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## Appeal Decision

Hearing held on 20 July 2016

Site visit made on 20 July 2016

**by Elizabeth Pleasant DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 September 2016**

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**Appeal Ref: APP/J1535/W/15/3005425**

**Great Downs Farm, London Road, Abridge, Romford RM4 1XU**

- 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/Miss S.S, B.K, P.S and S.K Gill against the decision of Epping Forest District Council.
  - The application Ref EPF/0300/14, dated 4 February 2014, was refused by notice dated 20 August 2014.
  - The development proposed is described as 'planning application to regularise and permit the completion of the replacement dwelling at Great Downs Farm previously approved under permission EPF/2414/09 as subsequently amended under permission EPF/1737/11.'
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### Decision

1. The appeal is allowed and planning permission is granted for replacement dwelling incorporating further revisions to roof and dormers and provision of landscaping. (Amended from EPF/2414/09 and EPF/1737/11) at Great Downs Farm, London Road, Abridge, Romford RM4 1XU in accordance with the terms of the application, Ref EPF/0300/14, dated 4 February 2014, subject to the conditions set out in the attached schedule.

### Background and Procedural Matters

2. The Council granted planning permission for a replacement dwelling at the appeal site in 2010. In 2011 the Council granted a further planning permission for a replacement dwelling (2011 permission) at the appeal site. It was clear from my site visit that a replacement dwelling has been constructed at Great Downs Farm which is substantially complete and occupied. This replacement dwelling, as constructed, does not comply with either of the 2010, or the 2011 planning permission granted and differs principally with regard to the roof structure, including the dormer windows, but there are also differences to the fenestration arrangements.
3. The description of the development in the heading above is taken from the application form. However, it differs from the description of the proposed development used in the Council's Decision, which is also the description on the appeal form. I consider that the amended description provides a more accurate description of the appeal proposal. The Council dealt with the application on this basis and so shall I.

4. The completed Statement of Common Ground (SoCG) clarifies the Plans and Drawings to be considered with the appeal proposal. Drawing No: 13/0099/PL-160B is confirmed as the correct drawing for the site plan and landscaping arrangement, as opposed to Drawing No: 13/0099/PL-160C which has been incorrectly referred to in the Council's Decision.
5. Since the close of the Hearing a signed and completed Unilateral Undertaking (UU) has been submitted. An unsigned draft had previously been circulated and time was allowed for parties to consider final adjustments to the signed document. I am satisfied that nobody would be prejudiced by taking this document into consideration, and this is what I have done. The UU requires the appellant to apply for all necessary additional consents to include (but not by way of limitation) Building Regulation Approval and discharge of predevelopment planning conditions to facilitate the Development and to use all reasonable endeavours to obtain the same such applications following receipt of Planning Permission, but in any event within 4 months of the Decision Letter. It further requires the appellant to commence to carry out the Development within 3 months of receiving the last of all additional consents and complete the Development as expeditiously as is reasonable and practicable, and in any event within 2 years of such commencement.

### **Main Issues**

6. The main issues in this case are:
  - Whether the proposal would be inappropriate development in the Green Belt;
  - The effect of the development on the openness of the Green Belt;
  - The effect on the setting of adjacent listed buildings; and
  - If the proposal is inappropriate, 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 it.

### **Reasons**

#### *Inappropriate Development*

7. The appeal proposal is for a replacement dwelling. The original farmhouse which the proposal seeks to replace was destroyed by fire in 2009 and formed part of a group of historic farm buildings, including two neighbouring grade II listed barns which are presently being renovated. The appeal site is situated close to the village of Abridge but is surrounded by open countryside and located in the Green Belt.
8. Paragraph 89 of the National Planning Policy Framework (the Framework) states that new buildings should be regarded as inappropriate development in the Green Belt subject to a number of exceptions. The replacement of a building is included in these exceptions, provided the new building is in the same use and not materially larger than the one it replaces. Policies GB2A and GB15A of the Epping Forest Local Plan and Alterations, 2006 (Local Plan), similarly identify which types of development are not inappropriate in the Green Belt, and include the replacement of existing permanent dwellings where

the new dwelling would not, amongst other things, be materially greater in volume than that which it would replace.

