



Appeal Decisions

Site visit made on 24 January 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal A Ref: APP/H1515/W/22/3294380

Meadow Farm, Beggar Hill, Fryerning CM4 0PG

- 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 Michael Merrigan against the decision of Brentwood Borough Council.
 - The application Ref 21/01340/FUL, dated 28 July 2021, was refused by notice dated 24 September 2021.
 - The development proposed is described as 'demolition and reconstruction of storage barn (Building C), B8 and change of use to provide 1No. self-contained dwellinghouse, C3'.
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Appeal B Ref: APP/H1515/W/22/3294381

Meadow Farm, Beggar Hill, Fryerning CM4 0PG

- 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 Michael Merrigan against the decision of Brentwood Borough Council.
 - The application Ref 21/01341/FUL, dated 28 July 2021, was refused by notice dated 24 September 2021.
 - The development proposed is described as 'change of use of stables building (Building E), B8 to provide 1No. self-contained dwellinghouse, C3'.
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Decision

1. Appeal A is allowed and planning permission is granted for demolition and reconstruction of storage barn (Building C), and change of use to provide 1No. self-contained dwellinghouse, C3, at Meadow Farm, Beggar Hill, Fryerning CM4 0PG in accordance with the terms of the application, Ref 21/01340/FUL, dated 28 July 2021, subject to the conditions in the schedule below.
2. Appeal B is allowed and planning permission is granted for replacement of existing stables building (Building E), to provide 1No. self-contained dwellinghouse, C3, at Meadow Farm, Beggar Hill, Fryerning CM4 0PG in accordance with the terms of the application, Ref 21/01341/FUL, dated 28 July 2021, subject to the conditions in the schedule below.

Applications for costs

3. Applications for costs were made in respect of both appeals by Michael Merrigan against Brentwood Borough Council. These applications are the subject of a separate Decision.

Preliminary Matters

4. As set out above there are two appeals, relating to conversion of two separate buildings (Building C and Building E). Although the appeal site boundaries differ, both are located within Meadow Farm. Both applications were refused for similar reasons. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. In the banner heading above, I have used the descriptions of proposed development as given on the application forms. In the case of Appeal B, while the application form referred to change of use, the application documents clearly state that it is proposed to demolish Building E and replace it with a new dwelling of the same footprint and volume. Therefore, in my Decision on Appeal B above, I have amended the description to describe the proposed development accurately. Since the intention to demolish and replace the building was clearly described in the application documents, I am satisfied that no prejudice would arise to any party as a result of this amendment, and the main parties have had the opportunity to comment.
6. Although the application forms refer to both existing buildings as having a lawful use within Class B8, I have omitted this reference in the Decisions above. Former Class B8 of the Town and Country Planning (Use Classes) Order 1987 has been superseded and it is not the function of this appeal to determine the Use Class applicable to the existing buildings. However, I have had regard to the existing use of the buildings in more general terms, to the extent that it is relevant to the issues before me.
7. Evidence submitted with the appeals included drawings numbered 050-FP-100 (Appeal A) and 050-FP-101 (Appeal B). I have treated these as illustrating the extent of land which the appellant considers to be available for private amenity purposes, and not as proposing any specific changes to the layout considered by the Council. The appeals also included cross section drawings 050-FP-018 & 050-FP-019 (Appeal A) and 050-FP-032 (Appeal B), which were not listed on the Council's decision notice. These illustrate the proposed internal layout and likewise do not include any changes to the development which was considered by the Council.
8. Since the additional plans do not change the nature of the proposed development, and were available to the Council and interested parties with the appeals, I am satisfied that no prejudice would arise to any party from their consideration at this stage. I have therefore had regard to them when considering the appeals.
9. The Brentwood Local Plan 2016-2033 was adopted in March 2022, after the applications had been determined. The Council has identified relevant policies of the newly adopted Local Plan in their statement and has confirmed that policies of the Brentwood Replacement Local Plan 2005 (BRLP) referred to in the reasons for refusal have been revoked. I have considered the appeals based on the adopted Local Plan.

Background and Main Issues

10. Both the appeal sites are within the Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that construction of new

buildings should be regarded as inappropriate in the Green Belt. It goes on to set out a number of exceptions, which include the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development (Framework paragraph 149g, first part).

