



Appeal Decision

Site visit made on 6 January 2026

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2026

Appeal Ref: APP/J1915/W/25/3375115

Red Cottage, Howe Green, Hertfordshire SG13 8LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Demetrios Koutsou against the decision of East Hertfordshire District Council.
 - The application Ref is 3/25/0089/FUL.
 - The development proposed is the demolition of existing dwelling and ancillary buildings, removal of hardstanding. Erection of self-build dwelling, ancillary features and re-levelling of site.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and ancillary buildings, removal of hardstanding. Erection of self-build dwelling, ancillary features and re-levelling of site at Red Cottage, Howe Green, Hertfordshire SG13 8LH in accordance with the terms of the application, Ref 3/25/0089/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Additional information was provided with the appeal and during its consideration. In reaching my conclusions in this decision I have been mindful of the Procedural Guide: Planning appeals – England which sets out that the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted¹. I have also been mindful of the judgements of Wheatcroft² and Holborn Studios³ which explore whether there is a substantial difference or a fundamental change that would result in a different application. This includes considering whether a series of small, incremental amendments to a scheme could result in a substantial difference or fundamental change. I must also be mindful of any potential unlawful procedural unfairness to anyone involved in the appeal due to the provision of new information.
3. In this case, whilst revisions and amendments were provided, I am satisfied that these do not amount to a substantial difference or a fundamental change to the nature of the scheme and therefore I have taken them into account. The main points here relate to the retention of the stables, curtilage extent and use of the former paddock, additional detail of tree and hedge retention/treatment and alteration to window fenestration. The Council has had the opportunity to comment upon these and has done so. Moreover, I have imposed conditions in relation to

¹ Paragraphs 16.1-16.5

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

some of these elements and, therefore, this does allow the Council to retain a certain degree of control on these matters going forward.

Main Issues

4. The main issues are:

- 1) the effect of the proposed development on the character and appearance of the area, considering the siting, orientation, width, size, scale and design of the proposed dwelling and the level of excavation required,
- 2) whether sufficient information has been provided to adequately assess the proposed development having regard to the level of excavation and the effect of the proposed development on trees and hedgerows on and around the application site,
- 3) whether the development results in a loss of equestrian facilities and a change of use to garden land and the effects of this on the character and appearance of the area,
- 4) whether the proposed development would provide satisfactory living conditions for the future occupants having particular regard to outlook from habitable rooms, and
- 5) whether sufficiently accurate and consistent plans and information have been provided to allow an informed assessment of the proposal.

Reasons

Character and appearance

5. The appeal site is set within the hamlet of Howe Green. This is a small grouping of houses leading off Lower Hatfield Road. The houses are detached, typically of an appreciable size and commonly set within large plots. Some properties are set in close proximity to the small single-track road that leads into the hamlet whereas others are more discretely located. The homes are usually of a traditional vernacular utilising brick construction under tiled roofs albeit that some properties are more modern in their origin. The area has a distinctly rural character as it gives way to open fields beyond the hamlet.
6. The site itself presently comprises a chalet bungalow style home constructed in brick and under a tiled roof. The property features a number of other buildings and structures including a detached garage and a pair of stable buildings to the north. The property is otherwise largely laid to grass with sporadic trees within the site together with a driveway to the southwestern corner. The boundaries are formed of a hedgerow which ranges in height from around 2 to 3 metres.
7. The proposed dwelling is large and of a distinctive design featuring curtain glazing and overhanging elements with clear references to the modernist movement. The building has a long and linear form featuring extensive internal open plan spaces. The style and appearance of the building is clearly different from the remainder of properties in the locality however I do not find this, of itself, to be harmful to the character and appearance of the area.
8. The proposal would be of a substantial size, but this would not be noticeably different to many other properties within the hamlet. Indeed, most are of a

comparable size with many being distinctly larger. It would be sited in a similar position to the existing home in a logical alignment which follows contours and boundaries. Its' width is noteworthy, but the dwelling would retain ample separation distance to the boundaries thus ensuring it does not appear cramped. The modern design is certainly different to its neighbours, but it is a well-designed building and simply because it is different, this does not equate to harm.

