



# Appeal Decision

Site visit made on 18 February 2010

by **Alison Clack** BA(Hons) BTP MBA MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Decision date:  
26 April 2010

**Appeal Ref: APP/J1915/A/09/2109305**

**Harley House, Westland Green, Little Hadham, Ware, Hertfordshire,  
SG11 2AJ**

- 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 Mrs S Hammond against the decision of East Herts Council.
- The application Ref 3/08/1973/FP, dated 19 November 2008, was refused by notice dated 28 January 2009.
- The development proposed is the demolition of 2No. existing outbuildings and erection of a detached replacement outbuilding.

## Decision

1. I dismiss the appeal.

## Reasons

2. The appeal site is occupied by a two storey detached Grade II listed dwelling and ancillary outbuildings. The dwelling faces onto a courtyard area that lies to the side of the property. The courtyard is largely screened from the road by a single storey outbuilding. Planning permission has previously been granted for an extension to the dwelling and a replacement outbuilding occupying broadly the same footprint as the existing, running parallel to the road.
3. The appeal proposal seeks permission to erect a similar replacement outbuilding further away from the road, separating the courtyard area from a swimming pool and rear garden area. From all that I have seen and read I consider the main issues in this case area the effect of the proposed outbuilding on (i) the setting of the listed dwelling, and (ii) the character and appearance of the area.
4. I acknowledge that the proposed annex accommodation would be similar in appearance and scale to the previously approved replacement outbuilding. However, due to the revised siting, the relationship between the proposed outbuilding and the host dwelling is significantly different. The outbuilding would in my opinion be sited too close to the dwelling, partially obscuring views of and visually competing with the listed building.
5. The combined effect of the juxtaposition of the existing and proposed built form and the distance between the two would result in development that would appear awkward and cramped. I accept that the proposal would open up some views of the listed building, however, due to the proposed position of the

outbuilding the development would appear visually jarring, causing harm to its setting.

6. Turning to the second issue, the Council consider that the scale of the outbuilding would be out of keeping with the character and appearance of the dwelling which would in turn harm the rural character of the area. Whilst I find that the overall size and design of the proposed building is, in itself, acceptable in this rural location, for the reasons already given I do not consider that it would relate well to the host dwelling. The resultant development would be highly visible from the surrounding area compromising the spacious setting and appearance of the original dwelling and the existing character and appearance of the area.
7. I am mindful of the relationships between the listed building and existing buildings on the site and the approved scheme; I also note the appellant's reference to favourable comments made by the Council's officers. However, I have dealt with this appeal on its individual planning merits and for the reasons set out above, taking into account all other matters raised, I find that the proposal is unacceptable.
8. My overall conclusion is that the proposal would harm the setting of the listed dwelling and the character and appearance of the area in that it would fail to relate to main building, as required by the relevant parts of Policies ENV1, ENV5 and GBC3 of the East Herts Local Plan (LP) Second Review (2007). In addition, I find conflict with the aims of LP policy BH12 which seeks to preserve the setting of a listed building.

*A Clack*

INSPECTOR



# Appeal Decision

Site visit made on 15 April 2010

by **P B Jarvis** BSc (Hons) DipTP MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Decision date:  
14 May 2010

**Appeal Ref: APP/J1915/A/09/2117143**

**Five Hide House, Watton Road, Datchworth, Knebworth SG3 6RS.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Peter Hope against East Hertfordshire District Council.
- The application Ref 3/09/0867/FO, dated 1 June 2009, was refused by notice dated 2 September 2009.
- The application sought planning permission for the erection of one detached house, garage and swimming pool without complying with a condition attached to planning permission Ref 3/01/0851/FP, dated 13 August 2001.
- The condition in dispute is No 8 which states that: *The proposed window openings in the first floor flank elevation shall be fitted with obscured glass and shall be permanently retained in that condition.*
- The reason given for the condition is: *To safeguard the privacy of occupiers of the adjoining property, in accordance with Appendix 1(D) of the East Hertfordshire Local Plan.*

## Decision

1. The appeal is allowed and planning permission granted for the erection of one detached house, garage and swimming pool at Hoppers Hall, Datchworth, in accordance with application ref. 3/09/0867/FP made on the 1 June 2009, without compliance with condition 8 on planning permission 3/01/0851/FP, but subject to other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:

*"The window openings in the first floor east flank elevation shall be fitted with obscured glass and shall be permanently retained in that condition."*

## Main Issue

2. The main issue is the impact on the living conditions of the occupiers of the adjoining properties.

## Reasons

3. The existing dwelling on the appeal site contains three first floor windows in its east facing flank elevations and one first floor window in its west facing elevation. They are all currently glazed with clear glass. At the site visit I was able to undertake an internal inspection of the property and thus able to personally see the view from all these windows.