9. The proposed replacement dwelling would be some 2.15m higher than the original farmhouse. Its floor space would be 408 square metres larger and its above ground volume would also be 800 cubic metres larger. It was agreed at the Hearing by both main parties that, based on this comparison, the appeal proposal would be materially larger than the one it would replace, and would therefore be inappropriate development.
10. I have had regard to the appellant's submission at the Hearing that the appeal proposal could be considered to be an extension or alteration to an existing building or the redevelopment of previously developed land. However, the existing building on the site does not have planning permission and moreover, the description of the proposed development is for a replacement dwelling.
11. I therefore conclude that the proposed replacement dwelling, which would be materially larger than the one it would replace, would be inappropriate development which the Framework advises is, by definition, harmful to the Green Belt; substantial weight must be given to this harm.

#### *Green Belt Openness*

12. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. Policy GB7A of the Local Plan seeks to resist development conspicuous from, within or beyond the Green Belt which would have an excessive adverse impact upon the openness, rural character or visual qualities of the Green Belt.
13. The original dwelling was a simple three-storey vernacular farmhouse which had a number of single storey additions to its rear elevation. The proposed replacement dwelling would be sited in roughly the same location as the original dwelling; however it would extend 2.15m higher to its ridge. Furthermore, its overall scale and form, which would incorporate a substantial crown roof, dormer windows and gabled wing elements, would be significantly more bulky and imposing on this elevated site. Whilst the appeal proposal would no longer provide for a single storey outbuilding that was located immediately to the rear of the original farmhouse, its overall built form would have a more harmful impact on the openness of the Green Belt than the original dwelling.
14. I conclude that the development would lead to a moderate loss of openness to the Green Belt.

#### *Setting of adjacent listed buildings*

15. The original farmhouse formed part of a group of historic buildings and was considered by the Council to be an undesignated heritage asset by reason of its age and both its functional and physical relationship to the neighbouring barns, two of which are grade II listed.
16. The proposed replacement dwelling would be located in roughly the same location as the original farmhouse. Although substantially larger than the dwelling it would replace, its proposed function, siting and orientation in relation to the adjacent listed barns would be very similar to that of the original dwelling. The Council does not consider the appeal proposal to have a harmful

impact on the setting of the adjacent listed buildings and I have no reason to disagree.

17. I conclude that the appeal proposal would accord with the provisions of the Planning (Listed Buildings & Conservation Areas) Act 1990 and preserve the setting of the adjacent listed barns.

#### *Other Considerations*

18. The SoCG states that the main parties agree that the 2011 permission remains capable of lawful completion in accordance with the approved plans and represents an available fallback position. It is further agreed that the Table attached to the SoCG provides an accurate summary of the differences in the external dimensions, floor space and volume between the 2011 permission and the appeal proposal. In relation to the fallback, Drawing Nos. 13/0099/PL-300 and 13/0099/PL-310 provide a useful comparison between the suggested fallback scheme and the proposed development. I accept that the fallback position is available, and a material consideration in the assessment of the proposal.
19. For significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out in the event that planning permission were refused, but it would also need to be equally or more harmful than the scheme for which permission is sought. In this regard the appellant has provided as part of the SoCG, a surveyor's and structural engineer's report which set out approximate estimates for the proposed alterations to the 'as built' construction to both revert to the fallback position or to carry out the proposed development. Despite the costs involved in reverting to the fallback, the Council did not suggest at the Hearing that this would make it an unrealistic proposition and there was no evidence put forward to indicate that the appellant would not be able to afford it. I am therefore satisfied that there is a reasonable prospect of the fallback position being carried out in the event that planning permission were to be refused.
20. The comparison Table and Plans clearly illustrate that there would be no difference between the appeal proposal and the fallback scheme in respect of the overall footprint of the proposal or its total floor space. Furthermore, the general form and mass of two schemes would be almost identical. The principal difference would be in relation to the roof structure, and in particular to its gabled winged elements and the dormer windows. The wing elements of the appeal proposal would have a ridge height one metre higher than their permitted height in the 2011 fallback permission, and their eaves height would also be a metre higher. There would also be a marginal increase (300mm) to the ridge height of the main roof and its eaves.
21. However, given the overall substantial height and mass of the replacement dwelling the subject of the fallback scheme, I do not consider that a further increase in height of 1m to the wing ridges would be material. When viewed from the public footpaths which run both in front and to the rear of the proposal, this height difference would not be perceptible. Although the proposed increase in height would marginally reduce the openness of the Green Belt, the impact would be limited. Furthermore, openness would be improved by the removal of the single storey barn which would be rebuilt and attached to the replacement dwelling by a glazed link as part of the fallback scheme.