9. In terms of land excavation, the proposed dwelling would be set into the gentle slope that exists on the site. The sections indicate that the rear part of the dwelling (to the south) would be excavated by up to 1.5 metres with a level pad for the dwelling to be constructed on, and, with minimal excavation towards the front (north). Given the linear nature of the design of the house with strong angles and use of dramatic overhangs, I find the manner of this excavation would not be at odds with the overall style of the proposed dwelling. In isolation, this excavation may appear stark, but I appreciate that the manner of the resultant cut into the land would tie-in with the style of the house. Therefore, I do not find this would be harmful to the character and appearance of the area.
10. The site is well screened from all vantages by a well-established hedge. This varies in height but typically reaches around 2.5 metres. Even at the time of my winter visit, there were limited views of the interior of the site. Those that were available were typically fleeting or restricted by surrounding vegetation.
11. I recognise that the scheme has not been submitted to the Hertfordshire Design Review Panel for consideration as to whether it would be outstanding or innovative. However, as the proposal would be a form of development that is acceptable in principle and would not be harmful to the character or appearance of the area, this is not necessary.
12. Accordingly, I conclude that the siting, orientation, width, size, scale and design of the proposed dwelling would have an acceptable impact upon the character and appearance of the area. My conclusions here are supported by the findings of the Landscape and Visual Appraisal which highlights that the proposal should result in minor beneficial effects on landscape character and visual amenity. The proposal therefore complies with policies DES2, DES3 and DES4 of the East Herts District Plan 2018 (EHDP) and provisions of the National Planning Policy Framework (the Framework) in this particular regard and is of a high-quality innovative design.

Extent and manner of excavation and effect on trees and hedges

13. The extent of excavation proposed is not entirely clear from the application material. Although I have found this sufficient to be able to determine the effect of the proposal on the character and appearance of the area, it is somewhat unclear what the amount of material to be excavated would be in volumetric terms. The appellant has indicated that the waste soil material would be excavated and transferred to a local quarry for disposal.
14. Whilst the precise amounts and types of material, number of vehicle movements and details of the receiving facility are limited, I am satisfied that there is sufficient information for a reasonable conclusion to be reached. The level of excavation may be quite substantial for an individual dwelling, but it would not be excessive or unusual for a construction project. Therefore, a condition could be imposed requiring the details of this excavation and transfer of soil materials.

15. In terms of the effect of the proposal on the trees on site, particularly through the excavation of the land, it is apparent that the excavation would be carried out towards a more central point within the site. This would, for the most part, be well removed from surrounding hedges along the boundaries. As with the excavation strategy, I am not entirely satisfied that there would be no effect on the boundary hedges. This is particularly the case at the easternmost and westernmost edges of the area for excavation. However, in the context of the overall site, any such effects would be minimal, and any damage could be rectified with suitable replacement planting.
16. A number of trees are shown to be removed (T6-8, T10 and T11) and these are all noted as Category C in the tree survey. Moreover, they are all ornamental garden trees with minimal wider value and suitable replacements can be secured in any landscaping scheme as I have explored below under the Conditions heading.
17. Therefore, I conclude that conditions could be imposed relating to excavation and for the replacement of any trees or hedges near the excavation area. The proposal would therefore comply with policies DES2, DES3, NE3, HOU12 and DES4 of the EHDP and Framework in that the development would be suitably landscaped.

Use of land

18. The existing property presently comprises a detached house, garage and two stables along with associated land. At present, all of the land within the application site is laid out and used as part of the garden to the main house. At my site visit, the stables were used for domestic storage whilst the whole area featured elements of domestic paraphernalia including play equipment. The grassed area was consistently mown and maintained with no boundary delineation within it. These matters are not in dispute by the appellants.
19. I must have regard to a recent appeal decision⁴ dated 21 July 2020 for a lawful development certificate for (in summary) the erection of an outbuilding, vehicular access, hardstanding and gate. The Inspector, in this decision, provided ample indication of a clear delineation and differentiation in uses between the garden area to Red Cottage and paddock beyond. This included a post and rail fence, gate, roughly cut grass to the paddock and the observations that the paddock land is distinctly different from that of the house and its garden.
20. The Council has expressed concern that the proposal would result in the loss of equestrian facilities and change of use of land to residential garden. However, it is important to note here that permission was not expressly sought for this. Even so, I do appreciate that the proposal – at least in the original application – did embrace this through the proposed demolition of the stables and annotation on the plans.
21. However, the appellants has indicated amendments to the proposal. This includes the retention of the stables and removal of reference to the paddock land becoming part of the garden. I appreciate the Council's concerns in this regard; in that there is a change to the original application, thus, there is potential tension with the Wheatcroft principle as such a change would – following the Council's argument – be a substantial one.

