



Appeal Decision

Site visit made on 7 July 2026

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th July 2026

Appeal Ref: 6008092

Fen Farm, Rabley Heath Road, Codicote, Hertfordshire AL6 9UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Philip Gomes against the decision of North Hertfordshire District Council.
 - The application Ref is 26/00215/S73.
 - The application sought planning permission for the erection of chalet bungalow following demolition of existing buildings without complying with conditions attached to planning permission Ref 25/01850/FP, dated 23 September 2025.
 - The condition in dispute is No 6 which states:
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.
 - The reason given for the condition is:
Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area and to comply with Policy D1 and/or Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a chalet bungalow following the demolition of existing buildings at Fen Farm, Rabley Heath Road, Codicote, Hertfordshire AL6 9UA in accordance with the application Ref 26/00215/S73, without compliance with condition number 6 previously imposed on planning permission Ref 25/01850/FP dated 23 September 2025 and subject to the conditions in the attached schedule.

Preliminary Matter

2. The original decision notice, reference 25/01850/FP, dated 23 September 2025, contains two conditions listed as Condition 5. However, from the evidence before me there is no dispute between the parties that the appeal relates to the condition numbered Condition 6 which restricts the properties permitted development rights. I have determined the appeal on this basis.

Background and Main Issue

3. Planning permission was granted in 2025 for the erection of a chalet bungalow following the demolition of existing buildings on the site. The approved scheme would

result in a detached dwelling set within a relatively spacious plot with an associated detached outbuilding. The site lies within the Green Belt.

4. In granting permission, the Council imposed condition 6 which removed permitted development (PD) rights under several classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). The reason for the imposition of the condition refers to the interests of the character and amenities of the area. However, the Council's evidence confirms the condition was imposed due to the property being situated within the Green Belt and that it raises no concerns in relation to the effects on the living conditions of neighbouring occupiers. The 26/00215/S73 reason for refusal also refers to the construction of outbuildings and extensions within the site having the potential to constitute inappropriate development within the Green Belt that could have an adverse impact upon its openness.
5. Accordingly, the main issue is whether the disputed condition is necessary or reasonable to make the development acceptable in planning terms, having regard to the site's location in the Green Belt.

Reasons

6. The appeal site comprises a collection of buildings including a detached garage, stable block and barn on the south-eastern side of Rabley Heath Road in the Green Belt. Residential dwellings lie to the north-east and south-west and open fields extend to the north and south.
7. Permission was granted in 2025 for the replacement of the existing outbuildings on the site with a dwelling under the exception at Paragraph 154(g) of the National Planning Policy Framework (the Framework). In granting permission under this exception, the Council concluded that the scheme constituted the redevelopment of previously developed land that would not cause substantial harm to the openness of the Green Belt.
8. The 25/01850/FP officer report explains that the scheme would result in a net reduction in built volume, but the dwelling would have an increased height compared to the single storey buildings it would replace. However, the report concludes that due to the set-down levels of the site compared to the road and its set-back position, any visual impact from this increase would not result in substantial harm. Nevertheless, the report explains the restriction of permitted development rights would be necessary due to the sites constrained nature and rural green belt location. The Council has also confirmed its concerns are that the reinstatement of permitted development rights would allow for extensions, alterations and detached outbuildings that may lead to disproportionate additions to the dwelling and a reduction in the openness of the Green Belt.
9. Paragraph 55 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) reinforces this, adding that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Therefore, in accordance with the Framework and PPG, clear justification for removing PD rights, based on the circumstances and individual merits of the particular case, is necessary.
10. The Order outlines the PD rights which apply for all dwellinghouses, albeit some classes set out exceptions that the rights do not apply on Article 2(3) land. This is

defined in the Order as, among other things, land within a conservation area, an area of outstanding natural beauty, a National Park, and a World Heritage Site.

