



Appeal Decision

Site visit made on 12 August 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Appeal Ref: APP/B5480/W/21/3268154

Clarewood, Hubbards Close, Hornchurch, RM11 3DH

- 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 Calder against the decision of London Borough of Havering.
 - The application Ref P1590.20, dated 27 October 2020, was refused by notice dated 19 January 2021.
 - The development proposed is 6 x single storey, 3-bed, semi-detached dwellings with habitable roof space, associated parking, and amenity space, involving alterations to 1 x existing 2-bed detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for 6 x single storey, 3-bed, semi-detached dwellings with habitable roof space, associated parking, and amenity space, involving alterations to 1 x existing 2-bed detached dwelling at Clarewood, Hubbards Close, Hornchurch, RM11 3DH, in accordance with the terms of the application, Ref. P1590.20, dated 27 October 2020, and subject to the conditions listed in the Annex to this decision.

Procedural Matters

2. The description of the proposed development on the application form is different to that in the Council's decision notice. I have adopted the latter as it more accurately describes the development.
3. On 6 February 2020 an appeal to construct three new dwellings on the appeal site was dismissed due to the lack of servicing and omission of certain planning obligations (Ref. APP/B5480/W/19/3225742) (2020 Appeal). In reaching that decision, the Inspector concluded that the proposed development could be considered as an exception to adopted local plan policies and the Framework which sought to prevent inappropriate development within the Green Belt. Following this, the Council granted planning permission, on 4 June 2020, to retain the existing detached bungalow and construct two new dwellings on the appeal site (Ref. P0483.20) (2020 Permission). I have had regard to both decisions in determining this appeal.
4. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (July 2021) (Framework). However, the Green Belt policies that are relevant to this appeal have not changed and there was no need, therefore, to invite the parties to make further submissions in response to the revised Framework. The paragraph numbering for the Green Belt policies has changed and I have highlighted those changes in my decision.

Main Issues

5. The main issues are:

- a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and development plan policy; and
- b) The effect of the proposed development on the character and appearance of the appeal property and surrounding area.

Reasons

Inappropriate development in Green Belt

6. The appeal site comprises a large bungalow with detached double garage, known as Clarewood, and, to its east, a vacant scaffolding yard. The latter is surrounded by high fencing and includes a number of open sided and covered structures, as well as large areas of hardstanding. The surrounding area includes large detached properties, as well as paddocks, stables and other commercial uses.
7. Paragraph 149 of the Framework (previously paragraph 145) states that the construction of new buildings in the Green Belt is inappropriate development unless it falls within one of the exceptions listed a) to g) (inclusive). The parties agree that the host property and scaffolding yard constitutes previously developed land. Exception g) to paragraph 149 states that the complete redevelopment of previously developed land, whether redundant or in continuing use, is not inappropriate development provided it would "*not have a greater impact on the openness of the Green Belt than the existing development.*"
8. The Council have referred to policy DC45 of the Havering Core Strategy & Development Control Policies Development Plan Document (2008) (HCS), which deals with appropriate development in the Green Belt. However, in their submissions, they accept that this policy is not as up to date as the Framework and that more weight should be accorded the latter. Paragraph 1.1, the reasoned justification to policy DC45, states that the policy is based on Planning Policy Guidance Note 2 (PPG2), Green Belts, March 2001. PPG2 was cancelled a number of years ago and pre-dates policy changes set out in subsequent versions of the Framework. In view of this, I find that policy DC45, insofar as it relates to the issue raised by this appeal, is not consistent with the Framework and that the policies of the latter take precedence in this case.
9. The assessment required under paragraph 149 g) of the Framework is whether the appeal proposal would have a greater impact on the openness of the Green Belt compared to the existing detached bungalow, separate double garage and scaffolding yard, i.e. the existing development. The policy does not require an assessment of the appeal proposal in relation to the 2020 Permission or to potential permitted development rights.
10. The impact on openness has a spatial as well as a visual aspect. In spatial terms, there is no agreed schedule of existing and proposed measurements. I have, therefore, based my assessment on the observations I made on site, the existing and proposed plans and the context, siting and prominence of the appeal proposal compared to existing development.

