



Appeal Decision

Site visit made on 14 January 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/V1505/W/19/3232905

Hyde Chalet, Land rear of the Hyde, Glebe Road, Ramsden Bellhouse, Billericay, Essex, CM11 1RL

- 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 & Mrs D Webb against the decision of Basildon District Council.
 - The application Ref 19/00316/FULL, dated 22 February 2019, was refused by notice dated 17 June 2019.
 - The development proposed is retention of detached chalet bungalow not built in accordance with approval ref: 16/00984/FULL.
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Decision

1. The appeal is allowed and planning permission is granted for retention of detached bungalow not built in accordance with approval ref 16/00984/FULL at Hyde Chalet, Land rear of the Hyde, Glebe Road, Ramsden Bellhouse, Billericay, Essex, CM11 1RL in accordance with the terms of the application, Ref 19/00316/FULL, dated 22 February 2019 but subject to the following condition:
 - 1) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking and re-enacting that Order, no development within Part One, Schedule 2, Classes A, B and C of this Order shall be carried out to the building hereby approved, except with express permission granted under Part III of the Town and Country Planning Act 1990 or any re-enactment thereof.

Procedural Matters

2. I have taken the description of development from the Council's decision notice. This more accurately describes the proposal than the version on the planning application form. This does not prejudice the interests of the appellant.

Background and Main Issues

3. This appeal relates to works at a development site to the rear of the dwelling known as the Hyde. There is an existing dwelling adjacent to the western boundary of the site ("building A"). This proposal seeks to retain a dwelling that has been erected next to this house ("building B"). This was granted planning permission as a replacement for another residential building, now demolished ("building C"), however it was not built in accordance with the approved plans.

4. The Council maintain that building B is now too close to building A. The main issues in the appeal are:
 - i) the effect on the Green Belt, including consideration of whether the retention of building B would comprise inappropriate development in the Green Belt having regard to the National Planning Policy Framework ("the Framework") and any relevant development plan policies;
 - ii) The effect on the character and appearance of the area; and
 - iii) The effect on the living conditions of the existing occupants of building A, with particular regard to the provision of natural light and outlook.

Reasons

Effect on the Green Belt

5. The site is located in the Green Belt. The Framework states that substantial weight should be given to any harm to the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. One exception to inappropriate development, as set out in paragraph 145 of the Framework, is for the replacement of a building, provided the new building is in the same use and is not materially larger than the one it replaces. In this case, building B is of a similar height and approximate footprint as the approved replacement dwelling, with the bulk, mass and scale being comparable to what was previously approved.
7. On the basis of information in the officer report, building C measured 180 sqm, whilst building B measures 150 sqm. As such, the floor area of building B is less than the original structure (building C). The plans also show that building B is in a broadly similar location to building C, with its footprint partially overlapping with the original building, although it is set slightly to the north of the approved replacement building.
8. Building B is set closer to building A than the planning approval, with a gap of around 2.4 metres at the closest point. However, when considered together, this pair of buildings are well separated from other residential development along Glebe Road due to their back-land location. On the ground, the visual space between the two buildings is sufficient to avoid the impression of an unduly cramped or urbanised development, in views around the site. As such, there is no harm to the openness of the Green Belt, nor is there any conflict with the purposes of the Green Belt, as set out in paragraph 134 of the Framework.
9. These considerations lead me to the view that building B is not a materially larger building than the one it replaced. Having regard to current national planning policy, as set out in the Framework, the proposal is not inappropriate development. There is no requirement to demonstrate very special circumstances to justify the development.
10. Saved policy BAS GB3 of the Basildon District Local Plan (2007) ("saved local plan") predates the Framework but sets out criteria that apply where replacement dwellings in the Green Belt are proposed. On the evidence before

me, the proposal would not exceed the physical size limits for the enlargement of replacement dwellings, as set out in this policy.