Consequently, the fallback position would be likely to have an equally harmful effect on the openness of the Green Belt as that of the appeal proposal.

22. Moreover, it was agreed by both main parties at the Hearing that the overall roof form, including the dormer details of the appeal proposal would be a more appropriate and aesthetically acceptable design solution, to that of the fallback scheme. The proposed introduction of natural slates as opposed to the artificial slates of the 2011 permission would also be an enhancement. I agree that the fallback position would be likely to give rise to marginally greater harm to the visual qualities and character of the Green Belt than the appeal proposal. For these reason the fallback position is, therefore, a material consideration of significant weight in this case, and in the overall Green Belt balance.
23. A signed and completed UU has been provided. I have found that the appeal proposal would be less harmful to the visual qualities and character of the Green Belt than the fallback scheme and therefore securing the completion of the appeal scheme would be an additional benefit of the proposed development. I am satisfied that the UU would be reasonable and necessary to secure the completion of the proposal and that it would comply with the provisions of paragraph 204 of the Framework. I therefore attach moderate weight to the UU.
24. The appellant maintains that, when balanced against the impact the proposal would have on the Green Belt, it would not be sustainable to implement the fallback scheme in view of the substantial construction works that would be required. Concerns include noise, disturbance and increased heavy vehicular traffic movements to the locality. It is further submitted that these works would incur considerable cost. Both the fallback scheme and the appeal proposal would involve construction works, and given that the development is only for a single dwelling in a relatively isolated location, I give this consideration limited weight. Furthermore, Planning Practice Guidance makes its clear that planning is concerned with land use in the public interest and private financial interests are therefore not a matter for my consideration.

### **Overall Planning Balance and Conclusion**

25. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have identified that the appeal proposal would be inappropriate development and would result in additional harm through a moderate loss of openness. I therefore find conflict with Policies GB2A, GB15A and GB7A of the Local Plan. I consider that the proposal would preserve the setting of adjacent listed buildings; however this finding does not carry any weight in the Green Belt balance. I have also given limited weight to considerations in relation to the impact of the construction works on the locality. Nonetheless, for the reasons I have set out above, I attach significant weight to the fallback position, which when taken together with the moderate weight attributed to the UU, the benefits of the proposal would clearly outweigh the substantial Green Belt harm and amount to a very special circumstance necessary to justify this development. I therefore conclude that the appeal should be allowed.

