



Appeal Decision

Site visit made on 21 January 2026

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

Appeal Ref: APP/J1535/W/25/3374583

Hillside, Vicarage Lane, Chigwell, Essex IG7 6LZ

- 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 & Mrs Chand against the decision of Epping Forest District Council.
 - The application Ref is EPF/2560/24.
 - The development proposed is the demolition of existing house including outbuildings and garage to be replaced by a single-family dwelling (incorporating existing outbuildings), together with associated single storey garage with attached annex and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing house including outbuildings and garage to be replaced by a single-family dwelling (incorporating existing outbuildings), together with associated single storey garage with attached annex and landscaping at Hillside, Vicarage Lane, Chigwell, Essex IG7 6LZ in accordance with the terms of the application, Ref EPF/2560/24, subject to the conditions in the attached schedule.

Applications for costs

2. The appellant has submitted an application for an award of costs against the Council which is subject of a separate decision.

Preliminary Matters

3. One of the reasons for refusal was in relation to whether or not the appellant had provided sufficient ecological information to demonstrate the proposal would not harm any protected species. Following the submission of additional information and subject to the imposition of appropriate conditions, the Council confirmed that the appellant had satisfactorily addressed their previous concerns. I agree with this analysis and consider that the proposal would not unacceptably harm any protected species including bats or great crested newts.

Main Issues

4. The main issues are;
 - Whether or not the proposal would be inappropriate in the Green Belt having regard to the National Planning Policy Framework and any other relevant development plan policies;
 - the effect of the proposal on the character and appearance of the area;

- the effect of the proposal on the living conditions of the occupants of 1 Green Lane with particular reference to noise and disturbance; and
- 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 or not inappropriate development

5. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. Relevant exceptions include paragraph 154(d), the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces and paragraph 154(g) which includes the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt.
7. Policies SP5 and DM4 of the Epping Forest District Local Plan 2011-2033 adopted March 2023 (EFDLP) are consistent with the Framework and include the same exceptions.
8. The proposal would involve the replacement of a building with a new building in the same use. It is therefore necessary to compare the proposed dwelling to the original dwelling. According to the Framework, the original building is the building as it existed on 1 July 1948, or, if constructed after that date as it was built originally.
9. I will deal with the fall back later in the decision but for the purposes of deciding whether the proposal amounts to inappropriate development under this exception it is necessary to compare the original building with that proposed to determine whether it would be materially larger.
10. According to the available evidence the existing dwelling has been extended at least twice in 2001 and 2008. There does seem to have been some disagreement between the parties about the footprint of the original dwelling with a range of between 274 sq. m (the Council's preferred figure) to 318 sq.m (the appellant's previously preferred figure) set out in the Council's pre-application advice relied on by the appellant and attached as an appendix to their statement. The design and access statement also included a figure of 370 sq.m with little detail about where that figure has come from.
11. According to the comparative analysis included in the design and access statement, the proposal would increase the footprint figure to 496sq. m. This would represent an increase of 81% based on the Council's preferred figure, 56% based on the appellant's previously preferred figure and 34% based on the appellant's latest figure. It also follows that there would be a resultant increase in the volume of the proposal and the floorspace in comparison to the original dwelling.