⁴ APP/J1915/X/20/3244345

22. However, I do not agree with this stance here. This is because the description of development would not change. It makes no reference to a change of use of the land, nor does it specifically refer to the stable buildings. The stable buildings, in any case, would not be ancillary residential buildings and therefore not caught by the original description of development. Furthermore, as the use of land for an equestrian use and the stables would appear to be lawful, permission would not be required for the continuation of this use. It is thus, to all intents and purposes, excluded as a matter under consideration in this appeal as there is no proposed change.
23. It is also important to be mindful that, in the context of this s78 appeal, it is not my role to determine the lawful use of land. My role is to consider the effects of the proposed development as it has been presented to me. Moving forward, my decision here does not impair the Council's ability to resolve any potential breach of planning control. However, this must be done as a separate process to my consideration of this planning appeal.
24. I do retain some concern; that the extent of the red edge of the application site incorporates the land formerly used as a paddock and the stables. However, as I have highlighted, it is not my role to determine the correct extent of residential land.
25. Therefore, as permission has not been sought for the change of use of the land and amendments to the scheme explain it would or could be used for equestrian purposes; I cannot find a conflict with policies CFLR6 and HOU12 of the EHDP.

Living conditions of future occupants

26. The Council did express concern relating to the outlook from bedroom 4 due to a lack of windows. Amended plans have since corrected this and these illustrate windows with aspect towards the garden to the north. The Council has concluded that this overcomes the fifth reason for refusal, and I find this a reasonable conclusion to reach. Accordingly, the proposal would comply with policy DES4 of the EHDP in this regard in that satisfactory outlook is provided for the future occupants.

Accuracy of plans

27. There was some concern on behalf of the Council in relation to consistency and accuracy of some plans. These have largely been corrected through minor revisions in amendments including in relation to the window to bedroom 4 discussed above.
28. I have not determined this appeal on the basis of the CGI plans as these are not scalable or usable for construction purposes. Accordingly, I regard these as illustrative to help explain the development. Indeed, I have not attached these illustrative plans to the approved schedule.
29. In relation to the hedging along the boundaries, this may not be a wholly accurate representation, but the detail of the boundary hedging is sufficient to enable a determination of this appeal as it shows the general position of the hedge.

Other Matters

30. Both parties have made reference to the Council's five-year supply of deliverable housing land. However, as this proposal is for a replacement dwelling, there would be no net increase in dwelling provision and therefore the housing land supply position is moot in this context. I have also considered that the proposal has been put forward as Self Build and Custom Housebuilding (SBCH). However, as I have found the proposal to be acceptable on its merits, it is not necessary for me to explore this issue any further.

Conditions

31. The Council has provided a schedule of conditions, on a without prejudice basis, in the event the appeal was to be allowed. I have imposed these conditions with edits, modifications and additions as discussed below and having regard to paragraphs 56 and 57 of the Framework and Planning Practice Guidance (PPG).
32. I have altered the triggers for the submission of further details in relation to some conditions, including the condition number 12 which I have added. As condition 12 is a pre-commencement condition, the appellant has been consulted on its imposition having regard to s100ZA of the Act and the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
33. Condition 1 is a general time limit condition and is imposed having regard to the provisions of the Act. Condition 2 secures the development to be built in accordance with the approved plans for certainty.
34. Condition 3 requires the submission of materials to be used for the facing materials of the development and their use as such. I have adjusted this condition to include details of the retaining walls in addition to those in the dwelling itself.
35. I have imposed a condition to protect the habitats of bats and birds as condition 4.
36. Condition 5 is a landscaping condition. This condition allows flexibility for the Council to require replacement planting for the five trees to be removed. This condition can be read in conjunction with condition 6 which requires the retention of existing landscape features (except trees T6-8, T10 and T11). As this Council has expressed concern regarding the loss of hedging, this condition also ensures that replacement hedge planting would be required in the event of any loss.
37. Condition 7 requires the provision of an electric vehicle charging points in the interest of sustainable transport.
38. Condition 8 limits external lighting in the interests of the character and appearance of the rural area, to minimise effects on neighbours and in the interests of bat habitats.
39. Conditions 9 to 11 inclusive deal with hours of construction and to control adverse effects that may arise during construction phase.
40. I have imposed the additional condition 12 which requires the submission of an excavation plan to deal with waste soil material excavated from the site together with details of where the material will be disposed of. This is a pre-commencement condition and is imposed in the interests of the general amenity of the area.