## **Conditions**

26. The conditions suggested by the Council were discussed in detail at the Hearing. It was agreed between the main parties that suggested Conditions 1, 2, 4, 5, 7, 9, 10, 11 and 12 would not be necessary and I have no reason to disagree.
27. I have considered the remaining suggested conditions against the advice in the Framework and Planning Practice Guide. As a result I have amended some of them for clarity and consistency and deleted others.
28. I have imposed a condition specifying the approved plans as this provide certainty.
29. Because the fallback position is a significant consideration, I consider that exceptional circumstances exist to remove permitted development rights for the enlargement, improvement or any other alteration (including the erection of any other building within the curtilage, and extensions and alterations to the roof) of the dwelling, in the interests of the continued preservation of the openness of the Green Belt. I have imposed a condition similar to that suggested by the Council.
30. I have imposed conditions to secure the retention of the existing hedge and to provide and maintain the proposed soft landscaping as set out in the approved planting specification document and shown on the approved plans. These conditions are necessary to safeguard the character and appearance of the area.
31. A condition restricting the position of any gates at the vehicular access is required in the interests of highway safety.
32. I have not been provided with any compelling evidence to suggest why the appeal site would be contaminated and furthermore the proposal is for a replacement dwelling. I do not therefore consider it would be reasonable or necessary to require land contamination investigation works to be carried out as suggested by the Council.
33. The Council suggested a condition that would require a tree protection barrier to be erected. The tree of concern is a horse chestnut which lies to the north west of the proposal and which is protected by a Tree Preservation Order. It was agreed at the Hearing that the Council's primary concern had been during the construction phase of dwelling when a concrete base had been constructed within its root protection area and soil levels also raised. An Arboricultural Report and Tree Condition Survey have been subsequently carried out and its recommendations implemented. The excavation and below ground works for the replacement dwelling have been completed and I am satisfied that the appeal proposals would not require further tree protection works to be secured by condition. Furthermore, the tree remains protected from damage by reason of its protected status.

*Elizabeth Pleasant*

INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 13/0099/PL-100 – Existing Floor Plans;
  - 13/0099/PL-102 - Proposed Roof Plan;
  - 13/0099/PL-104 – Proposed Floor Plans;
  - 13/0099/PL- 110 Rev A – Approved and As Built Elevations;
  - 13/0099/PL-130 Rev A – Proposed Elevations;
  - 13/0099/PL – 140 – Cross Sections;
  - 13/0099/PL-141 - Window Details;
  - 13/0099/P-142 – Soffit, eaves and bargeboard details;
  - 13/0099/PL-143 – Entrance door detail;
  - 13/0099/PL-144 – Chimney details;
  - 13/0099/PL-145 Rev A – Dormer window detail;
  - 13/0099/PL-151 Rev A – Proposed Block Plan and landscaping;
  - 13/0099/PL-160 Rev B – Site plan and landscaping;
  - 13/0099/PL – 161 Rev C – Courtyard wall elevations;
  - 13/0099/PL-500 Rev A – Construction Signage;
  - 13/0099/PL-510 – Traffic access safety arrangements;
  - 13/0099/PL-520 Rev A – Fire engine turning circle; and
  - 21-403-L1-A - Landscaping arrangements 13/0099/PL-540 – Proposed drainage plan (notwithstanding the outline of the barn which is no longer part of the application)
- 2) Notwithstanding the provisions of Classes A, B or E of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no enlargement, improvement or any other alteration (including the erection of any ancillary building within the cartilage, and extensions or alterations to the roof) shall be carried out without planning permission having first being obtained from the local planning authority.
- 3) The existing hedge is to be retained along the site boundary with London Road. If the hedging is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 5 years of the completion of the development, another hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives written consent to any variation.
- 4) All soft landscape works shall be carried out and maintained in accordance with the details shown on Approved Drawing Nos: 13/0099/PL-160 Rev B; 13/0099/PL-151 Rev A and 21-403-L1 A and included in the planting specification prepared by J M Moore, dated 20 January 2014. The works shall be carried out within 6 months of the date of this decision and maintained in accordance with the approved details.
- 5) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the nearside edge of the carriageway.

**APPEARANCES**

FOR THE APPELLANT:

Mr P.S Gill	Appellant
Mr Howard Parkinson	Foskett, Marr, Gadsby & Head LLP
Mr Georgi Georgiev	Bright Building Solutions
Mr Andrew Tabachnik QC	39 Essex Street Chambers

FOR THE LOCAL PLANNING AUTHORITY

Mr Stephan Solon	Epping Forest District Council
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**DOCUMENTS AT THE HEARING**

1. Completed Statement of Common Ground.
2. Draft Section 106 Agreement.
3. Schedule and Full Set of Drawings for both the fallback scheme and appeal proposal prepared by Bright Building Solutions.
4. Copy of Council's Decision: PL/EPF/1692/10 for discharge of conditions in respect of Planning Permission Ref. EPF/2414/09.