



Appeal Decision

Site visit made on 24 January 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/H1515/W/22/3290071

Willow Barn, Thoby Lane, Mountnessing, Brentwood CM15 0SY

- 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 and Mrs R Collins against the decision of Brentwood Borough Council.
 - The application Ref 21/00549/FUL, dated 25 March 2021, was refused by notice dated 6 August 2021.
 - The application sought planning permission for single storey extension to an existing dwelling and cart lodge converted into residential dwelling with link to existing dwelling, outbuilding converted into annexe including open parking bay, existing access to be modified and entrance gates to be repositioned without complying with a condition attached to planning permission Ref 20/01135/FUL dated 2 October 2020.
 - The condition in dispute is No 2 which states that: the development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.
 - The reasons given for the condition is: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.
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Decision

1. The appeal is allowed and planning permission is granted for single storey extension to an existing dwelling and cart lodge converted into residential dwelling with link to existing dwelling, outbuilding converted into annexe including open parking bay, existing access to be modified and entrance gates to be repositioned at Willow Barn, Thoby Lane, Mountnessing, Brentwood CM15 0SY without compliance with condition number 2 previously imposed on planning permission Ref 20/01135/FUL, dated 2 October 2020, but subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the submission of the appeal the Council has adopted the Brentwood Local Plan 2022 (LP). The policies in the LP supersede the local planning policies referred to in the Council's decision notice. The appellants have had an opportunity to address the changes during the appeal.
3. The address is taken from the appeal form which accurately describes the site address. The development subject of this appeal relates to the installation of roof lights and a garage/store. These works have been completed and are not in accordance with the listed plans on the decision notice Ref 20/01135/FUL to which condition 2 relates to. The scheme before me seeks to vary condition 2, to substitute plans depicting the garage/store and rooflights.

Main Issues

4. The main issues are whether the disputed condition 2 is reasonable and necessary having regard to:
 - whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt; and
 - if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

5. Policy MG02 of the LP stipulates, amongst other things, that the Green Belt will be preserved from inappropriate development so that it continues to maintain its openness and serve its key functions. It goes on to say that all development in the Green Belt will be considered and assessed in accordance with the provisions of national planning policy.
6. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in a number of exceptions. One exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building (paragraph 149(c)).
7. The introduction of rooflights would be an alteration of the host property that would not alter the size of the original building. The courts have held that some outbuildings may be considered as extensions on the basis that they are 'normal domestic adjuncts'. In this regard, taking account of its domestic function, the close proximity to the dwelling and the clear and direct ancillary relationship with the house, the garage could, as a matter of fact and degree, be treated as an extension in this particular instance.
8. What constitutes a disproportionate addition is not defined within Policy MG02 of the LP or the Framework. The appellants measurements indicate that the proposal would increase the floor space by 11%, with the garage having an external footprint of 18m² and the dwelling having a floor space of approximately 157m². I have no reason to disagree with these figures. Moreover, I have also had regard to the original existing plans from the application Ref 20/01135/FUL that are before me. Taking all the evidence before me into account, the garage represents a very small addition that does not result in a disproportionate addition over and above the size of the original building.
9. I therefore conclude that the development is not inappropriate development within the Green Belt and therefore accords with Policy MG02 of the LP and paragraph 149(c) of the Framework, when taken together.
10. As the impact on openness is implicitly taken into account in the exceptions, there is no specific requirement to consider the actual effect on openness in this regard. Moreover, as I have found that the development is not

inappropriate development in the Green Belt, it is not necessary for me to consider whether any very special circumstances exist. On this basis I do not consider the disputed condition to be reasonable and necessary in the interests of the Green Belt.

11. The Council has also referred me to Policy BE14 of the LP, which is concerned with good design. However, given the main issue in this appeal relates to the Green Belt I do not consider this policy to be determinative. In any case, the garage is a modest structure, and its form, materials and appearance are in keeping with the host buildings and maintain the tightly knit character of the group. Moreover, the additional rooflights do not over dominate the roof slope and maintain the character of the converted buildings.
12. Decision notices for the grant of planning permission under section 73 are also required to restate the conditions imposed on earlier permissions that continue to have effect. It also provides the power to not attach conditions, which were previously imposed, or to attach modified versions of them.
13. I have removed the commencement condition (original condition No 1) as it is no longer necessary given that works have commenced. I have varied the plans condition (original condition No 2) to include the plans showing the garage and rooflights subject of this appeal. I have retained the original existing and site location plans within the list of plans for certainty.
14. It is unclear what the status of original conditions Nos 3, 4, 7, 8, 9 and 10 are. As such, I have re-imposed them as they remain relevant in the interests of character and appearance (original condition No 3), living conditions (Nos 3 and 4), and highway safety (original condition Nos 7, 8, 9 and 10). I have altered the drawing number referred to in the original condition No 7 to reflect the replacement approved drawing No 4939 102 for certainty. The original conditions Nos 5 and 6 remain necessary in the interests of the living conditions of the occupiers of neighbouring dwellings and, in the case of original condition No 6, parking as well.
15. For the reasons set out above, the appeal is allowed.

Mr R Walker

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4939 01; 4939 02; 4939 03; 4939 04; 4939 103; 4939 102; 4939 104; 4939 105 Rev A.
- 2) The development shall not be occupied 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.

- 3) The bedroom, bathroom, entrance hall and utility room in the side elevation of plot 2 overlooking the amenity space of plot 1 shall be glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration. The windows shall be installed prior to the first occupation of the building or use of the room of which the window(s) is installed. Those windows shall remain so glazed. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition).
- 4) The development hereby approved is permitted as an alternative to the development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, reenacting or modifying that Order). Notwithstanding the provisions of that order the dwelling shall not be extended or enlarged in any way other than as hereby permitted without the prior grant of specific planning permission by the local planning authority.
- 5) The annex created as part of this proposal shall not be used other than as part of the single dwellinghouse shown on the approved drawings as plot 2 and the annex shall not be occupied as a separate dwelling.
- 6) The vehicular access shall be altered as shown in planning drawing No 4939 102 and shall be provided with an appropriate vehicular crossing of the highway verge.
- 7) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the carriageway.
- 8) There shall be no discharge of surface water from the development onto the carriageway.
- 9) Prior to commencement of the development, the areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

End of Schedule