11. Building E is a stable building which the evidence indicates was permitted in 2009. Building C is an older storage barn, which at the time of my site visit was being used for a mix of domestic storage and equestrian purposes, as was the intervening Dutch barn (Building D). Based on the evidence before me, including my observations on site, I have no reason to doubt that either appeal site comprises previously developed land, as defined in the Framework.
12. In terms of openness, the Council's Officer Reports noted that both proposed dwellings would have very similar form, volume and footprint to the existing buildings. On that basis, the Council concluded that the proposed developments did not harm openness, that they were otherwise consistent with the requirements of Framework paragraph 149g and did not amount to inappropriate development in the Green Belt. Based on the evidence before me, I have no reason to reach a different conclusion.
13. Against that background, the main issue in both cases is whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to the extent of private outdoor amenity space.

Reasons

14. Both Building C and Building E are positioned close to the rear boundary of their sites. Although there is some limited space behind each building, these areas are physically constrained, both in terms of their narrow, elongated shape and the amount of boundary vegetation. Neither would provide a meaningful area for use as private amenity space, although they could potentially accommodate a limited amount of garden storage.
15. However, in both cases, a more substantial area is available in front of the existing buildings. The proposed front entrances and windows to main living areas would overlook these areas, which would therefore be intimately related to the use of the replacement buildings as dwellings. Neither area is restricted by vegetation or other obstructions and both are capable of providing outdoor amenity space, subject to appropriate layout and landscaping.
16. The plans indicate that both areas would provide storage for refuse/recycling, parking spaces and cycle storage, together with additional space capable of being used for other domestic activities. While the extent of such space for Building C would be limited, it would be in reasonable proportion to the size of this modest two bedroom dwelling. The area associated with Building E would more extensive and would similarly be proportionate to the scale of the proposed accommodation.
17. The Council's Officer Reports refer to a minimum requirement of 75sqm private amenity space for a two bedroom dwelling. This was based on standards in Appendix 1 of the BRLP. In the newly adopted Local Plan, Policy HP06 takes a more flexible approach to the layout and use of outdoor spaces. While the supporting text includes a range of guidance on the layout of private amenity

space, it does not carry forward the 75sqm standard and the proposed development would not conflict with this adopted policy in any material respect.

18. There is no clear justification for excluding areas shown as hardstanding on the proposed plans, other than those needed for parking and manoeuvring of vehicles. Hard-surfaced areas would be capable of providing space for outdoor seating, patio planting and the like. However, in order to ensure that both sites are laid out in a manner capable of supporting the living conditions of future occupiers, further details of landscaping and boundary treatment should be secured through conditions. This would also clarify how the layout of private amenity space would avoid interfering with access to the proposed parking spaces.
19. Although the reasons for refusal also refer to living conditions for current occupiers, the Council's evidence is entirely focussed on the amount of private amenity space and not on its relationship with any neighbouring dwellings. I have likewise focussed on this aspect of the proposed development in my reasoning above. However, I am satisfied that privacy for occupiers of existing buildings on the wider site could also be safeguarded through appropriate layout and boundary treatment, to be secured through conditions.
20. The proposed access to Building E would pass in front of Building C, which would limit privacy within the outdoor space in front of Building C, depending on the proposed boundary treatment. However, the degree of intrusion would be both limited and transitory, given the modest level of activity likely to be associated with residential use of Building E and its position beyond Building C.
21. For the reasons set out above, having had particular regard to the extent of private outdoor amenity space, I conclude that the proposed developments would provide satisfactory living conditions for future occupiers. Subject to conditions to secure appropriate landscaping and boundary treatment, they would not conflict with Policies BE14 and HP06 of the Brentwood Local Plan March 2022 or with paragraph 130f or other relevant paragraphs of the Framework. These policies, amongst other things, require that new residential development provides appropriate private amenity space and that all proposed development safeguards the living conditions of future occupants.

Other Matters

22. Although the sites are within a rural area, no loss of agricultural use or buildings is proposed. There is a well-established pattern of existing dwellings along the lane, so introduction of additional residential properties would not be inherently harmful to the rural character of the area. The proposed development involves redevelopment of previously developed land and is not inappropriate development in the Green Belt, for the reasons explained above. There is no requirement in the Framework that such redevelopment is limited to redundant buildings.
23. Most of the area currently occupied by a horse walker lies outside the appeal sites and neither application proposes expansion of residential use into this area. The proposed turning head beyond Building E would be on land which is already enclosed by fencing and provides access to the adjacent field. As such, its limited use for manoeuvring of vehicles would not amount to any significant or harmful change in character.