11. The existing bungalow would remain and be subdivided to create two new dwellings. The existing detached double garage, as well as all the structures within the scaffolding yard, would be demolished and replaced by two new buildings, each subdivided into two dwellings. Whilst, based on the Appellant's measurements, the new development would result in an increase in footprint and volume compared to the existing development, this increase would not, in my judgement, be material. Even so, any increase must be viewed in the context of the removal of the existing scaffolding sheds, associated structures and large areas of hardstanding, as well as the removal of the extensive and unsightly high boundary fencing that encloses the yard. All of these features currently detract from the openness of this part of the Green Belt and their removal would, in my view, represent a significant benefit.
12. Whilst new building B would replace the sheds, structures and hardstanding to the front of the scaffolding yard, new building A would be sited to the west of the yard, on part of the rear garden to Clarewood. Even so, this new building would essentially replace the rear part of the yard and its associated structures as well as the large double garage to the host property. Overall, compared to existing, the impact on openness, in spatial terms, would not, in my judgement, be greater than the existing development.
13. In visual terms, the appeal proposal would represent a significant improvement on existing, specifically through the removal of the scaffolding yard and its high boundary fencing. The latter would be replaced by a spacious development of new dwellings set within large plots, with the potential for enhanced tree planting and landscaping. As I observed on my site visit, proposed landscaping would offer the opportunity to supplement the existing landscaping and mature trees on the northern boundary of the appeal site, which effectively screen it from the open land further to the north.
14. Overall, therefore, the spatial and visual impact of the appeal proposal would, in my judgement, be acceptable and it would not have any greater impact on the openness of the Green Belt than the existing development.
15. My findings in this respect are consistent with those reached by the Inspector in the 2020 Appeal. The proposed layout, in that appeal, was not dissimilar to that in the current appeal. In paragraph 9 of that decision the Inspector stated *"I acknowledge that the form of the proposed development is different from that existing but given that a large area of the appeal site is fully enclosed as a builder's yard and there is a large dwelling with ancillary detached garage the development of 3 single storey dwellings across the whole site would not have greater impact on openness than the existing development."*
16. Whilst the design of the current appeal scheme does differ from the 2020 Appeal, in that the new dwellings would include habitable roofspace through the introduction of dormers and there are further subdivision works to the proposed elevations, the Appellant states that the footprint and height of the appeal buildings would be broadly the same as that shown in the 2020 Appeal. The submitted plans and the scheme (layout) comparisons within the Design & Access Statement appear to reaffirm the Appellants view in this respect.
17. The Council contend that the appeal proposal would result in an increase in hardstanding compared to existing. However, the Appellant's submissions indicate that the amount of hardstanding in the appeal scheme would be less

than existing, which appears to be supported by the various scheme (layout) comparisons included in the Appellant's submissions.

18. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and its essential characteristics are, therefore, its permanence and openness. In my judgement, based on all the factors I have identified above and the evidence before me, I find that the appeal proposal would not have a greater impact on the openness of the Green Belt than the existing development. The appeal proposal would, therefore, accord with the exception set out in paragraph 149 g) of the Framework.

Character and appearance

19. The Council's second reason for refusal contends that the proposed dormer windows would be prominent and visually intrusive and thus detrimental to the open character of the Green Belt. As I have found above, the appeal proposal would not represent inappropriate development and would not be harmful to the openness of the Green Belt or to the purposes for including the land within it. The impact on openness has been explicitly taken into account in reaching that finding and through the assessment required by paragraph 149 g) of the Framework.
20. Given the above, I have considered the Council's objection on the basis that it relates to the impact the proposed dormers would have on the character and appearance of the area.
21. As I confirmed at the outset, the surrounding area contains a mixture of uses. To the west and east of the appeal site are detached properties set within spacious plots. The latter includes The Willows, to the east, which I understand has recently been redeveloped. It comprises a large single storey property with habitable roof space served by a number of dormers on the front and rear of the property.
22. Within the above context, the proposed dwellings would be sited within spacious plots broadly reflecting the character of adjacent development. The new buildings would be similar in design, form and scale to the existing bungalow on the appeal site. The proposed dormers would be small scale and would sit comfortably within the main roofscape of the new dwellings. In view of this and given that the area does not have a defined or uniform character, I am satisfied that the appeal proposal would not detract from the character and appearance of the area. I am also satisfied that the proposed dormers would not materially increase the scale, bulk and appearance of the proposed development compared to that approved under the 2020 Permission.
23. The Council contend that the appeal proposal would result in an increase in hardstanding compared to the 2020 Permission. However, the measurements and scheme comparisons included within the Appellant's submissions indicate that the amount of hardstanding within the appeal scheme would be marginally less than that approved.
24. The Council also contend that the appeal proposal would be substantially different the 2020 Permission in terms of its scale, design and character. However, the Appellant's submissions indicate that the proposed roof heights, footprints and main bulk of the proposed dwellings has not changed from that approved and that the principal difference is the subdivision works and

proposed dormers. Having reviewed the submitted plans and the scheme comparisons included in the Appellant's submission, I concur with the Appellant's view. Based on the evidence before me, therefore, whilst the appeal proposal does include a number of changes to the proposed elevations compared to the 2020 Permission, these are not, in my judgement, significant or substantial.

