

SITE PLAN ATTACHED

04. HIGH POINT BEGGAR HILL FRYERNING ESSEX CM4 0PN

DEMOLITION OF EXISTING BUNGALOW AND REPLACEMENT BUNGALOW.

APPLICATION NO: 15/00315/FUL

WARD	Ingatstone, Fryerning & Mountnessing	8/13 WEEK DATE	12.05.2015
PARISH	Ingatstone & Fryerning	POLICIES	NPPF NPPG CP1 GB1 GB2 C5 C8
CASE OFFICER	Ms Sukhi Dhadwar	01277 312604	

Drawing no(s) relevant to this decision: PL01; PL02; PL03; PL04/A; PL15; PL14; PL06/A; PL14; PL07/C; PL05/B; PL08/D; PL13/B;

This application was referred by Cllr Sleep for consideration by the Committee. The reason(s) are as follows:

On the grounds that the application is to demolish the unattractive air raid shelter bungalow and replace it with a bungalow, which together with permitted development rights is on a very similar footprint. I see no NPPG or BBC policy reasons to refuse the application particularly as it retains a much needed bungalow on the site. The Design Officer recommends approval and the Parish Council have no objections.

1. Proposals

Permission is sought for the demolition of the existing bungalow and garage and a replacement new dwelling and garage.

The proposed new dwelling is broadly rectangular shaped with maximum dimensions of 17m wide, a length of 10.25m and a maximum height of 2.8m high to the ridge of the slightly undulating roof. A basement area is also proposed.

Vehicular access will remain as existing. The new garage is positioned 8m further north wards (rear) into the site. It measures 7m wide by 7.5m long with a maximum height of 3.15m to the top of its flat, angled roof.

The proposed materials include a mixture of brickwork and render to the walls, high performance felt to the roof and full length double glazed aluminium fenestration.

The application is accompanied by an Arboricultural report which states that no trees will need to be felled to accommodate the proposal although some shrub specimens will need to be removed.

2. Policy Context

The National Planning Practice Guidance (NPPG) was published by the Government on 6 March 2014. The Guidance supports the National Planning Policy Framework and provides users of the planning system with a specific body of advice and reference. All decisions upon planning applications must now have regard to NPPG as a material consideration.

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgment in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development ; in decision making, this means approving proposals that accord with the development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit or; specific policies within the Framework indicate that development should be restricted.

Chapter 9 of the Framework sets out the policy criteria for protecting the Green Belt; the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.

Paragraph 89 states that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt with some exceptions. The replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.

As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Chapter 7 of the NPPF Requiring Good Design makes clear that good design is a key aspect of sustainable development. Design policies should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area. Permission should be refused for development of poor design.

The development plan is the Brentwood Replacement Local Plan adopted in 2005.

Local Plan Policy CP1 (General Development Criteria) requires that development should

- (i) Not harm character and appearance of an area;
- (ii) Not harm neighbouring residential amenity;
- (iii) Be of an acceptable design;
- (iv) Raise no significant parking or highway issues; and
- (v) Not give rise to pollution

Relevant Green Belt policies are:

Local Plan Policy GB1 (New Development); planning permission will not be given except in very special circumstances, for development which is inappropriate to a Green Belt.

Local Plan Policy GB2 (Development Criteria); development should not conflict with the purposes of including land within the Green Belt, nor should it harm openness. Consideration will also be given of the effect on public rights of way; the impact on existing landscape features and whether it is satisfactorily located in respect of the surrounding landscape and any adjoining buildings.

3. Relevant History

- 14/00414/S192: Single storey side extension and single storey rear extension -Application Permitted
- 14/00280/PN42: Single storey rear extension. The proposed extension would extend 8m beyond the rear wall of the original dwelling, the maximum height of the proposed extension would be 2.6m and the proposed eaves height would be 2.5m. -Prior Approval is Not Required

4. Neighbour Responses

Letters were sent to occupants of adjoining and nearby properties. A site notice was also displayed. At the time of the writing of this report 1 response had been received. The issues raised are as follows: -

We object to the ultra modern design of the property which is out of keeping with the traditional style of houses in Fryerning.

The harm would be increased if proposal was amended to be two storey.

5. Consultation Responses

• Arboriculturalist:

The arboricultural report is fine and should be conditioned should permission be granted - the provisions of the report will need to be implemented in full in particular the need for supervision and monitoring.

• Design Officer:

I have no objections to this one given the single storey nature.

I do advise you do cover conditions such as landscaping, fenestration eaves etc?

• Parish Council:

No objection

6. Summary of Issues

This application has been assessed against policies laid out in the National Planning Policy Framework (NPPF) (2012), National Planning Policy Guidance (2014) and the Brentwood Replacement Local Plan (2005).