24. While the surrounding highway network is both narrow and rural in character, vehicular access into the site already exists and the proposed layout would make provision for access and parking well clear of the lane. The limited level of traffic movements associated with two modest dwellings would not materially contribute to any existing issues with highway capacity, safety or maintenance.
25. The proposed development would introduce windows facing towards nearby properties, including 1 View Cottages which likewise has side-facing windows facing the appeal sites. However, this existing property and the proposed dwellings are separated by an adjacent field, together with an existing boundary hedge. Given the separation distance, there would be no material harm to the privacy of neighbouring occupiers.
26. While I have noted the absence of mains drainage, compliance with the Building Regulations and other regulatory regimes would be the appropriate mechanism to ensure provision of adequate drainage capacity for the proposed uses.
27. Any existing obstruction of a public right of way adjacent to Building A falls outside the scope of this appeal, since it is not a consequence of the proposed development.

Conditions

28. The Council has suggested a number of conditions, which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity and have omitted others. In both cases, I have imposed the same conditions, with the exception of the wording of the condition specifying the approved plans.
29. I have imposed conditions regarding storage of building materials, as requested by the Council and the Highways Authority. This condition is required in the interests of highway safety and the free flow of traffic, having regard to the nature of the surrounding road network. I have modified the Council's proposed wording, to include a clear trigger for submission and approval of details. These details are required prior to commencement of development, since the initial demolition phase would be likely to limit the available space on site, triggering a requirement for effective construction management from the outset.
30. I have imposed conditions requiring approval of external materials, in the interests of maintaining the character and appearance of this rural area. However, I have modified the Council's suggested wording, since these details are not required prior to the commencement of initial demolition or ground works. I have also imposed conditions requiring approval of details of hard and soft landscaping, and means of enclosure. This is to secure provision of adequate private amenity areas, as explained above, and also to ensure that any associated means of enclosure are visually compatible with the rural character of the area.
31. I have not included any conditions relating to cycle storage. Provision for cycles is shown on the plans, which would be under cover and capable of accommodating a reasonable number of cycles, proportionate to the scale of the proposed dwellings. The proposed provision is adequately safe and secure,

given that the dwellings would be located well towards the rear of Meadow Farm and not readily accessible to passing members of the public.

32. I have not imposed conditions relating to noise and disturbance during construction. These are not necessary, since the issues highlighted by the Council's Environmental Health team are capable of being addressed through other regulatory regimes, should any statutory nuisance arise.

Conclusion

33. For the above reasons, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that both the appeals should be allowed subject to the conditions set out in the schedules below.

Jane Smith

INSPECTOR

Schedules of Conditions

Appeal A

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 050 FP 001, 050 FP 011, 050 FP 012, 050 FP 013, 050 FP 014, 050 FP 015, 050 FP 016, 050 FP 017, 050 FP 018, 050 FP 019, 050 FP 100.
3. No development shall take place, including any works of demolition, until details have been submitted to and approved in writing by the local planning authority of areas to be used for the reception and storage of building materials within the site. The approved areas shall thereafter be kept available for reception and storage of building materials throughout the construction period for the development.
4. No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.
5. No development shall take place above ground level before details have been submitted to and approved in writing by the local planning authority of a scheme of hard and soft landscaping, such details to include:
 - a) the layout and proposed surface materials of all hard surfaced areas,
 - b) the layout of areas to be planted, seeded or turfed, and
 - c) details of any proposed means of enclosure.

Development shall thereafter be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner.

Appeal B

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 050 FP 020, 050 FP 027, 050 FP 028, 050 FP 029, 050 FP 030, 050 FP 031, 050 FP 032, 050 FP 101.
3. No development shall take place, including any works of demolition, until details have been submitted to and approved in writing by the local planning authority of areas to be used for the reception and storage of building materials within the site. The approved areas shall thereafter be kept available for reception and storage of building materials throughout the construction period for the development.
4. No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.
5. No development shall take place above ground level before details have been submitted to and approved in writing by the local planning authority of a scheme of hard and soft landscaping, such details to include:
 - a) the layout and proposed surface materials of all hard surfaced areas,
 - b) the layout of areas to be planted, seeded or turfed, and
 - c) details of any proposed means of enclosure.

Development shall thereafter be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner.

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