25. Accordingly, I find that the appeal proposal would comply with paragraph 130 of the Framework (previously paragraph 127). The Council's reason for refusal refers to policy DC68, but this policy relates to Conservation Areas and is therefore not relevant to this appeal.

Other Matters

26. Concerns have been raised by interested parties regarding increased traffic, road safety, noise and substandard local infrastructure. There is no detailed evidence before me to suggest that any of these concerns would result in any harm and I note they are not issues that the Council have raised in relation to this appeal. I am satisfied, therefore, that none of these issues would result in any material harm.

Planning Balance

27. I have found that the appeal proposal would be acceptable in that it would not have a greater impact on the openness of the Green Belt than the existing development, and that the appeal proposal would, therefore, accord with the exception set out in paragraph 149 g) of the Framework. I have also found that the appeal proposal would not result in any harm to the character and appearance of the area.
28. The Council acknowledge that the latest Housing Delivery Test results for 2020 indicate that the delivery of housing in the Borough was substantially below the housing requirement over the measured three year period, and that the relevant housing policies of the development plan are out of date. In these circumstances, paragraph 11 d) ii of the Framework is engaged, which requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. As I have found above, the appeal proposal would not result in any adverse impacts, it would secure a number of benefits and would accord with the exception set out in paragraph 149 g) of the Framework. Accordingly, the presumption in favour of sustainable development applies and planning permission should be granted.
29. There are a number of benefits to the appeal proposal. These include securing new residential units and boosting the supply of new homes in line with paragraph 60 of the Framework (previously paragraph 59), as well as short term economic benefits from construction, increased local spend and support for local services and facilities. In view of the position on housing delivery in the Borough I would accord these benefits significant weight and they add further support to the findings I have reached above.

Conditions

30. The Council has suggested a number of conditions which I have considered against the advice in the Framework and the Planning Practice Guidance (PPG) chapter on the use of planning conditions. I have also had regard to the

Appellant's Final Comments, dated 25 June 2021, which raised no objections to the conditions set out in section 7.2 of the Council's Appeal Statement, other than questioning the need for condition 18 (noise insulation).

31. Conditions relating to compliance with the approved plans and the submission and approval of details of materials, boundary treatment, landscaping and tree retention/protection, construction works/methods, water consumption, accessible/adaptable dwellings and contamination, are reasonable and necessary in the interests of securing a high quality sustainable development, in the interests of highway safety and local amenities, and to minimise the risks to the public from contamination. However, I have added a list of approved plans and modified the wording of some of the conditions.
32. Conditions relating to the submission and approval of the vehicle access, refuse and recycling facilities, cycle storage and car parking are also necessary in the interests of highway safety, to promote alternative modes of transport and to ensure satisfactory waste facilities. Again, I have modified some of the wording of these conditions.
33. The PPG advises that permitted development rights should only be taken away in exceptional circumstances. Even so, I am satisfied that those circumstances exist here and that a condition preventing the construction of any new extensions or the enlargement of the approved dwellings or the construction of any detached buildings, under permitted development rights, is necessary and reasonable to safeguard visual amenities, and to control the development of the land in the interests of the character and appearance of the area and the openness of the Green Belt. However, given the layout and design of the proposed dwellings, their relationship to which other and neighbouring properties, I do not consider that a condition taking away permitted development rights to install flank windows in the proposed dwellings is either necessary or reasonable.
34. In relation to the condition requiring the submission and approval of a scheme to mitigate noise from "*the adjoining commercial yard*" (condition 18 on the Council's list), there is no evidence before me to justify this condition or any information to identify the 'commercial yard' that the Council refer to or the noise sources(s) that any scheme would seek to mitigate. In view of this, I am unable to impose such a condition as it appears unnecessary and unreasonable.

