey part of the building and set back from the existing building lines. It would also have a hipped roof and be lower in height than the adjacent 2-storey original part of the building. This part of the scheme would not therefore be dominant in either size or scale when compared with the original buildings.
13. For the reasons given above, and when considered together and in combination with previous additions, the proposals would be both limited in extent and subservient to the original buildings. Therefore, and notwithstanding the increase in floorspace proposed, the proposals would not constitute disproportionate additions to the original building. As such the development would not be inappropriate development in the Green Belt. Instead, it would comply with policy GBR1 of the district plan as well as the relevant provisions of the Framework. Consequently, there is no need to consider the effect of the development on the openness of the Green Belt, or for it to be demonstrated that very special circumstances exist.

## **Conditions**

14. The Council have suggested a number of conditions, the wording of one of which has been amended for the purposes of clarity and to meet the six tests within paragraph 56 of the Framework.
15. The statutory condition which specifies the time-period for the implementation of the permission is imposed. For certainty, a plans condition is also included. A materials condition is necessary to ensure that the development does not cause harm to the character and appearance of the area.
16. A written scheme of investigation for a programme of archaeological monitoring prepared by Pre-construct Archaeology, was submitted in support of the application. It is necessary to impose a condition requiring that the development be undertaken in accordance with the measures identified within this programme. This is because the site is within an area of archaeological

significance, and the development has the potential to disturb archaeological remains. Such a condition will ensure no unacceptable harm would be caused in respect of archaeological remains within the site.

**Conclusion**

17. For the reasons given above, and having regard to the development plan as a whole and any material considerations, I conclude that this appeal should be allowed.

*V Simpson*

INSPECTOR