41. The Council has suggested the removal of permitted development rights although it recognises the PPG advice that highlights that restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. In this instance, I am mindful that this proposal is for a large house which is located in the Green Belt and that future works with deemed permission could likely result in significant increases in built form. This is particularly the case for extensions and outbuildings. I therefore concur with the assessment of the Council in this regard and find that a restriction on these future works is reasonable and necessary. Such works are, however, limited to extensions and outbuildings so as not to impose any unreasonable requirements on the appellant for minor works to maintain the property.
42. I have not imposed a condition relating to the bin store as was requested by the Council as this is already shown on the plans and encompassed as part of this permission. Equally, I have not imposed a condition relating to cycle storage as there is sufficient space within the site for cycle parking including under-cover cycle parking.
43. Whilst it was not requested by the Council, I find it is important to explore why no conditions are imposed relating to the potential unauthorised use of the paddock area and stables.
44. I have not imposed any conditions relating to the potential reinstatement of a boundary between the site and garden of the proposed dwelling and paddock, nor have I made any reference to the stables and their use. This means the Council can address these potential or actual breaches of planning control as a separate and distinct issue to the proposed dwelling here.

Conclusion

45. The proposed development would introduce a fairly unique and distinct new dwelling. Whilst it would mark a change to the character and appearance of the area, I have found this change to be acceptable. Thus, with conditions, there would be no significant harm to surrounding hedgerows and that any trees lost can be replaced.
46. The proposal would accord with the development plan, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal is allowed.

N Bowden

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:
 - P220603-HHG-RSS-DR-A-001-1000-001 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-002 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-003 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-004 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-005 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-008 Rev P02
 - P220603-HHG-RSS-DR-A-001-1000-101 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-102 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-103 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-109 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-110 Rev P07
 - P220603-HHG-RSS-DR-A-001-1000-111 Rev P06
 - P220603-HHG-RSS-DR-A-001-1000-2200 Rev P03
- 3) Prior to any above ground construction, the facing materials for the dwelling, including walls and roofing materials and retaining walls to the excavated areas hereby permitted 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.
- 4) Prior to the first occupation of the new dwelling hereby approved, details of Landscape and Ecological Management Plan, including ecological enhancement measures (bat and bird boxes or bricks), shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be implemented in accordance with the approved details prior to first occupation of the new dwelling.
- 5) Prior to first occupation of the new dwelling hereby permitted, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development shall be implemented in accordance with the approved details. 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.
- 6) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012

Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

- 7) Prior to the first occupation the new dwelling hereby approved, an electric vehicle charging point shall be provided per new dwelling and shall be provided near to the on-site car parking space and retained in this form thereafter.
- 8) No external artificial lighting shall be installed until the details including lighting strategy (designed to minimise light spill over sensitive boundary features) has been submitted to and approved by the Local Planning Authority and thereafter the development shall be implemented in accordance with the approved details.
- 9) In connection with all site preparation, demolition, construction, conversion and ancillary activities, working hours shall be restricted to 08:00 – 18:00 hours on Monday to Friday, 08:00 – 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.
- 10) All waste materials and rubbish associated with site preparation, demolition or construction shall be contained on site in appropriate containers which, when full, should be promptly removed to a licensed disposal site.
- 11) Best Practicable Means (BPM) shall be used in controlling dust emissions during all site preparation, demolition, construction and ancillary activities. In times of exceptionally dry weather, additional measures should be put in place to mitigate against the spread of dust.
- 12) Prior to the commencement of development, an excavation plan shall be submitted to and approved in writing by the Local Planning Authority. The excavation plan should detail:
 - a. The amount of material to be excavated from the site in cubic metres,
 - b. Details of the estimated number of vehicle movements arising from excavation,
 - c. Details of the receiving site for any soil waste materials including confirmation that the site is a licensed disposal site, and
 - d. The manner in which the site will be operated in order to avoid the spillage of soil material onto the highway network.Excavated material shall thereafter be removed from the site in accordance with the approved details.

- 13) 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 any dwellinghouse as described in Schedule 2, Part 1, Class AA, A and E of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

End of Schedule