Conclusion

35. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex – Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3623 PL01, 3623 PL410, 3623 PL400B, 3623 PL401B, 3623 PL402A, 3623 PL403, 3623 PL404B, 3623 PL405A, 3623 PL406, 3623 PL407, 3623 PL408 and 3623 PL409.
- 3) Prior to the commencement of the development hereby permitted, samples of all materials to be used in the external construction of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be constructed in accord with the approved materials.
- 4) Prior to the first occupation of the dwellings hereby permitted, refuse and recycling storage shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be permanently retained thereafter.
- 5) Prior to the first occupation of the dwellings hereby permitted, cycle storage shall be provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be permanently retained thereafter.
- 6) Prior to the commencement of the development hereby permitted, a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for their protection during the course of the development, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following completion of the development and any trees, shrubs 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 in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.
- 7) Prior to the first occupation of the dwellings hereby permitted, the areas set aside for car parking shall be laid out and surfaced to the satisfaction of the Local Planning Authority. These car parking spaces shall thereafter be permanently retained for their designated purpose.
- 8) Prior to the first occupation of the dwellings hereby permitted, details of all proposed walls, fences and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall then be carried out in accordance with the approved details and permanently retained thereafter.
- 9) All building operations in connection with the construction of the development hereby permitted, and other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and soil from the site; and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays or Bank Holidays/Public Holidays.

- 10) All the dwellings hereby permitted shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations – Water Efficiency.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), other than porches erected in accordance with the Order, no extension or enlargement (including additions to the roof) shall be made to any of the dwellings hereby permitted, or any detached building erected, without the express permission in writing of the Local Planning Authority.
- 12) Prior to the commencement of the development hereby permitted, wheel washing and vehicle cleansing facilities to prevent mud being deposited onto the public highway during the construction works shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be retained thereafter throughout the duration of the construction works. If mud or other debris originating from the site is deposited in the public highway all on site operations shall cease until it has been removed. The submission will provide:
 - a) A plan showing where vehicles will be parked within the site to be inspected for mud and debris and cleaned if required. The plan should show where the construction traffic will access and exit the site from the public highway.
 - b) A description of how the parking area will be surfaced, drained and cleaned to prevent mud, debris and muddy water being tracked onto the public highway.
 - c) A description of how vehicles will be checked before leaving the site – this applies to the vehicle's wheels, the underside of vehicles, mud flaps and wheel arches.
 - d) A description of how vehicles will be cleaned.
 - e) A description of how dirty/muddy water will be dealt with after being washed off the vehicles.
 - f) A description of any contingency plan to be used in the event of a breakdown of the wheel washing arrangements.
- 13) No part of the development hereby permitted shall be first occupied until access to the highway has been completed in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, and any agreements required under the Highways Act 1990 have been entered into.
- 14) Prior to the commencement of the development hereby permitted, a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers shall be submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include details of:
 - a) Parking of vehicles of site personnel and visitors.
 - b) Storage of plant and material.
 - c) Dust management controls.
 - d) Measures for minimising the impact of noise and, if appropriate, vibration arising from construction vehicles.

- e) Predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority.
 - f) Scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authority.
 - g) Siting and design of temporary buildings.
 - h) Scheme for security fencing/hoardings, depicting readily visible 24-hour contact number for queries and emergencies.
 - i) Details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.
- The development shall be carried out fully in accordance with the approved Construction Method Statement.

- 15) Prior to the commencement of the development hereby permitted, the applicant shall submit for the written approval of the Local Planning Authority:

- a) A Phase I (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminants, their type and extent incorporating a Site Conceptual Model.
- b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
- c) A Phase III (Remediation Strategy) Report if the Phase II Report confirms the presence of significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, the proposed remediation objectives and remediation criteria, timetable for works, site management procedures and procedure for dealing with any previously unidentified contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- d) Following completion of measures identified in the approved remediation scheme mentioned in c) above, a Verification Report that demonstrates the effectiveness of the remediation carried out, any requirement for longer term monitoring of contaminant linkages, maintenance and arrangements for contingency action, must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 16) a) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

b) Following completion of the remediation works as mentioned in a) above, a Verification Report, demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved, must be produced and is subject to the approval in writing of the Local Planning Authority.

- 17) The dwellings hereby permitted shall be constructed to comply with Part M4(2) of the Building Regulations – Accessible and Adaptable Dwellings.

End of Annex.