

Appeal Decision

Site visit made on 6 December 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 19 January 2017

Appeal Ref: APP/H1515/W/16/3154151

Land rear of Five Elms, Clapgate, Chivers Road, Stondon Massey CM15 0LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ryan Morley and J Morley and M Rudd against the decision of Brentwood Borough Council.
 - The application Ref 16/00483/FUL, dated 5 April 2016, was refused by notice dated 14 June 2016.
 - The development proposed is to erect new bungalow and garage to replace existing storage building and container.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 9 January 2017.

Decision

1. The appeal is allowed and planning permission is granted to erect a new bungalow to replace existing storage building and container at land rear of Five Elms, Clapgate, Chivers Road, Stondon Massey CM15 0LH in accordance with the terms of the application, Ref 16/00483/FUL, dated 5 April 2016, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. Having regard to my findings below on the first main issue, the description of development in paragraph 1 has been amended to remove the words 'and garage.'

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the character and appearance of the area.

Reasons

Whether Inappropriate Development?

4. The appeal site is located within the Green Belt where Policy GB1 of the Brentwood Replacement Local Plan 2005 (LP) presumes against the construction of new buildings, other than those appropriate to a Green Belt, except in very special circumstances. Paragraph 89 of the National Planning Policy Framework
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(the Framework) states the new buildings in the Green Belt will be inappropriate unless they fall into specified exceptions.

5. The appellant considers that the appeal proposal falls within the exception which allows for the limited infilling or partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt than the existing development (Framework paragraph 89, sixth bullet point).
6. The appeal site accommodates a building, storage container and areas of hardstanding. It is also partly enclosed and sub-divided by timber fencing. As such, I consider that the site amounts to previously developed land. The proposal would remove these structures and, therefore, would constitute complete redevelopment of the site.
7. The Council understands that a significant part of the existing building has recently been replaced, but is still in a poor state of repair. It, therefore, considers that the lawfulness and permanence of the building is questionable. However, no evidence has been provided of the extent of the works, whether they required planning permission or any consideration of enforcement action. The appellant's evidence (Appendix B – officer's report for application ref BRW/25/2004) indicates that the building has been in existence since at least 2004. I saw on the site visit that, although the building is not currently used or well maintained, it appears to be generally sound.
8. The Council also considers that the storage container is not a building. However, it appears to be permanently placed on a hard surfaced area and, by virtue of its size and position, has an effect on the character and appearance of the site. On the basis of the information available therefore, I consider that it would be appropriate to have regard to the existing building and the container in considering whether the proposal would meet the paragraph 89 exception claimed by the appellant.
9. The appellant gives the floorspace of the existing building as 106sqm and the container as 16.75sqm. However, according to the officer's report for application reference BRW/25/2004, the external footprint of the existing building is somewhat larger. The report also gives the height of the building as 2.5m. The floorspace of the proposed dwelling is given as 106sqm and the garage as 36sqm although, again their external footprints would be larger. Nevertheless, I accept the appellant's estimation that the combined areas of the proposed buildings would be around 15% larger than those they would replace.
10. Moreover, both new buildings would have pitched roofs, whereas the existing buildings have flat or shallow pitched roofs. In the case of the dwelling, the roof would be 5.5m high. The roofs would, therefore, add to the volume of the new buildings such that they would have a greater impact on the openness of the Green Belt than the existing development.
11. The Council and the appellant have both suggested that a condition could be used to remove the garage from the proposal. This would reduce volume of the new built development considerably to the point where its impact on the openness of the Green Belt would be no greater than the existing buildings. Framework paragraph 203 supports the use of conditions where they would make otherwise unacceptable development acceptable. The site of the garage could be used to provide car parking spaces so that there would be no effect on

highway safety or convenience. I see no reason why the change should affect neighbouring occupiers or other interested parties and it would not make the development substantially different from that set out in the application. Therefore, I will impose a condition along the lines suggested.

12. With the condition in place, I find that the proposal would meet the exception at the sixth bullet point of Framework paragraph 89 and would not, therefore, amount to inappropriate development. As such, it would also comply with LP Policy GB1. Nor would the proposal conflict with LP Policy GB2 to the extent that it presumes against development which harms the openness of, or conflicts with the purposes of including land within, the Green Belt. Consequently, the proposal does not need to be justified by very special circumstances.

Character and Appearance

13. The appeal site is located within a loose knit group of properties. It is bounded on three sides by residential development and on the fourth by an access road. Therefore, whilst it is some distance from the main built up area of Stondon Massey, the site is not isolated and is visually well contained by adjoining development and planting.
14. I have already found that the site amounts to previously developed land and that the proposal would not lead to a loss of openness. The existing fencing within and around the site is out of keeping with the domestic character of the street scene and its removal would provide a visual benefit. The scale and siting of the proposed dwelling would be consistent with adjoining properties and there is nothing to suggest that its form or appearance would be objectionable.
15. Consequently, I find that the proposal would not have a harmful effect on the character and appearance of the area. As such, it would accord with LP Policy CP1 insofar as it requires development to not have a detrimental impact on the character and appearance of the surrounding area and to be of a high standard of design in terms of size, siting, scale, style, design and materials. The proposal would also accord with Framework paragraph 17 to the extent that recognises the intrinsic character and beauty of the countryside.

Conditions

16. The Council has suggested a list of nine conditions. With amendments for clarity, I find that they meet the tests set out in the Planning Practice Guidance. A condition specifying the approved drawings is necessary in the interests of certainty. Conditions requiring the approval of external materials, a landscaping scheme and details of boundary enclosures are necessary to safeguard the character and appearance of the area.
17. I have already referred to the need for a condition to prevent the erection of the proposed garage in order to ensure that the proposal does not conflict with Green Belt policies. A condition requiring the demolition/removal of the existing building and container on the site is required for the same reason. Compliance with Green Belt policies also provides an exceptional justification for conditions withdrawing permitted development rights for the extension or enlargement of the dwelling or the erection of outbuildings within the site.

Conclusion

18. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

Schedule of conditions attached to

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- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) Except as it relates to the garage the subject of condition 6 below, the development hereby permitted shall be carried out in accordance with the following approved plans: 2351/01, 2351/05, 2351/06 and 2351/07.
- 3) No development shall take place above ground level until samples of the materials to be used in the construction of the external surfaces of the new dwelling 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 above ground level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the existing trees shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all surfacing materials and existing and proposed ground levels. The landscaping scheme shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.
- 5) No development shall take place above ground level until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.
- 6) Notwithstanding the submitted drawings, the garage shall not be constructed.
- 7) The existing buildings and container indicated on the approved drawings for demolition/removal shall be demolished and all materials arising shall be permanently removed from the site prior to the first occupation of any part of the development hereby permitted.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), the dwelling hereby permitted shall not be extended or

enlarged in any way without the prior grant of specific planning permission by the local planning authority.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order) no development falling within Class E of that Order (buildings, enclosures, swimming or other pools) shall be carried out without the prior grant of specific planning permission by the local planning authority.