12. The exercise I am required to undertake is primarily an objective one by reference to the size of the existing building in comparison to the size of the proposed building. The proposed replacement building would have a greater footprint than the original dwelling and would result in a significant increase in both floor space and volume. Consequently, the proposed new building would be materially larger than the building it would replace.
13. I turn now to consider the paragraph 154(g) exception and in particular whether the proposal would cause substantial harm to the openness of the Green Belt. It is important to bear in mind that this exercise relates to the appeal proposal in comparison to the existing situation. The appellant has referred in detail to an extension of the existing dwelling which has received a Certificate of Lawful Existing Use or Development (CLEUD) confirming that a material operation constituting development has taken place. However, although I accept that development has commenced very little work has been undertaken. Consequently, although I will deal with this matter later, I have undertaken this assessment considering the existing situation rather than a possible future scenario involving the completion of the extension.
14. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. There are currently three main buildings on the appeal site comprising a three storey house located centrally which includes a basement cellar, a 1.5 storey garage comprising dormer windows in the roof slope on the southern higher part of the site as well as a single storey wooden clad pavilion like structure between the main house and the garage which is used as a gym. There is also a significant amount of hardstanding comprising the access drive and parking area as well as a tennis court.
15. The proposal would involve the removal of the existing buildings and hardstanding areas to be replaced with a substantial main dwelling centrally located on the plot with linked single storey outbuildings incorporating a gym and a family pavilion. To the north of the site there would be an outbuilding comprising a three-car garage and service quarters. In terms of the spatial impact, although the removal of the tennis court and the existing drive and parking area would result in a reduction in the overall hardstanding area, there would be a significant increase in residential floor space and volume. The footprint of the buildings would also be increased and by occupying space that was previously undeveloped, the proposed development would harmfully reduce the openness of the site.
16. Visually, the proposed house would have a presence in public views from Vicarage Lane and Green Lane, which is a bridleway. Overall, in comparison to the existing situation the proposal would result in substantial harm to openness to which I give substantial weight.
17. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policies SP5 and DM4 of the EFDLP and the relevant policies of the Framework as set out above.

Character and appearance

18. The appeal site is located on Green Lane which is a spur road off Vicarage Lane. There is a pair of semi-detached houses located to the immediate north of the appeal site. Along Vicarage Lane there are a mix of house types with varied

architectural designs and from different periods. However, there are a number of substantial detached houses on large plots. To the east the appeal site is bounded by open fields.

19. As outlined above, there are a number of existing buildings on the appeal site. The main house is an imposing 3 storey detached dwelling and the garage and pavilion are modest in both height and scale. Given the size of the plot and the existence of other large, detached properties within the same area the existing dwelling appears entirely compatible with this location.
20. As outlined above, the proposal would involve the removal of the existing buildings and hardstanding areas to be replaced with a substantial main dwelling centrally located on the plot with linked single storey outbuildings incorporating a gym and a family pavilion. To the north of the site there would be an outbuilding comprising a three-car garage and service quarters.
21. Notwithstanding my concerns about the impact of the proposal on openness as set out above, the proposal would sit comfortably on the plot and would be compatible within this setting. Further, the proposed landscaping scheme would ensure that the proposal would be sensitive to this setting and although it would be visible from Green Lane which is a bridleway, it would not cause significant harm to the landscape character or harm the intrinsic character and beauty of the countryside.
22. Moreover, the mass, scale, height and the overall architectural design would be in keeping with its surroundings. Although the proposed development would introduce a more contemporary dwelling onto the appeal site, given the different styles of the surrounding properties the proposal would not appear unacceptably incongruous or inharmonious in the street scene. Further, the proposed materials, roof profile and design, the architectural detailing and window design would be satisfactory and would not appear awkward or lack visual coherence. Rather, the proposal would achieve a high quality of design that would not unacceptably harm the character and appearance of the area.
23. I therefore conclude that the proposal would not unacceptably harm the character and appearance of the area. Consequently, the proposed development would accord with Policies DM9, SP6 and DM3 of the EFDLP which among other things seek to ensure that developments do not cause significant harm to landscape character, achieve a high quality of design that contributes to the distinctive character of the local area and that the character and appearance of the countryside will be conserved.

Living Conditions

24. The proposal would involve the removal of the existing garage block from the southern part of the site and the introduction of a garage building in the northern part. As a result, the proposed single-storey garage and associated parking area would be located nearer to the common boundary with 1 Green Lane (No 1). The proposal would also introduce a single storey service quarters and plant room which would be attached to the garage.
25. However, the proposal would remove the existing tennis court which has the potential to generate noise. Moreover, parking areas and garages to serve residential dwellings are to be expected on existing residential plots and I am satisfied that the proposed garage and the proposed turning drive would be set

back by an adequate distance from the common boundary with No 1 to ensure that any engine noise, light and noise generated by persons within this area would not have an unacceptable impact on the living conditions of the occupants of No 1.

