

DEVELOPMENT MANAGEMENT COMMITTEE – 11 JANUARY 2017

Application Number	3/16/2167/FUL
Proposal	Demolition of existing dwelling and construction of a replacement dwelling
Location	17 Firs Walk, Tewin Wood, Tewin, Herts AL6 0NY
Applicant	Mr C Ruffle
Parish	Tewin
Ward	Hertford Rural North

Date of Registration of Application	21 September 2016
Target Determination Date	16 November 2016
Reason for Committee Report	Referred to the Committee at the request of Councillors M McMullen and S Rutland-Barsby.
Case Officer	Susie Defoe

RECOMMENDATION

That planning permission be **REFUSED** for the reason set out at the end of this report.

1.0 Summary

- 1.1 The proposal seeks planning permission for the demolition of the existing bungalow on the site and the construction of a replacement two storey dwelling in a green belt location. It is necessary then to consider whether the proposals comprise inappropriate development in the green belt and that, if they do, whether there are other considerations which clearly outweigh the substantial harm to be attributed to inappropriate development and any other harm.
- 1.2 It is necessary then to undertake a planning balance exercise in this case and the details are set out in the report below.

2.0 Site Description

- 2.1 The application site is shown on the attached ordnance survey extract. It lies on the west side of Firs Walk within the residential area of Tewin Wood. The topography of the area is such that the application site sits on a high point in the road, as Firs Walk slopes down away from the site to the north.

- 2.2 The existing property on the site comprises a detached, 3 bedroom bungalow, with attached garage and workshop, dating from the 1950's, of traditional brick construction with a shallow pitched roof.
- 2.3 The site and surrounding area is located in the Metropolitan Green Belt, and is covered by Tree Preservation Order 410 affecting most of Tewin Wood.

3.0 Background to Proposal

- 3.1 The existing bungalow has a net floor area of approximately 141 square metres (sqm) having been extended in the late 1950's by the addition of the garage to the southern side of the dwelling.
- 3.2 A Prior Approval application for the erection of an 8m deep rear single storey extension as 'permitted development' (under ref: 3/14/1840/PNHH) was granted in November 2014. However, this development has not commenced and has been followed by a request for pre-application advice, and subsequently an application for planning permission in October 2015, to demolish the bungalow and replace it with a new dwelling (ref 3/15/2003/FUL).
- 3.3 That application was refused in December 2015 for the following reason:

The site lies within the Metropolitan Green Belt as defined in the East Herts Local Plan Second Review April 2007. The proposed replacement dwelling would be of a materially greater size than the existing dwelling; it would be more intrusive and would result in a loss of openness to the Green Belt. The proposal would thereby constitute inappropriate development in the Green Belt contrary to policies GBC1 and HSG8 of the East Herts Local Plan Second Review 2007 and national policy within the National Planning Policy Framework. Additional harm is identified by the impact of the development on the landscaped character of the site; the loss of trees to the new driveway; the poor design of the dwelling, and the impact of the dwelling on the outlook of adjoining residents at No 19 Firs Walk. Weight which can be attributed to the positive impacts of the development is not such that the identified harm to the Green Belt by inappropriateness, and other harm, is clearly outweighed. Very special circumstances do not therefore exist to justify the grant of planning permission.

- 3.4 The current proposal was submitted in September 2016 and proposes a replacement dwelling of a similar scale and form to that previously refused. It is acknowledged, however, that the proposed new dwelling

has been reduced in size, and it is also now proposed to be set down in to the existing land levels (by between 0.5 and 1.5m). There are also now no proposed changes to the driveway to the property, enabling trees to be retained within the front garden.

- 3.5 The proposed dwelling would have a net useable floor area of approx. 310 sq.m and provide a 5 bed two storey property.

4.0 Key Policy Issues

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF); the adopted East Herts Local Plan 2007, and the pre-submission draft District Plan:

Key Issue	NPPF	Local Plan policy	Pre-submission District Plan
The Principle of the Development within the Green Belt – whether inappropriate	Para 6-16, Section 6, 9 Para 89	GBC1, HSG8, OSV3	GBR1, VILL3
Other harm resulting from the proposals	Section 7	ENV1, ENV2, ENV11	DES2, DES3
Benefits of the proposals	Para 17, Section 6		CC1, CC2

Other relevant issues are referred to in the ‘Consideration of Relevant Issues’ section below.