4. Two of the windows in the east elevation are secondary windows to bedrooms. Whilst they are relatively small and only provide light to supplement the main front and rear facing window of each of these bedrooms, they nevertheless provide a clear view of the private garden area of the adjoining property, The Hawthorns, located to the east of the appeal site. This property has its main private garden area to the side in the area between the dwellinghouse and the eastern boundary of the appeal site.
5. A further en-suite window also looks in this direction and whilst further from this side boundary, nevertheless affords some degree of overlooking of the neighbours private garden. I consider that the degree of overlooking that is afforded by these windows is significant and results in an unacceptably harmful relationship with the above neighbouring property by reason of overlooking.
6. I note that these windows are relatively small and are opening. Nevertheless it is likely that for the majority of the time they would be closed, or would be unlikely to be open fully. Therefore, I consider that currently, there is a much greater degree of overlooking possible than would be the case if they were to be obscurely glazed. I note that the appellant considers that they provide a view over nearby open countryside, but this benefit does not outweigh the harm identified above.
7. With regard to the window in the west elevation, I noted that views from it are partially obscured by the garage roof of the dwelling. In addition, only an oblique view is possible towards the rear of the adjoining property and this is mainly of the rear parking area. Whilst it is possible to see the rear windows of this dwelling, they are partially screened by a fence which encloses what appeared to be a rear courtyard area. As such, I do not consider the level of overlooking to be so unacceptable as to be significantly harmful to the living conditions of the occupiers of this property.
8. Notwithstanding my findings in relation to the west facing flank window, I find that there is an unacceptable level of overlooking of the private garden area of The Hawthorns from the east facing flank windows. This results in a harmful impact on the living conditions of the occupiers of that property in conflict with Policy ENV1 of the East Hertfordshire Local Plan, (2007). Therefore, for the reasons given above, I find that the condition should be varied to require the use of obscure glazing to the windows in the east facing first floor flank elevation only.

**P. B. Jarvis**  
INSPECTOR



# Appeal Decision

Site visit made on 12 April 2010

by **C A Newmarch** BA(Hons) MRICS MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Decision date:  
26 April 2010

---

**Appeal Ref: APP/J1915/D/10/2123832**

**102 Foxley Drive, Bishops Stortford, Hertfordshire CM23 3EB**

- 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 M & D Langan against the decision of East Hertfordshire District Council.
- The application Ref 3/09/1325/FP, dated 18 August 2009, was refused by notice dated 15 January 2010.
- The development proposed is a two storey side and a rear extension to the existing residence and a garage replacement.

---

## Application for costs

1. An application for costs was made by Mr M & Mrs D Langan against East Hertfordshire District Council. This application will be the subject of a separate Decision.

## Decision

2. I allow the appeal, and grant planning permission for a two storey side and a rear extension to the existing residence and a garage replacement at 102 Foxley Drive, Bishops Stortford, Hertfordshire CM23 3EB in accordance with the terms of the application, Ref 3/09/1325/FP, dated 18 August 2009, subject to the conditions in the attached schedule.

## Main issue

3. The main issue is the effect on the character and appearance of the area.

## Reasons

4. The Council raises no objection to the replacement garage and, from all I have read and seen, I agree that it would not be materially harmful to the character and appearance of the area.
  5. The rear extension would increase the length of the northern elevation by some 3.5m. This would not, in itself, be excessive, but it would increase the overall length of the dwelling's northern elevation to around 17m. However, a section of feathered edged timber cladding, which is a material already incorporated on the gable ends, would be introduced to relieve the mass of the elevation. The house is, to some extent, characterised by the length of its northern elevation, and I consider that the length of the elevation would not be sufficiently harmful to be determinative.
-