26. Further, given the position of the proposed development relative to the neighbouring property, I agree with the relevant Council officers who set out in the delegated report that the proposal would not result in an unacceptable impact on the living conditions of the occupants of No 1 by reason of overlooking or overshadowing.
27. No 1 has windows serving habitable rooms facing towards the appeal site. However, the nearest building on the appeal site would be set back by about 6.7 metres from the common boundary and even further from any windows serving habitable rooms and would be single storey with a gable roof that slopes up and away from the boundary. As a result, given the scale of the buildings closest to the common boundary of this property, as well as how far the main dwelling would be set away from No 1, the proposed development would not appear unacceptably overbearing when viewed from this neighbouring property. Although I accept that the proposed development would be visible from this neighbouring dwelling, it would not unacceptably harm the outlook of the occupants of No 1.
28. I therefore conclude that the proposal would not unacceptably harm the living conditions of the occupants of No 1. Consequently, the proposal would accord with Policy DM9 of the EFDLP which among other things seeks to ensure that development proposals take account of the privacy and amenity of neighbours.

Other Considerations

29. Planning permission has been granted for a significant extension of the existing dwelling, and as briefly outlined above this development has received a CLEUD¹ confirming that a material operation constituting development has taken place (the commenced extension).
30. I note that the Council are not persuaded that the appellant will implement the commenced extension as they note their desire to undertake a complete redevelopment of the site. As a result, they have given little or no weight to this potential fallback position.
31. While I appreciate this is a matter of planning judgement, given that it is clear that the appellant would like to maximise the amount of residential floorspace on the appeal site and the fact that the appellant has taken the effort to discharge the relevant conditions and has commenced the development, I am satisfied that there is a greater than a theoretical possibility that in the event that planning permission is refused for this proposal the alternative commenced extension might take place.
32. It follows that I attach significant weight to the existence of this commenced development. I accept there are some significant and material differences between the commenced extension and the proposed development. However, overall, I consider that the commenced extension would cause greater harm to the Green Belt than the proposed development.
33. The appellant has undertaken a detailed comparative analysis. I have no reason not to accept the appellant's figures which show that the site coverage of the

¹ EPF/2524/25

development on the appeal site including any hardstanding areas would be significantly reduced in the proposed development (1475 sq.m) compared to the site coverage of the commenced extension scheme (1894 sq.m). Similarly, the volume of development, which measures the above ground volume would be slightly reduced (2711 cu.m to 2706 cu.m), as would the gross internal floor area (769 sq.m to 762 sq.m). As a result, spatially the proposal would be more beneficial than the legitimate fall-back position.

34. Visually, the proposal would consolidate most of the development within the central part of the appeal site, close to where the existing dwelling is currently located. At present development and hardstanding is spread across nearly the entire appeal site with the tennis court to the north and the garage block to the south which is linked to the access which cuts a swathe across the southern half of the site. Notwithstanding that due to the external walls meeting higher sustainability standards and being thicker, the footprint of the proposed residential buildings would increase, overall, the consolidation of the proposed dwelling in the central part of the appeal site would increase the sense of openness which would be apparent when viewed from the bridleway along Green Lane
35. The proposal would also involve the removal of the garage, the pavilion and the access road from the southern portion of the site and consequently this part of the appeal site which is on higher ground would appear much more open than both the current situation and the commenced extension scheme.
36. Moreover, the introduction of the garage and the service quarters building to the north in the lowest part of the site would ensure that these buildings have significantly less visual impact than the buildings removed in the south. Overall, taking account of both spatial and visual aspects, the proposal would have less impact on openness in comparison to the commenced extension scheme.
37. I have taken account of the points raised by interested parties including that the service quarters could be used as a separate dwelling and that the proposed new outbuildings would not be in the same use as the existing residential dwelling. However, the description of development makes it clear that the proposal relates to a single-family dwelling. I am satisfied that the proposed service quarters and other outbuildings would be incidental to the main use of that dwelling. If a separate dwelling is subsequently created or there is another material change of use at the appeal site, then approval would be required in the normal way. I am satisfied that the proposed access arrangements would allow vehicles to enter and exit the appeal site safely and that the proposal would not result in unacceptable highway safety harm for vehicles, pedestrians and other users of Green Lane and the local highway network. I note that the highway authority does not have any concerns in relation to highway safety matters either.
38. The proposal would inevitably result in noise, disruption and disturbance during the construction phase. However, this would be a transient situation and subject to the imposition of appropriate conditions to control the times construction can take place this matter does not significantly weigh against the proposal. I have also taken account of the fact that some interested parties consider that the existing dwelling should not be demolished. However, as I am satisfied that overall the proposal would not harm the character and appearance of the area, the living conditions of neighbouring residents and would be less harmful on the Green Belt than the legitimate fallback position, I am not persuaded that there is any planning

