



Appeal Decisions

Site visit made on 24 November 2020

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10/02/2021

Appeal A: Ref: APP/H1515/W/20/3250232

Clements Wood Farm, Vaughan Williams Way, Warley, Brentwood, Essex, CM14 5LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Green against the decision of Brentwood Borough Council.
 - The application Ref 19/01264/FUL, dated 9 September 2019, was refused by notice dated 8 November 2019.
 - The application sought planning permission for demolition of existing dwelling and erection of new dwelling and detached garage without complying with a condition attached to planning permission Ref 10/00673/FUL, dated 13 December 2010.
 - The condition in dispute is No 16 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) Order 2008, or any subsequent re-enacting Order, no extensions whatsoever shall be erected to the dwelling or the garage hereby permitted.*
 - The reason given for the condition is: *The site lies in the Metropolitan Green Belt, wherein the local Planning Authority seek to restrict the formation of habitable floorspace in the interest of amenity.*
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Appeal B: Ref: APP/H1515/W/20/3250250

Clements Wood Farm, Vaughan Williams Way, Warley, Brentwood, Essex, CM14 5LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Green against the decision of Brentwood Borough Council.
- The application Ref 19/01489/FUL, dated 23 October 2019, was refused by notice dated 8 November 2019.
- The application sought planning permission for demolition of existing dwelling and erection of new dwelling and detached garage without complying with a condition attached to planning permission Ref 10/00673/FUL, dated 13 December 2010.
- The condition in dispute is No 12 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent re-enacting Order, no dormer windows shall be installed or any other additions or alterations made to the shape of the roof of the dwelling hereby approved.*
- The reason given for the condition is: *In the interests of amenity and to prevent the formation of additional habitable floorspace given the location of the property in the Metropolitan Green Belt.*

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Reasons

3. The main issue in these appeals is whether the conditions are reasonable and necessary in the interests of preserving the Green Belt and its openness.
4. The appeal site lies within the Metropolitan Green Belt, in a semi-rural setting surrounded by woodland and a field. It is approached from an access road which leads to a housing estate on the edge of Warley. It comprises a large replacement dwelling with a separate double garage and is accessed from a long private drive. Permission was granted in 2010 for the replacement dwelling. It has an extensive planning history which includes the approval of revisions to the original permission including a reduced curtilage and a single storey side extension and refusals of applications to remove other conditions for permitted development rights.
5. The conditions which are the subject of these appeals were attached to the planning permission for the replacement dwelling. Condition 16 relates to extensions and condition 12 relates to dormer windows and roof alterations. The appellant seeks the removal of the conditions in order to benefit from permitted development rights for such works.
6. The Council says that when permission was granted, the replacement dwelling was materially larger than the one it replaced but that a planning obligation to secure the demolition of an outbuilding on the site and the ability of the Council to manage further development through conditions restricting permitted development amounted to the 'very special circumstances' that outweighed the policy harm of inappropriateness in the Green Belt and harm to the openness of the Green Belt.
7. The starting point is the development plan which includes policies GB1 and GB2 in the Brentwood Replacement Local Plan (LP). These relate to appropriate/inappropriate development in the Green Belt and the impact of development on the openness of the Green Belt. Although the LP was adopted prior to current national policy in the National Planning Policy Framework (the Framework) and there are some differences, the policies are broadly in accordance with the Framework.
8. The appellant says that the policy basis behind the reasons for the conditions, policy GB6 in the LP, is now outdated because it relied on floorspace calculations in contrast to the Framework which does not define how much floor space is considered proportionate. I would agree with that and will therefore also assess these appeals on the basis of the Framework and the more up to date use of volume rather than floorspace calculations. However, the Framework nevertheless still seeks to restrict disproportionate additions over and above the size of the original building in the Green Belt and restrict replacement buildings that are materially larger than the one they replace.
9. According to the appellant's volume calculations, the difference between the previous demolished dwelling and outbuilding and the existing dwelling as built is some 348 cubic metres. He argues that if the conditions were removed, any

additions would not result in a materially larger dwelling. I disagree because although the residential curtilage of the site has been restricted and would limit any extensions on the eastern side elevation of the dwelling, it remains a sizeable curtilage which, together with the large size of the house and its staggered plan form, would potentially allow for substantial extensions and roof alterations which if built to the maximum allowed under permitted development would result in disproportionate additions and inappropriate development in the Green Belt. Whilst those additions would be seen against the existing mass of the house and would not be readily visible from public viewpoints they would, by reason of their additional volume, also reduce the openness of the Green Belt.

10. I have noted that permission was granted in 2004 for a larger dwelling but that has now lapsed and it does not therefore constitute a realistic fallback position that would outweigh the harm I have identified.
11. Moreover, these conditions do not necessarily prevent future extensions or additions to the dwelling but allow the Council some control over their impact on the openness of the Green Belt.
12. For the reasons given above, I conclude that conditions 12 and 16 remain necessary and reasonable and fulfil the other tests for conditions in paragraph 55 of the Framework. Their removal would result in inappropriate development and harm to the openness of the Green Belt, contrary to development plan policies GB1 and GB2. There are no considerations that would amount to the very special circumstances needed to outweigh this policy harm. The proposed removal of the conditions would also fail to accord with national policy in the Framework. Both appeals are dismissed.

Sarah Colebourne

Inspector