6. The separation between the front corner of the two-storey side extension and the site boundary would exceed the minimum recommended distance for first floor side extensions in policy ENV6 of the East Herts Local Plan Second Review, 2007 (LP). The eaves of the oversailing canopy roof on the side extension would be close to the site boundary with Foxley Drive, but they would be at a low level, and would not be unduly prominent in the street scene. The side extension would increase the sense of enclosure within this narrow part of Foxley Drive. However, there is considerable variation in the style, mass and siting of the dwellings along Foxley Drive and no established building line.
7. The height of the roof ridge of the side extension would exceed that of the existing ridge by around 0.3m. The LP explains that it is not possible to give precise standards which would be relevant in every case, and I accept that the LP policies do not specify that an extension must be subservient to the subject property. The impact of the additional height of the extension is, therefore, a matter of judgement. In my view, the modest step in the ridge would generally echo the change in gradient along this part of Foxley Drive, and would not, therefore, appear materially out of scale with the host property.
8. On balance, I conclude that the extensions have been carefully designed to incorporate matching architectural motifs and materials, and to be in keeping with the character of the existing house. Moreover, while there would be some limited impact arising from the size, scale and siting of the extensions, the effect would not be seriously overbearing or unduly detrimental either to the host property. The marginal effect on the character and appearance of the surrounding area would not be significantly harmful. As such, it would not conflict with LP policies ENV1, ENV5 or the relevant criteria of policy ENV6.
9. The proposal includes the removal of trees T002, T003 and T005, which are protected by the Stansted Road Tree Preservation Order (No 13), 1978. The Council raises no objection to the loss of these trees given their structural, infected and deteriorating condition. I agree with the Council that a condition is necessary to safeguard the trees which are not scheduled for removal during the construction period.
10. I have considered the additional conditions suggested by the Council. A time limiting condition is standard. In the interests of visual amenity of the area, I agree that a condition is necessary to require matching materials to be used. Furthermore, for the avoidance of doubt and in the interests of proper planning, a condition is necessary requiring the development to be carried out in accordance with the approved plans.
11. I have considered all other matters raised, but they do not alter the balance of my decision.

*C A Newmarch*

INSPECTOR

**Appeal Ref: APP/J1915/D/10/2123832**

Schedule of conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 3) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the occupation of the building for its permitted use.
  - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
  - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with details to be submitted to and approved in writing by the local planning authority before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: P00, P01 rev C, P02 rev B, P03 rev B, P04 rev B, P05 rev A, P06 rev B, P07 rev B, P08 rev B, P09 rev B, P10 rev B, P11, P12, P13, P14 rev A, P15, P16.



---

## Appeal Decision

Hearing held on 13 April 2010

Site visit made on 13 April 2010

by **C A Newmarch** BA(Hons) MRICS MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:enquiries@pins.gsi.gov.uk

Decision date:  
27 April 2010

---

**Appeal Ref: APP/J1915/A/10/2121255**

**Mulberry Lodge, Epping Green, nr Hertford, Hertfordshire SG13 8NQ**

- 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 Mulberry Lodge LLP against the decision of East Hertfordshire District Council.
  - The application Ref 3/09/1462/FP, dated 10 September 2009, was refused by notice dated 6 November 2009.
  - The development proposed is the conversion of the existing B & B accommodation to a single dwelling.
- 

### Decision

1. I allow the appeal, and grant planning permission for the conversion of the existing B & B accommodation to a single dwelling at Mulberry Lodge, Epping Green, nr Hertford, Hertfordshire SG13 8NQ in accordance with the terms of the application, Ref 3/09/1462/FP, dated 10 September 2009, subject to the conditions in the attached schedule.

### Main issues

2. The main issues are:
  - whether the conversion would amount to inappropriate development in the Green Belt;
  - whether the building is worthy of retention;
  - whether the retention of the building is able to be facilitated by a conversion to a business, leisure, tourism, community or other use compatible with the rural area.

### Reasons

3. The re-use of a building in the Green Belt is not inappropriate development, subject to the safeguards set out in Planning Policy Guidance Note 2 *Green Belts* (PPG2). The porch, the minor alterations proposed to the exterior of the building, and the replacement of the large car park with a reduced parking area and a domestic garden, together with the likely reduction in the comings and goings compared with a 12 bedroom bed and breakfast hotel (B & B), would not have a materially greater impact on the openness of the Green Belt and the purposes of including land in it than the present use.
  4. Planning conditions to remove permitted development rights could be imposed to exercise strict control over the enlargement, improvement or other
-



alteration of the building, or development within its curtilage, which might otherwise conflict with the openness of the Green Belt.