justification for preventing the demolition of the existing house which the Council confirm could be done irrespective of this proposal.

39. I also note that the occupants of No 1 consider that the appellant has mischaracterised the level of consultation that took place prior to the submission of the application and that there has been no detailed assessment of their windows. Of course, it is unfortunate if this interaction has been misrepresented by the appellant, however I am satisfied that neighbouring residents have been consulted on the proposal and have been able to make representations on it. As a result, this matter does not materially weigh against the proposal.

Green Belt Balance

40. As a result of my finding that the commenced extension would have a greater impact on the openness of the Green Belt than the proposed development, in the particular circumstances of this case, the harm I have identified to the Green Belt by reason of inappropriateness and loss of openness are clearly outweighed by other considerations. Accordingly, the existence of the legitimate fallback position amounts to the very special circumstances required to justify the development.
41. Looking at the case as a whole, I consider that very special circumstances exist to justify the development. Further, while the proposal conflicts with Policies SP5 and DM4 of the EFDLP and thus with the development plan when read as a whole, there are material considerations that indicate that the decision should be made otherwise than in accordance with it.

Conditions

42. A list of suggested conditions has been provided by the Council in their appeal statement. As will become apparent, some of the conditions are pre-commencement and the appellant has confirmed that they accept such conditions.
43. In the interests of clarity, precision and to avoid duplication I have made changes to some conditions to ensure that any condition I impose accords with the Framework which sets out that they should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
44. It is necessary to ensure that the development is carried out in accordance with the appeal plans. To ensure that the character and appearance of the area is not harmed it is reasonable to impose a condition in relation to the materials to be used. To ensure any risk of contamination is appropriately addressed it is reasonable to impose conditions that are proportionate for the scale of development.
45. To protect trees and other vegetation of high amenity value and to protect the character and appearance of the area it is reasonable to impose conditions in relation to arboricultural and landscape matters.
46. In the interests of protecting existing residents, it is necessary to impose restrictions on the times construction and demolition activities can take place and to ensure that there are appropriate wheel washing facilities provided.

47. To ensure protected species are not harmed it is necessary to impose conditions to protect bats and amphibians, to provide bat boxes and to provide appropriate external lighting.
48. I am satisfied that in the interests of sustainability it is necessary to impose a condition in relation to sustainable water use. It is not necessary to impose a condition in relation to electric vehicle charging points as this is adequately covered by building regulations. However, it is reasonable to impose conditions to ensure that adequate access, parking and turning areas and facilities for waste storage are provided and that no unbound material will be used close to the highway.
49. Given the characteristics of the appeal site, the fact that it is in the Green Belt and its position relative to neighbouring dwellings it is reasonable to restrict certain permitted development rights.

Conclusion

50. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it.