The issues which are relevant to the determination of this application are:

- Is the development inappropriate for the green belt?
- Would the development detract from the openness of the green belt?
- Are there any 'very special circumstances' which would outweigh the Charm created to the greenbelt?
- Impact on the character and appearance of the area.
- Impact on neighbouring residential amenity
- Impact on parking

Site and surroundings

The site covers an area of approximately 3790 sqm. Its rear boundary runs diagonally from the eastern boundary to the longer western boundary. A natural ditch runs across the front perimeter of the site.

A modern (1960's) Utilitarian flat roofed bungalow shaped in the form of a linear gun is located centrally within the site. To its east is a flat roofed garage close to the site's eastern boundary. The levels on the site are slightly undulating. The remainder of the site is covered in mature trees, lawn and vegetable garden. The trees ensure that the property is well screened from long views of the site.

The site is designated as being within a Special Landscape Area and the Green Belt.

The National Planning Policy Framework (NPPF) states that new development within the Green Belt is inappropriate unless it falls within the list of exceptions set out in paragraphs 89 and 90 of the NPPF, and provided it does not harm the openness of the Green Belt or conflict with any of the five purposes of including land within it.

Local Plan policies GB1 and GB2 are broadly in compliance with the aims and objectives of national green belt policy. The NPPF states that one of the exceptions to inappropriate development within the Green Belt is the replacement of a building provided the building is not materially larger than the one it would replace and it is in the same use as the one it is to replace.

The existing dwelling has a footprint of 218 sqm. The new dwelling would have a total floor area above ground level of approximately 449 sqm. Whilst the overall height will remain the same as the existing; the overall volume of the new dwelling would be significantly more than the existing building.

The floor area, volume and scale of the proposed dwelling is therefore more than double the size of the original building and materially larger than the one it is to replace. It is therefore by definition, inappropriate development as set out in National and Local Plan Policy.

Revised plans have repositioned the proposed garage 8m further back in comparison to the existing structure; however its size and volume is similar to the existing garage on the site, therefore the overall impact in terms of harm to the Green Belt is not materially different from the existing garage.

Impact on the openness of the Green Belt.

A plan (no. 3275 PL14) has been submitted showing the existing dwelling if extended under 'permitted development,' overlaid on top of the proposed dwelling. Although the proposed dwelling would not be materially higher than the existing building, it is considerably wider on the east / west axis, and would be sited parallel to the road as opposed to the existing house which has a dominant north / south axis. Accordingly, the space between the new building and the sites side boundaries would be diminished as would views towards the rear of the site. Given the significant increase in the footprint of the building, it

would be materially harmful to the openness of the Green Belt, which is in conflict with the National Planning Policy Framework and Local Plan Policy GB2.

In conclusion, the proposal is inappropriate development in the Green Belt, and would materially harm the openness of the Green Belt. The Local Planning Authority should ensure that substantial weight is given to any harm to the Green Belt. Paragraph 88 of the NPPF states that such development should not be approved except in 'very special circumstances'. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Other Considerations:

The applicant refers to a 'fallback' position in the form of permitted development, acknowledged by the Council's issue of Certificate of Lawfulness under reference 14/00414/S192 and 14/00280/PN42.

The first reference relates to a single storey side and single storey rear extension. The second relates to an 8m long single storey rear extension. It is calculated that these extensions, if implemented, would result in a dwelling with a floor space of 477 sqm. The proposed bungalow has a floorspace of 449.06 sqm above ground level. This would be 28 sqm less than the permitted development extensions.

Case law exists on the fallback position of permitted development. The weight the Council is required to give to such a fallback position as a material consideration will depend on whether what could be built using the permitted development extension on having a broadly similar or worse impact to what is proposed; AND the reasonable likelihood or possibility that, if permission were refused, permitted development extensions would in fact be built.

The High Court decision made in Samuel Smith Old Brewery (Tadcaster) v SoS 2009 ruled that there must be a real likelihood of any fall back position actually being exercised in the event of a refusal. It must be demonstrated that the test should be made on the balance of probabilities rather than the balance of possibilities.

Taking these tests in turn:-

Does the fallback position have a broadly similar or worse impact than what is proposed?

In terms of visual impact, the proposed house would have a similar low visual impact, but would be much closer to the boundaries of the site than the existing house, or the house extended under permitted development. Officers conclude

that whilst the fallback position would have a floor area marginally bigger than the proposed new dwelling (28 sqm above ground level) the visual impact of the new dwelling through its presence would still be much greater than the fall back position given the proposed orientation and linear east - west form.

On the balance of probabilities, rather than the balance of possibilities, is the fall back position likely to be exercised in the event of a refusal.