5.0 Emerging District Plan

- 5.1 The Council resolved to proceed to the publication of its pre-submission version of the District Plan at the meeting of Council of 22 Sept 2016. Consultation on the Plan is currently underway. The view of the Council is that the Plan has been positively prepared, seeking to ensure significantly increased housing development during the plan period. The weight that can be assigned to the policies in the emerging plan can now be increased, given it has reached a further stage in preparation. There does remain a need to qualify that weight somewhat, given that consultation on the Plan is now taking place and the outcome of that is currently unknown.
- 5.2 It may be possible, at the meeting, for Officers to be in a position to provide further advice to Members with regard to the policies in the

emerging plan that have not been subject to comment during the consultation period.

6.0 Summary of Consultee Responses

- 6.1 HCC Highway Authority comments that it does not wish to restrict the grant of planning permission. The proposed replacement dwelling is located along a section of highway that is private, over which the Highway Authority has no jurisdiction. It is considered there would be no adverse impact on the wider highway network.
- 6.2 Thames Water: No comments
- 6.3 EHDC Landscape Advisor comments that, provided the advice and recommendations in the submitted arboricultural report are followed, including no regrading to the property frontage and a 'no-dig' driveway construction, there should be no unacceptable adverse impact on protected trees.
- 6.4 Herts Ecology comments that the property looks to be in good condition with well-sealed concrete tiles and no obvious bat access points. It advises that a directive be added to adopt a precautionary approach that if bats are found, then works should cease and specialist ecological advice be sought on how to proceed.
- 6.5 EHDC Environmental Health Advisor comments that planning permission be granted subject to a condition relating to soil decontamination.

7.0 Parish Council Representations

- 7.1 Tewin Parish Council has no comments to make on the proposal.

8.0 Summary of Other Representations

- 8.1 The application was advertised by means of press notice, individual neighbour notification letter and by site notice. One letter of objection has been received from the occupiers of the neighbouring property, number 19 Firs Walk, who indicate that they strongly object to the proposals on the basis of the following issues:
- size and design of the proposed property (in particular raising the height of the roof and the ugly/ bulky roof design)
 - effect of the proposal on the appearance of the surrounding area

- The appearance/ character of the current property is acceptable and is not considered to be structurally unsound
- Impact on light, views and privacy, as the proposals will present a solid brick wall 15m in length to the adjacent property
- The proposals will establish a precedent
- The impact will be exacerbated due to the location of the property at the highest point of the road and with a floor level higher than no 19
- The neighbour disputes a number of the details included in the planning submission, including the prior approval details referred to, the current separation distance, the size of the plot, the relationship between proposed ridge heights, the number of bungalows in the area, the volume calculations and the relevance of the submitted 'mismatched eaves information'.

8.2 Eleven letters of support have been received from occupiers of neighbouring properties in Firs Walk and Bishops Road. These representations can be summarised as follows:

- Existing bungalow is dilapidated, not in keeping with the character of the area, impairs it, is of poor design and construction
- The proposed development would be in keeping with other houses in the area, would blend in, sit comfortably and represent a positive addition and is of good design
- Other developments have been larger and more imposing
- New dwelling would be built to current energy efficiency standards which the Council should support
- Reduced footprint and distance to boundaries is welcome
- Would be visually less intrusive than the existing bungalow
- Proposals sit well in natural gradient of road, good relationship between rooflines

9.0 Planning History

9.1 The following planning history is of relevance to this proposal:

Ref	Proposal	Decision	Date
3/14/1598/PH	Single storey rear extension 8.0m in depth	Refused	29 Sept 2014
3/14/1840/PH	Single storey rear extension 8.0m in depth (amended scheme)	Granted	6 November 2014
3/15/2003/FUL	Demolition of existing 3 bedroom residential	Refused	29 December

	dwelling and construction of replacement 5 bedroom dwelling		2015
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10.0 **Consideration of Relevant Issues**