5. I agree with the parties that the building, which has previously been converted from a piggery, is of permanent and substantial construction, and it is capable of conversion without major or complete reconstruction.
6. It is not disputed that its form, bulk and general design are in keeping with the surroundings of the site. Consequently, its conversion would accord with the criteria in paragraph 3.8 of PPG2 and, as such, it would not amount to inappropriate development. It would not conflict with PPG2 or with policy GBC1 *Appropriate Development in the Green Belt* of the East Herts Local Plan Second Review (LP), 2007.
7. LP Policy GBC9 *Adaptation and Re-use of Rural Buildings* seeks to achieve a sustainable balance between the re-use of buildings and the protection of the countryside. Although the Council Officer's report describes the building as not being worthy of retention, the Council previously granted planning permission (Ref 3/06/0574/FP), albeit now expired, for its change of use to self-catering accommodation. Moreover, at the Hearing, the Council conceded that the appeal premises comprise a simple, typical countryside building which, although of no architectural merit, is worthy of retention. As such, its conversion would not conflict with LP policy GBC9 Part II, Criterion (a).
8. The bed and breakfast accommodation at Mulberry Lodge is marketed on the internet and through the local tourist information centre. The appellant submits that it achieves approximately 65%-70% occupancy rates. Nonetheless, in considering a previous appeal against the refusal of planning permission for a similar conversion of the building to residential use (Ref APP/J1915/A/07/2037474), the Inspector accepted that the existing B & B enterprise was not financially viable. The submitted audited profit and loss accounts for 2007 and 2008 continue to show net losses, and the monthly trading figures for 2008-2009 indicate a similar pattern. In addition to staff costs, the enterprise bears substantial bank and interest costs. While a balance sheet has not been provided, the business does not appear to be viable on the current level of capitalisation.
9. The parties disagree regarding the degree of demand for bed and breakfast accommodation in the area, its potential to serve the Lea Valley and the 2012 Olympic Games. However, in considering proposals for the re-use of buildings in the Green Belt, paragraph 3.9 of PPG2 states that evidence that the building is not redundant in its present use is not, by itself, sufficient grounds for refusing planning permission for a proposed new use.
10. In considering the appeal mentioned above, my colleague found that an investigation of the potential for alternative non-residential uses had not been demonstrated. The appellant subsequently marketed the property from April 2008 – July 2009 on a flexible leasehold basis through a Hertfordshire-based company of Chartered Surveyors specialising in office and industrial estate agency. While the sales particulars mention Hertford as an attractive office location, I am satisfied that the marketing was undertaken in a professional manner and was not limited to potential office uses. Nevertheless, due to its

- remote location, the limited scope for subdividing the building and its utilitarian appearance, no offers were made for the premises.
11. The earlier planning permission for the change of use to self-catering accommodation, mentioned above, was not implemented due to a lack of capital and a condition limiting occupation to periods not exceeding one month. The Council submits that it would now be likely to grant planning permission for a conversion to self-catering accommodation with a longer occupancy period, and the Economic Development Officer considers the site to be well located for tourism. However, no evidence of effective demand is before me.
  12. Similarly, while the premises have not been marketed for community or leisure uses, I accept that due to its size and the load bearing central corridor walls, the building would not be suitable for yoga or sports uses without significant investment. Moreover, the Council has not provided an assessment of community needs for additional premises over and above the existing village hall. The building is not associated with a working farm and could not, therefore, readily be converted into a farm produce shop. In any event, the effect of any such uses on the openness of the Green Belt would be a material consideration. Although the Council is not satisfied that alternative non-residential uses have been thoroughly investigated, I am conclude that reasonable efforts have made, and that the retention of the building would not be able to be facilitated by a conversion to a business, leisure, tourism, community or other use compatible with the rural area. As such, the proposal would not conflict with LP policy GBC9 Part II, Criterion (b).
  13. I have considered the conditions suggested by the Council. I have already explained that it is necessary to remove permitted development rights relating to the enlargement of the dwelling and development within its curtilage in the interests of safeguarding the openness of the Green Belt. The time limiting condition is standard. In the interests of the character and appearance of the area I agree that conditions are necessary in relation to the external materials, and landscaping of the site, including the revised parking arrangements. Furthermore, for the avoidance of doubt and in the interests of proper planning, a condition is necessary requiring the development to be carried out in accordance with the approved plans.
  14. I have considered all other matters raised, but they do not alter my decision.

*C Newmarch*

INSPECTOR

**Appeal Ref: APP/J1915/A/10/2121255**

**Schedule of conditions:**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building 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.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration shall be made to the dwelling hereby permitted.
  - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no building or enclosure, swimming pool or other pool, or the maintenance, improvement or other alteration of such a building or enclosure within the curtilage of the dwelling hereby permitted.
  - 5) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing No P12 for 3 cars to be parked.
  - 6) No development shall take place until full 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. These details shall include the means of enclosure; hard surfacing materials; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation programme.
  - 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
  - 8) If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
  - 9) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan, P10, P11 and P12.

APPEARANCES

FOR THE APPELLANT:

Mr Leslie Lord	Mulberry Lodge LLP
Jane Orsborn BA(Hons) Dip TP	Prospect Planning
MRTPI DMS MIMgt	

FOR THE LOCAL PLANNING AUTHORITY:

Susie Defoe	Planning Officer, Development Control
-------------	---------------------------------------

DOCUMENTS

- 1 Letter of Notification of the Hearing
- 2 Decision notice relating to planning permission 3/06/0574/FP
- 3 Listing for Mulberry Lodge from LateRooms.com
- 4 Listing for Mulberry Lodge from Booking.com
- 5 Summary report relating to planning application ref 3/09/1425/FP at 1-7 Church Barns, Stocking Pelham
- 6 Docs on their way
- 7 Letter dated 15 April 2010 from Jan Orsborn and enclosure from Morris Lane, regarding audited accounts.