The applicant sets out that the existing house is "poorly insulated to walls and roof and has no insulation at all to the floor. It is not practical to insulate the walls and roof without a lot of disruption and cost as there is no access as in a pitched roof situation. The opportunity to provide new windows and doors to a new building rather than an old also makes sense and will be more economical saving VAT. The roof is also in need of replacement. Hence we are considering a rebuild"

Furthermore, the permitted development certificates indicate a ground floor layout which while providing additional living accommodation would have an awkward circulation space, occupiers having to move through several habitable rooms in order to get from one part of the bungalow to the other (as opposed to using a central corridor hallway).

In cases where the likelihood of permitted development permissions being implemented are very slight, (*Brentwood Borough Council v SoS and Gray 1996*) it has been ruled that the adverse consequences of implementing the fall back position would have to be very significant to justify very special circumstances. Then, the seriousness of the harm that would be done, if planning permission was not granted and the fall back position was implemented, would have to be such that the risk was not acceptable so that planning permission should be granted.

In this instance, it is considered that the risk of implementing the fallback position is not so materially harmful in comparison to the application proposal to justify grant of permission.

Given the statement made by the applicant the probability of the fallback position being implemented is considered less than theoretical.

As such, the fallback position advanced by the applicant is not a consideration that would amount to 'very special circumstances' that clearly outweigh the harm to the Green Belt by inappropriateness or the other harm identified. The proposal is therefore considered to conflict with paragraph 87 of the NPPF and policy GB2 of the Local Plan.

Character and Appearance:

The NPPF indicates that Local Planning Authorities should seek to promote or reinforce local distinctiveness but "Avoid unnecessary prescription or detail and

should concentrate on guiding the overall scale, density, massing, height, landscape, layout materials and access of new development.."

The area has a verdant, rural character which includes a high proportion of mature trees and vegetation and sporadic, low density development.

The proposal replaces a flat roofed utilitarian bungalow with a similar height bungalow with a contemporary design and it is considered that good quality materials are proposed. Subject to conditions, it is considered that the design, appearance and scale of the dwelling would be acceptable within its surroundings in terms of local distinctiveness and therefore comply with the aims and objectives of the NPPF and Brentwood Replacement Local Plan policy CP1 (i) and (ii).

Trees

The Tree Officer is satisfied that the details contained within the arboricultural method statement submitted as part of this application will ensure that the health and stability of existing trees which would help to partially screen the house from public views will not be harmed. The proposal therefore complies with C5 of the Local Plan.

Quality of resulting residential accommodation.

The lack of information in relation to the ground to ceiling height of the basement could be controlled by condition as generally the quality of accommodation is good as the size of the unit meets criteria laid out in Appendix 5 of the Brentwood Replacement Local Plan and the 'Technical Housing Standards document issued by the Department of Communities and Local Government.' (2015).

Neighbouring residential amenity

Due to the position of the proposal being sufficiently distant from any neighbouring properties, it is considered that there will be no significant impact on neighbouring amenity in terms of loss of privacy, disturbance or overbearing effect. The proposal would therefore comply with the requirements of CP(ii) of the Brentwood Replacement Local Plan 2005.

Impact on Highway safety

There is sufficient space for adequate parking and safe access into and out of the site in accordance with CP1 (iv) of the Local Plan.

Other Considerations:

The comments received from neighbours have been addressed in the body of this report.

The Applicant states that the proposed new dwelling would be built to a high standard saving significant future energy costs and improve the appearance of the site, however, this would be expected of any new house regardless of whether it is in the Green Belt or not.

Conclusion and balance:

Whilst the principal of a replacement dwelling on this site is acceptable, the proposal conflicts with National and Local Plan Policy as it is materially larger than the existing dwelling and would harm the openness of the Green Belt. It is therefore inappropriate development within the Green Belt. The planning history of the site and householder permitted development rights have been taken into account and while these matters are capable of being material considerations they do not constitute very special circumstances that clearly outweigh the harm to the Green Belt. The proposal if built will result in the depletion of Green Belt land. It therefore fails the environmental limb of sustainable development as defined by the National Planning Policy Framework and therefore should not be approved.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U10768

The proposed replacement dwelling would be materially larger than the one it would replace and, therefore, be inappropriate development in the Green Belt. As a result of the increase in footprint of the proposed dwelling, the development would also reduce the openness of the Green Belt, and conflict with the purposes of including the land within the Green Belt. The proposal is therefore contrary to chapter 9 of the NPPF and Policies GB1 and GB2 of the Brentwood Replacement Local Plan.

R2 U10769

None of the matters put forward on behalf of the applicant, either alone or in combination, would amount to very special circumstances which clearly outweigh the harm the development would cause by reason of inappropriateness, loss of openness and harm to the character and appearance of the area.

Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, GB1, GB2, C5, C8 the National Planning Policy Framework 2012 and NPPG 2014.

2 INF20

The drawing numbers listed above are relevant to this decision

3 U02518

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concerns and explaining the harm within the reasons for refusal. The concerns have been conveyed to the applicants agent. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

BACKGROUND DOCUMENTS

DECIDED: