



Appeal Decision

Site visit made on 9 April 2025

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 July 2025

Appeal Ref: APP/J1915/W/24/3354712

Rock Cottage, Blyth Farm, Gipsy Lane, Hazel End, Herts CM23 1HA

- 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 and Mrs Humphreys against the decision of East Herts District Council.
 - The application Ref. is 3/24/0646/FUL.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Rock Cottage, Blyth Farm, Gipsy Lane, Hazel End, Herts CM23 1HA in accordance with the terms of application ref: 3/24/0646/FUL and subject to the conditions listed in the schedule at the end of this decision.

Costs Application

2. An application for costs was made by Mr and Mrs Humphreys against East Herts District Council and this is the subject of a separate Decision.

Main Issues

3. The main issues 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.
 - Whether sufficient information has been provided with regard to the noise impact of the air source heat pump (ASHP).
 - If inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, such as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. Policy GBR1 of the East Herts District Plan (2018) (EHDP) states that development proposals within the Green Belt will be assessed in accordance with government guidance contained in the Framework. Framework paragraph 154(d) states that the replacement of a building, provided the new building is in the same use and not

materially larger than the one it replaces, will not be inappropriate development in the Green Belt.

5. The proposal would replace the existing single storey dwelling with a new larger dwelling. Thus, whilst the new building would be in the same use, an assessment of whether it would be 'materially larger' is required in order to determine whether or not it would be inappropriate development in the Green Belt in the context of the above paragraph of the Framework.
6. The increase in floorspace and volume overall would be about 83%. This is a significant increase almost doubling the size of the dwelling. I consider that on this basis it would result in a building which is materially larger than the one it replaces.
7. The Appellants contend that whilst the building would be physically larger it would not be materially larger as the additional volume above the existing topography of the site would be a 9.7% increase, with the majority of the additional volume being 'invisible' below ground. In this regard the Appellants have referred to various case law¹ which has found that in considering this issue whilst a comparison of floorspace and volume may be the starting point other matters such as bulk, height, mass and prominence, can also be relevant.
8. However, the additional volume would not be 'invisible' as suggested. Whilst the dwelling would be set into the slope at the rear of site it would introduce what would appear as a two-storey dwelling where previously only a single storey dwelling existed. Moreover, its repositioning would result in it being more readily seen in views from the south and east where it would be visible at the top of the sloping bank which continues down to the valley below where there is a public footpath alongside the River Stort.
9. From these viewpoints the dwelling would be particularly noticeable. I note that it would not be any higher than the ridge of existing dwelling. However, the design incorporates prominent gable ends which would also add to the additional bulk and mass of the dwelling compared to the existing. Notwithstanding that some screening would be retained on the bank and new planting would be provided, I consider that the proposed, significantly larger built form of the dwelling would be highly prominent in these views.
10. Overall, taking account of all the above, I find that the proposed building would be materially larger than the one it replaces and thus does not conform to Framework paragraph 154(d).
11. However, paragraph 154(g) of the Framework states that development in the Green Belt will not be inappropriate where it comprises limited infilling or partial or complete redevelopment of previously developed land whether redundant or in continuing use which would not cause substantial harm to the openness of the Green Belt.
12. I have found that the proposed dwelling would be materially larger and in view of this and its location it would also have an impact on the openness of the Green

¹ *R. (On the Application of Heath and Hampstead Society) v Camden LBC* [2008] EWCA Civ 193 citing *Surrey Homes Ltd v Secretary of State for Environment* (unreported) CO/1273/2000 and *Northavon DC v Secretary of State for the Environment* [1993] J.P.L. 761

Belt. However, the issue is whether that impact would amount to a substantial level of harm. The proposed dwelling would be significantly larger with a greater bulk and prominence than the existing dwelling. However, it would be sited largely in the same position on the appeal site as the existing building and would involve only limited additional footprint beyond the existing footprint of built development within its curtilage.

13. Furthermore, its effect on the openness of the Green Belt would be mitigated to a degree by the existing and proposed planting that would offer some screening. In addition, it would not introduce built development in an area where previously none existed; in fact, the appeal site is located within a complex of other buildings including residential, agricultural and commercial uses and would not add significantly to the built-up character provided by this context. Indeed, in views from within the former farmyard complex itself, the proposed building would appear little different in terms of its size and bulk given that it would remain single storey.
14. Overall, in this regard, I find that the proposed dwelling would not have a substantial impact on Green Belt openness. Therefore, under Framework paragraph 154(g) it would not amount to inappropriate development in the Green Belt.
15. Having regard to my findings above, it is not necessary to consider the impact on Green Belt openness or purposes any further. Nor is it necessary for very special circumstances to be demonstrated. The proposal would thus comply with EHDP Policy GBR1.

Noise impact of the ASHP

16. The dwelling would be designed to incorporate a number of energy efficient features, including an ASHP. This is proposed to be located adjacent to the north-eastern elevation of the proposed dwelling with existing dwellings located in relatively close proximity to the north. Whilst there is potential for the ASHP to generate a level of noise that may have an effect on the living conditions of these properties, given the separation distance it is feasible that any such noise can be suitably mitigated. A requirement for a noise assessment to be submitted and approved prior to the installation of the ASHP, to include mitigation measures, to ensure that noise levels are maintained to a suitable level having regard to the proximity of the adjoining residential properties can be secured via condition.
17. This would ensure compliance with EHDP Policies EQ2 and DES4 which seek to minimise the impact of noise on the surrounding environment, in particular noise sensitive uses, and avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties.

Other Matters

18. The Council has referred to the Bishop's Stortford Town Council Neighbourhood plan for Silverleys and Meads Wards (1st revision 2021-2033). However, no specific policies have been cited with regard to the issues above and having reviewed the plan I concur that none are directly relevant.

Conditions

19. The Council has suggested a number of conditions which I have reviewed in the light of Framework paragraphs 56 and 57. In addition to the standard time limit, a condition to refer to the approved plans is necessary in the interests of clarity and proper planning. Conditions to mitigate impacts on ecology during construction and enhance measures as part of the development are necessary to minimise any impacts on the natural environment and secure the approved biodiversity enhancements. A condition to secure adherence to the approved Sustainable Construction, Energy and Water Statement is also necessary to ensure that the development incorporates features to minimise/mitigate the impacts of climate change in accordance with local and national policies. A condition to secure an electric vehicle charging point is not necessary as this is required by Building Regulations.
20. A condition to require the submission and approval of details of materials to be used in the construction of the development is necessary in the interests of the character and visual amenity of the locality. A condition to require the submission and approval of means of enclosure for the site is necessary in the interests of visual amenity and the privacy of future and existing adjoining residents. A condition to ensure the areas of hardstanding, including driveways and parking areas, are completed prior to occupation is also necessary in the interests of the character and appearance of the area and to ensure that suitable parking and turning areas are provided and within the site. Full details of the proposed landscaping scheme are also required to secure the establishment of appropriate species and level of planting in the interests of the visual amenity of the area. For the reasons set out above, a condition to secure suitable noise mitigation for the ASHP is also necessary.
21. The Appellants contend that the condition suggested to restrict permitted development rights is unnecessary and unreasonable. However, given that the proposal would result in a significant increase in the amount of built development on the site and having regard to its location at the top of the steep bank where it would be readily seen, any extensions or additions could have an effect on the rural character and appearance of the area and Green Belt purposes. Thus, the condition is justified as this will enable any such proposals to be assessed in this regard.

Conclusion

22. I therefore conclude that this appeal should be allowed and planning permission granted.

P B Jarvis

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos: 2308.01 (site section as existing), 2308.02 (block and location plan), 2308.04B (proposed floor plans), 2308.05A (proposed elevations and section), 2308.06B (proposed site plan), 2308.09 (survey as existing), MS-6357 (topographical survey).
3. The development hereby approved shall be carried out in accordance with the Ecological Survey and Assessment Survey prepared by John Dobson B.Sc. Essex Mammal Surveys and dated February 2024. This shall include the provision of two bird nesting boxes to be sited on the buildings at the site; a hedgehog nesting box to be located next to embankment and two solitary bee hives to be located on the eastern boundary fence at the site prior to the occupation of the dwelling hereby approved.
4. Any trenches dug during the construction phase shall be covered at night, or, if open, sloping planks shall be left in the trench such that any mammals and amphibians are able to escape. All open trenches should be checked for mammals and amphibians each morning.
5. The development hereby approved shall be carried out in accordance with the submitted Sustainable Construction, Energy and Water Statement Ref: SCEW/2308 prepared by Donald Purkiss and Associated LLP dated March 2024; thereafter the development shall be maintained in accordance with the approved details.
6. Prior to the first occupation of the dwelling hereby approved, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
7. Prior to any building works above ground level in respect of the dwelling hereby permitted being commenced samples of the external materials for the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved materials.
8. Prior to first occupation or use of the development hereby approved the hard surfaced areas of the development, including driveway and car parking areas shall have been constructed and laid out in accordance with the approved plans. They shall thereafter be retained as such.
9. Prior to any building works above ground level in respect of the dwelling hereby permitted a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details within the first planting season following occupation of the dwelling or completion of the development whichever is the sooner. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with

others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

10. Prior to any building works above ground level in respect of the dwelling hereby permitted a noise impact assessment, to include technical documentation and an appropriate mitigation scheme in respect of the proposed Air Source Heat Pump shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement or other alteration of the dwellinghouse and erection of any curtilage building or structure as described in Schedule 2, Part 1, Classes A, B, C, D or E of the Order shall not be undertaken.