S Rawle

INSPECTOR

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 drawing nos: 138-Loc-Extg; 138-S-Extg; 138-S-Bldg; 138-GA00-Bldg; 138-GA00/A-Bldg; 138-GA01-Bldg; 138-GA02-Bldg; 138-GARF/A-Bldg; 138-GARF-Bldg; 138-SRF-Bldg; 138-GE01-Bldg; 138-GE02-Bldg; 138-GE03-Bldg; 138-GE04-Bldg; 138-GE05/06-Bldg; 138-GE07/08/09/10-Bldg; 138-SE00-Bldg; 138-GS01-Bldg; 138-GS02/04-Bldg; 138-GS03-Bldg.
- 3) No development above ground level shall take place until details 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. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:

- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 5) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedges (the tree and hedge protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedges shall be carried out as approved.

In this condition and condition 7 "retained tree and hedges" means an existing tree or hedge which is to be retained in accordance with the Arboricultural Impact Assessment and Method Statement prepared by Tracy Clarke Tree Consultancy dated December 2024
- 7) If any retained tree or hedge is cut down, uprooted or destroyed or dies or becomes severely damaged or diseased during the construction of the development or within a period of three years from the date the development is completed another tree or hedge of the same size and species shall be planted at the same place within three months.
- 8) No development shall take place including any works of demolition until wheel washing or other cleaning facilities have been installed. These facilities shall be used to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
- 9) Prior to the commencement of development, including any works of demolition, temporary amphibian fencing shall be installed around the retained areas of garden to prevent newts moving onto the site from adjacent suitable habitat. Such fencing shall be removed on completion of the development.
- 10) During the demolition and construction stage of development, deliveries to and from the site, running of plant and equipment, demolition or construction works shall take place only between 0800-1800 on Monday to Friday, 0800-

1300 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 11) No development above ground level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- a statement setting out the design objectives and how these will be delivered;
 - earthworks showing existing and proposed finished levels or contours;
 - means of enclosure and retaining structures;
 - boundary treatments;
 - vehicle parking layouts;
 - other vehicle and pedestrian access and circulation areas;
 - hard surfacing materials;
 - minor artefacts and structures e.g. furniture, play equipment, refuse or other storage units, signs, etc;
 - proposed and existing functional services above and below ground e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant;
 - CCTV;
 - water features;
 - an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details in accordance with the agreed implementation programme. Any trees or plants which within a period of 5 years from the 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.

- 12) No works that could impact the breeding/roosting place of bats shall commence unless the local planning authority has been provided with a licence issued by Natural England authorising the specified activity/development to go ahead, or a method statement relating to a registered site supplied by an individual registered to use a Bat Mitigation Class Licence for bats or a statement in writing from Natural England confirming that it does not consider that the specified activity/development will require a licence.
- 13) Prior to the installation of any external lighting full details of a lighting design strategy for biodiversity shall be submitted to and approved in writing by the local planning authority. Details shall include identifying any areas/features that could be sensitive for bats and that may cause disturbance in or around their breeding sites, roosting places or along routes used to access key areas of their territory such as for foraging as well as the height, design, location and intensity of any external lighting. The lighting design strategy for

biodiversity shall be implemented in accordance with the approved details, and no other external lighting shall be installed.

- 14) Prior to their installation details showing the size, type and location of the three bat boxes to be installed at the site shall be submitted to and approved in writing by the local planning authority. The bat boxes shall be integrated within the new buildings on site and shall be installed in accordance with the approved details prior to first occupation and shall be retained in that form thereafter.
- 15) Prior to the first occupation of the development hereby permitted, measures shall be implemented to ensure the consumption of wholesome water by persons occupying the dwelling must not exceed 110 litres per person per day.
- 16) Prior to the first occupation of the development hereby permitted the access arrangements and other associated works, vehicle parking including garages, turning areas and refuse storage shall be provided on the site and that space shall thereafter be kept available at all times for those purposes.
- 17) No unbound material shall be used in the surface treatment of any vehicular access within 6 metres of the highway boundary.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B & E of Part 1 of Schedule 2 to the Order shall be undertaken.