



Appeal Decision

Site visit made on 13 November 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2024

Appeal Ref: APP/H1515/W/23/3320183

South Lodge, Little Hyde Lane, Ingatestone, Essex CM4 0HJ

- 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 and Mrs Hallett against the decision of Brentwood Borough Council.
 - The application Ref 22/01300/FUL, dated 14 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is demolition of existing house and erection of a self build replacement house.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs Hallett against Brentwood Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Since the appeal was submitted, the Council has granted a further prior approval consent to alter and extend the existing dwelling and has granted a lawful development certificate for the construction of a large ancillary outbuilding. Both main parties were invited to comment upon this material change in circumstances. I have taken these comments into account in reaching my decision.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

5. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the Framework;
 - ii) the effect of the proposal on the character and appearance of the area;
 - iii) the effect of the proposal on a non-designated heritage asset; and
 - iv) whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

6. Policy MG01 of the Brentford Local Plan 2016–2033 (the Local Plan) requires proposals in the Green Belt to be considered and assessed in accordance with the Framework. Paragraph 154 of the Framework states that the construction of new buildings is inappropriate in the Green Belt. There are a limited number of exceptions to this, which include d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, and g) limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. It is undisputed that the site is previously developed land.
7. Whether a building would be materially larger than one it replaces or whether a proposal would have a greater impact upon the openness of the Green Belt, than an existing development, is a matter of planning judgement, taking into account matters such as footprint, floor area, volume, height, scale and massing.
8. Based upon the figures provided, the highest part of the new building would be 35% taller than the existing one. The volume of the replacement dwelling would be approximately 200% greater than the existing one and the footprint would be approximately 148% greater. It is unclear whether the information provided takes account of the garage and sheds within the site that would also be demolished. However, even taking these into account, the proposed overall size increase would remain significant.
9. Much of the proposed new dwelling would comprise basement accommodation below ground level. Moreover, the upper floor element of the building would utilise the roof space and as such would be less than 6.5 metres high above ground level, similar to that of a 1.5 storey dwelling. Nevertheless, the combined increase in height, width and depth of the replacement dwelling would result in more of the Green Belt being built upon than at present, reducing the spatial aspect of its openness. The increased massing of the larger dwelling would also have a greater visual impact on the openness of the Green Belt than the existing bungalow and outbuildings to be replaced.
10. It is therefore my view that the proposed dwelling would be materially larger than the existing buildings it would replace and that the development would have a greater impact on the openness of the Green Belt than the existing development on the site. Consequently, the proposal would be inappropriate development in the Green Belt and would result in some limited harm to its openness.

Character and appearance

11. The appeal site comprises a detached bungalow and outbuildings set in a generous plot of land on the corner of Little Hyde Lane and an unmade access road. It is in a rural location surrounded primarily by agricultural land. There is an area of dense tree planting to the north and a row of dwellings running along the opposite side of Little Hyde Lane. The dwellings on the opposite side of the road are all large, detached houses of varying design, materials and appearance, set back from the road, in generous plots. At the northern end of

Little Hyde Lane, the property known as 'North Lodge' comprises a very similar bungalow to the appeal property. I am advised that North Lodge and South Lodge were both originally Gate Houses to The Hyde Estate. However, both properties have been significantly altered over time, and given the distance and tree planting between them, they are not viewed together as a pair.

12. There is no doubt that the proposal would significantly change the appearance of the site. However, change is not the same as harm. The existing dwelling on the site is a rendered bungalow, with an asymmetrical roof, finished in a mixture of clay tiles and slates. The fenestration is varied and is mostly fitted with UPVC. Rainwater goods and waste pipes are also UPVC. There is a large brick chimney stack albeit this is not ornate or of any particular interest. The existing dwelling is therefore of little architectural merit having been unsympathetically altered and extended in the past.
13. The proposed dwelling would be substantial comprising a basement, a long narrow single storey element and a smaller 1.5 storey element connected by a single storey glazed link. The 1.5 storey element would utilise part of the roof space and would not exceed 6.5m high. The character of the site would continue to be that of a single low-level dwelling in a generous plot and the scale, design and modern appearance of the proposal would reflect that of other dwellings in the immediate area.
14. The new dwelling would be set further back from Little Hyde Lane and from the unmade access road, than the existing bungalow. The existing boundary hedging would be retained, and new hedging planted, which could be secured by conditions. This strengthened boundary planting, together with the dense area of tree planting to the north of the site, would reduce and soften any views of the proposed new dwelling and associated hardstanding. The relocation of the vehicular access and parking areas to the south would also reduce views into the site from Little Hyde Lane.
15. I am therefore satisfied that the proposal would not result in harm to the character or appearance of the area. As such it would accord with Policy BE14 of the Local Plan, the design aims of the Framework and section C1 of the National Design Guide which require, amongst other things, that new development is of high-quality design that responds positively and sympathetically to its context.

Heritage asset

16. The existing bungalow has been identified by the Council as a property which offers a positive contribution to Brentwood's heritage. It is included within the Brentwood Local Heritage List, which was adopted by the Council on 3 October 2022. As such, the building is considered by the Council to be a non-designated heritage asset.
17. The Council believes a small part of South Lodge was originally one of two 19th century gatehouses to The Hyde Estate. A small square building, in the position of South Lodge, is present on an Ordnance Survey Map dated 1874. Although the rooms on either side of the entrance porch and chimney stack, that are suggested as being original do not have a square footprint, submitted photographs and documents all seem to indicate that this small timber framed section of the building is the oldest and the original part of it.

18. The roof form, the machine cut rafters and the mix of clay and slate tiles suggest that the original roof has been replaced, albeit the original gables still exist in part with later alterations. It is also possible that the chimney stack has been rebuilt. Rainwater goods are plastic and windows comprise a mixture of styles, construction and materials, none of which are thought to be original. Internally the floor levels of the dwelling vary, with the two suspected original rooms being at a higher level than the later extensions. There are back-to-back brick fire places in the two original rooms, which do not appear to be historic. There are also timber framed windows and some timber beams in the two older rooms. However, the evidence before me suggests the windows are not original and the beams may have been applied later and are not structural.
19. Nearby North Lodge, comprises a similar dwelling to South Lodge, and both have been subject to significant alterations and extensions. The two dwellings are over 350 metres apart and are not viewed together or in the same context. The former estate Manor House that the lodges are believed to have served, was demolished in 1965 following fire damage. I have not been advised that any other remaining buildings on or forming part of The Hyde Estate, with the same historic association with it, are heritage assets.
20. If there is any surviving historic fabric contained within the bungalow, it is minimal and could easily be removed without planning permission given that the non-designated asset has no statutory protection. Having regard to the fallback position, which is addressed in further detail below, it is clear that even if the existing dwelling or part of it is retained, it would be fully modernised and renovated. Given the extent of works required, as set out in the building condition report, I have no doubt that extending and renovating the existing dwelling could also result in any remaining historic fabric being removed.
21. Historic England has assessed the architectural and historic interest of the building and determined on 10 January 2022 that it was not suitable for listing. This was because the original building has been considerably extended and modernised, which has detrimentally affected its original plan form and architectural character. The historic interest of the building is limited to its association with the remaining buildings on The Hyde Estate.
22. Having had regard to all of the submitted evidence and my own inspection of the property, it is my view that the building has a low level of significance in terms of both its architecture and its association with The Hyde Estate.
23. The proposed demolition of the bungalow would result in the total loss of the asset. It is therefore necessary to make a balanced judgement having regard to the significance of the asset in accordance with Policy BE16(C) of the Local Plan and paragraph 209 of the Framework. I return to this matter below.

Other considerations

24. Paragraphs 152 and 153 of the Framework are clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

25. The proposal is inappropriate development and is therefore harmful by definition. The increased scale of the development, in comparison to the existing development on the site, would also result in harm to the openness of the Green Belt in that it would be reduced, albeit this harm would be limited given the generally low rise and compact nature of the proposal, together with the existing and proposed landscape screening. In accordance with the Framework, I afford these harms to the Green Belt substantial weight. The proposal would also result in the total loss of a non-designated heritage asset. However, given that I have found that the significance of the heritage asset is low, it follows that its loss would only result in a low level of harm.
26. It has been brought to my attention that two prior approvals and a lawful development certificate have been granted for various extensions and alterations to the appeal property and for the erection of a substantial ancillary outbuilding. The first scheme to benefit from prior approval would provide five bedrooms and the large family living spaces required by the appellants. However, in order to comply with permitted development criteria, this scheme would be poorly designed.
27. The ancillary outbuilding would provide a double garage and cycle store, in addition to a games room and gym. In the appeal scheme the cycle store would be in a small outbuilding and the games room and gym would be in the basement.
28. The latest extension and alterations to benefit from prior approval would result in a large L shaped building and would provide a large open plan kitchen, dining and family room, pantry, utility/boot room and large entrance hall, similar to the appeal scheme.
29. The evidence before me suggests that the appellants only purchased the site after undertaking pre-application enquiries with the Council to confirm that it could accommodate a larger property to meet the needs of their family. In the event that planning permission cannot be obtained for a replacement dwelling, there is a realistic prospect of the permitted development extensions, alterations and outbuildings being undertaken, given that these would provide a similar size and type of accommodation to that sought by the appeal scheme. The Council has not disputed that the fallback schemes are larger than the appeal proposal or the likelihood of the fallback options going ahead. These fallback options are therefore a material consideration to which I afford significant weight.
30. Whilst the appeal scheme would result in a slightly higher building on the site, the additional height would not be significant and the building would be concentrated in a single area and some of its accommodation partially submerged below ground level, reducing its visual impact. The fallback schemes would result in a greater spread of buildings across the site and more of it being built upon. Furthermore, the proposed dwelling would be set further back from Little Hyde Lane than the existing dwelling and the fallback schemes. The proposed parking and hardstanding area, although quite large, would be located between the new dwelling and the adjacent farm track, and could be screened by appropriate boundary hedging. This would be less visually prominent than the existing access, parking and garage fronting onto Little Hyde Lane or the driveway that would serve the fallback outbuilding scheme. As such, I consider that the appeal scheme would result in less harm, both

spatially and visually, to the openness of the Green Belt than the fallback schemes, and I afford this benefit significant weight.

31. Although the fallback schemes could potentially retain the original dwelling, this would be dominated by large extensions and outbuildings, which would detract from its original modest form, appearance and open surroundings. Moreover, it is likely that the renovation of the property would include the removal of any remaining historic fabric. The existing dwelling has been subject to multiple poor-quality extensions and alterations over the years. It suffers from damp and has a poor internal layout, which is exacerbated by changes in floor levels. The appeal scheme on the other hand, would provide an energy efficient, sustainable family home of high-quality design, which would exceed current Building Regulations requirements and which I have already concluded would not be harmful to the character and appearance of the area. Moreover, the appeal proposal would be more sympathetic to the character and appearance of the site and its surroundings than the fallback schemes. I afford these benefits significant weight.
32. The proposal relates to a self-build dwelling, for which I acknowledge there is support for under the Self Build and Custom Housebuilding Act. I also note the other benefits of a new build compared to a renovation and that for the appellants, self-building may well be an affordable option. However, such developments must accord with other relevant planning policies. In this case the benefit of replacing an existing dwelling with a single new self-build dwelling carries limited weight when assessed against relevant local and national policies. I have had regard to the appeal decision referred to, in which outline planning permission was granted for 5 self-build dwellings in the Vale of White Horse on the basis that public benefits outweighed the conflict with policy. However, that scheme is not comparable to the one currently before me.
33. My attention has been drawn to other nearby developments in the Green Belt for both large extensions and for replacement buildings with basements in which the Council reached a different view. As I am unaware of the full circumstances surrounding these developments, and cannot be certain they are directly comparable, I afford this matter very little weight.

Planning Balance and Conclusion

34. Taken together, the other considerations and benefits of the proposal as set out above would clearly outweigh the harm to the Green Belt, including the limited harm to its openness, and the harm arising from the total loss of a non-designated heritage asset of low significance. Accordingly, very special circumstances exist to justify the development. As very special circumstances exist, the proposal would accord with the relevant development plan policies and the Framework, and planning permission should be approved unless material considerations indicate otherwise.
35. However, the construction of the new dwelling, together with the large ancillary outbuilding that currently benefits from a lawful development certificate, would result in a level of harm to the openness of the Green Belt that would not be justified by the very special circumstances, particularly given that in this case the very special circumstances rely heavily upon the fallback position. I have considered whether this could be addressed by imposing a condition to remove some permitted development rights, which may be appropriate in this case, but

such a condition would only apply to the new dwelling and would not prevent the outbuilding from being constructed prior to the implementation of any new permission granted. Whilst I appreciate that this situation has evolved since the appeal was submitted and that it is not the appellants intention to construct both schemes, the absence of a suitable mechanism, such as a legal agreement, to ensure that both developments are not implemented, is a material consideration of significant weight, which in my view would in this case indicate that a decision should be made otherwise than in accordance with the development plan and the Framework.

36. For the reasons given above the appeal is dismissed.

R Bartlett

INSPECTOR