11. The policy also sets out a requirement that no part of any replacement dwelling shall be less than 2.5 metres from any boundary. However, in my view this prescriptive requirement is not entirely consistent with the Framework, as the distance between a replacement building and the boundary is not necessarily relevant to a judgement on whether it is materially larger. A more flexible approach is taken in policy GB6 of the emerging Basildon Borough revised publication local plan 2014-2034, which requires that there is sufficient space around the building where such development is proposed. For the reasons discussed above, that would be achieved here.
12. In conclusion, in this particular case there is no harm to the Green Belt and no conflict with current national planning policy on development in such areas, as set out in the Framework. These material planning considerations outweigh the conflict with policy BAS GB3 of the saved local plan, on this main issue.

Character and Appearance

13. Glebe Road comprises linear, ribbon like frontage residential development largely surrounded by open fields. Within this context, buildings A and B appear within the garden area found to the rear of the Hyde. They comprise an exception to the prevailing pattern of linear frontage development, but in this case the principle of such development on the site has already been established through previous planning decisions.
14. The two buildings are set well away from public views, including from Glebe Road. The limited height and significant set-back from the Hyde means that they appear broadly subservient to the larger dwellings which face the street. As noted previously, there is sufficient visual space between the buildings to avoid the impression of a cramped or urbanised development.
15. Policy BAS BE13 of the saved local plan states that new dwellings should be set a minimum of 2.5 metres from the flank boundary of the site, within the settlement of Ramsden Bellhouse. However, there is an exception to this rule, where such development is located wholly within back gardens. That would be the case here.
16. Overall, there is no harm to the character and appearance of the area, including any special character exhibited in the settlement of Ramsden Bellhouse. There is no conflict with policies BAS BE12 or BAS BE13 of the saved local plan which seek to avoid material harm to the character of the surrounding area, where new development is proposed. In this respect the proposal complies with the Framework, which seeks to achieve well designed places, and other emerging policies which share similar objectives.

Living conditions

17. Building A has windows on three of its sides. The front and rear elevation benefit from an unobstructed and open outlook. The view from windows on the east facing side elevation of building A face on to a boundary fence and building B. The rooms these windows serve include sleeping accommodation and an open plan living area.

18. These side facing windows are functional. They provide ventilation and natural light to the habitable rooms they serve. The outlook from these rooms was originally compromised by building C so, on the evidence before me, they have never benefitted from a completely open outlook. Building B has been set back a sufficient distance to avoid the creation of any overbearing effect in relation to the affected rooms in building A. Any additional overshadowing from building B would be minimal, when considered against the original position and the previously approved scheme.
19. Such functional windows with limited outlook are common in residential properties, particularly on side elevations. There are other windows within building A which have an open outlook, including bedrooms and other living areas. These rooms can also be regarded as principal living areas. The living conditions within this unit, when considered as a whole, would be acceptable in all respects. The living conditions for future occupants of building B would also be acceptable.
20. I therefore conclude that the proposed siting of building B would not result in unacceptable harm to the living conditions of existing residents of building A through loss of natural light or outlook. There is no conflict with BAS BE12 of the saved local plan which seeks to avoid material harm through overshadowing or over-dominance, where new development is proposed. Nor does the proposal conflict with the relevant parts of the Framework which seek to create places with a high standard of amenity for existing and future users, nor other emerging policies which share similar objectives.

Conclusion and Conditions

21. The proposal conflicts with the separation distances set out in policy BAS GB3 of the saved local plan, and consequently the proposal does not accord with the development plan. However, there would be no harm to the living conditions of existing residents nor to the character and appearance of the area. Furthermore, for the reasons discussed in this decision, there is no conflict with current national planning policy in relation to the Green Belt. These material considerations outweigh the conflict with the development plan. The appeal should be allowed.
22. As the development has been justified in planning policy terms on the basis that it is not materially larger than the building it replaces, it is exceptionally justified on this occasion to remove permitted development rights that could lead its future enlargement. This condition, as suggested by the Council, is necessary to protect the openness of the Green Belt, and the living conditions of the residents of building A. The effect is to require planning permission for such works to the building, which would then be assessed against the requirements of the development plan.
23. A previous approval was subject to an appeal decision that removed an occupancy condition imposed by the Council upon the grant of planning permission¹. I agree that such a condition would not be justified here.

Neil Holdsworth

INSPECTOR

¹ APP/V1505/W/17/3171802