11. It can be inferred from the omission within this definition of land within the Green Belt, that the Government's intention is for dwellinghouses within the Green Belt to have their PD rights intact. This suggests that the type and size of development permitted through the Order would not be inappropriate development in the Green Belt as a matter of course, noting there is no requirements to subject any such development to the tests of inappropriateness or openness. Consequently, the starting point is that PD rights should remain in place, even in the Green Belt, unless clear justification is advanced which is precisely defined and specific to the site. The fact that the appeal property is within the Green Belt does not in itself provide the clear justification required for the disputed condition.
12. There is no quantitative evidence before me comparing the existing outbuildings with the proposed dwelling. Therefore, other than the aforementioned comments in the 25/01850/FP officer report, I cannot be certain whether the footprint, floor space and volumes between the two would be comparable. However, despite the overall increase in height cited by the Council, I have no substantive evidence before me to suggest that the new dwelling would result in such an enlargement that would have justified the imposition of the disputed condition. The appeal site is relatively spacious and is not particularly constrained. It is also set within an area where the density of development is varied and there is nothing before me to suggest that other nearby properties have had their PD rights similarly restricted. The development approved by the Council was also found to be acceptable when considered against national and local Green Belt policies and I have not been directed to any specific policy that supports the removal of permitted development rights in these circumstances.
13. The Council is concerned that additional built form could disproportionately extend the dwelling and reduce openness, therefore constituting inappropriate development. However, there is no substantive evidence before me to indicate that this would be the case, and I am satisfied that the provisions of the Order provide sufficient safeguards to prevent the over-development of a site.
14. I also acknowledge that additions or alterations undertaken through PD rights could influence the areas rural character. Nevertheless, the setting of the appeal site would be a typical characteristic of many areas within the Green Belt, and I am not persuaded that minor extensions to the dwelling would have such an effect on the openness of the Green Belt or its purposes to justify the removal of permitted development rights. Accordingly, the circumstances cited by the Council are not unique to the appeal site and do not represent clear, site specific justification to adequately demonstrate how the exercise of PD rights within the appeal site would be implicitly harmful to the Green Belt. Consequently, on the evidence before me and taking all of the above matters into consideration, clear justification for removing PD rights, based on the circumstances and merits of this particular case, has not been demonstrated.
15. For the above reasons, I therefore conclude that the disputed condition is not necessary or reasonable to make the development acceptable in planning terms, having regard to the site's location in the Green Belt. Accordingly, the removal of condition 6 would not conflict with Policies SP5 or D1 of the North Hertfordshire Local Plan 2011-2031 (NHLP) insofar as they seek to protect the Green Belt from inappropriate development and ensure developments respond positively to the local context. Given the Council has confirmed the removal of this condition would not

adversely affect living conditions, Policy D3 of the NHLP has not been determinative in my consideration of this appeal.

Conditions

16. The PPG makes clear that decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 should also restate the conditions imposed on earlier permissions that continue to have effect. I have limited information before me about the status of the other conditions imposed on the original planning permission. Therefore, I shall impose all those that I consider remain relevant. In the event that they have in fact been discharged, that is a matter which can be addressed by the parties.
17. For the avoidance of doubt, while condition 6 will be deleted, I will otherwise renumber the remaining conditions to account for the typographical error on the original decision notice. I have also added the plans referenced on page 1 of the original decision notice to condition 2 in the interests of clarity.

Conclusion

18. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Accordingly, for the reasons given above, I conclude that the appeal should succeed. I will therefore allow the appeal and grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

H Whitfield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before 23 September 2028.
- 2) The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans 6194-P01-C 6194-OS1 A 6194-OS1 B 6009-E01.
- 3) No development approved by this permission shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:
 - A Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination;
 - A Phase 2 Site Investigation (where shown as necessary the Phase 1 Desk Study);
 - A Phase 3 Remediation Scheme (where shown as necessary by the Phase 2 Site Investigation)

All such work shall be undertaken in accordance with BS:10175:2011 or other appropriate guidance issued by the regulatory authorities. The work shall be sufficient to ensure that measures will be taken to mitigate any risks to human health and the wider environment.

- 4) Prior to the first commencement of the development hereby permitted a plan of cycle parking should be submitted in accordance with (Cycle Infrastructure Design' DfT Local Transport Note 1/20 (July 2020) and approved in writing by the Local Planning Authority. Prior to first occupation the approved scheme shall be fully implemented and thereafter retained for this purpose.
- 5) Details and/or samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.
- 6) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and

objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved detail.

- 7) Prior to the commencement of the development hereby permitted full details of all hard and soft landscaping as well as boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The approved details of soft landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and 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 during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement. Approved hard landscaping and boundary treatment details shall be implemented prior to the first occupation of the dwelling hereby permitted.

**** END OF SCHEDULE ****