Principle of development – whether inappropriate

- 10.1 The site lies within the Metropolitan Green Belt wherein policy GBC1 of the current Local Plan states that replacement dwellings are not inappropriate in the Green Belt where the proposals are in accordance with policy HSG8 of the Local Plan.
- 10.2 Policy HSG8 states that where an existing dwelling is no longer capable of retention, a replacement dwelling will be permitted, provided that (a) there is a lawful existing residential use, (b) the volume of the dwelling is not materially larger than the dwelling to be replaced, plus any unexpended permitted development rights, and (c) the dwelling would be no more visually intrusive than the dwelling to be replaced.
- 10.3 The NPPF, which post-dates the Local Plan, states that replacement dwellings are not inappropriate development within the Green Belt where the new building is in the same use and is not materially larger than the one it replaces. As Local Plan policy HSG8 is not now in conformity with the NPPF, in respect of the additional requirement for the building to be incapable of retention and for permitted development rights to be taken into account, less weight can be attached to that policy and greater weight is therefore assigned to national policy set out in the NPPF.
- 10.4 The emerging District Plan policy GBR1 reflects the new national planning policy position in respect of replacement dwellings in the Green Belt.
- 10.5 In terms of principle therefore, the proposed replacement dwelling may be considered appropriate provided that it is not 'materially larger' than the existing bungalow. In any event, the potential of a replacement dwelling on the site had already been considered acceptable, with regard to the structural integrity point, given that earlier submissions (3/15/2003/FUL) had included a structural survey of the existing dwelling (also copied within this latest application) which indicated that the existing bungalow was of poor construction.
- 10.6 With regard to whether the proposed dwelling is materially larger, the applicant has submitted calculations to show that the proposed dwelling

would be have a volume of approximately 1,109 cubic metres; a floorspace of 310 sq.m and footprint of 186 sq.m. The comparison with the existing dwelling is set out in the table below (all dimensions scaled and approximate):

	Volume	Floor space	Footprint	Height
Existing dwelling	585 m ³	141 m ²	163 m ²	6.0m
Proposed Dwelling	1,109 m ³	310 m ²	186 m ²	7.0m

- 10.7 Consideration of the above figures results in the conclusion that the overall size of the proposed new dwelling would be materially larger than the existing dwelling. The proposal therefore constitutes inappropriate development in the Green Belt in accordance with the NPPF.
- 10.8 Inappropriate development is, by definition, harmful to the Green Belt and the NPPF makes it clear that local planning authorities should attach substantial weight to this harm. Inappropriate development should only be approved in very special circumstances. Very special circumstances will not exist unless the harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- Other harm
- 10.9 Openness: Whilst the proposed replacement dwelling would have a roughly similar footprint to the existing dwelling, it would have significantly increased floorspace, with the introduction of accommodation at first floor level. It is considered that the increase in size and scale of the dwelling would result in a loss of openness in the Green Belt location and some additional harm must be attributed to the proposals in this respect.
- 10.10 Impact on character and appearance of the area: Policy ENV1 of the Local Plan sets out that all proposals should be of a high standard and layout. A number of criteria are set out that development proposals are expected to meet. Policies ENV2 and ENV11 relate to the impact of development proposals on landscaping and the need to protect existing hedgerows and trees. Section 7 of the NPPF relates to the need to ensure development achieves good design parameters. The policy approach is taken up in the emerging District Plan where policies DES2 and DES3 relate to the impact on landscape features and the need for good quality design.

- 10.11 Officers acknowledge the approach that the applicant has taken with regard to the width of the proposed property, allowing space to be retained at the sides of the site, and the approach to achieving development over two floors with the use of a flat roofed area. The height of the ridge line of the proposed dwelling will not be significantly higher than that of no 19 to the north, and below no 15 to the south, but this is as a result of setting the dwelling into the ground. Such an approach is considered to be symptomatic of seeking to achieve development which is excessive in relation to the ability of the plot to accommodate it, and not a successful design solution.
- 10.12 The proposed new dwelling is also of a greater depth than the existing dwellings to either side of it. As a result of the desire to achieve first floor accommodation, and need to keep the ridge height as low as possible, a large area of flat roof is proposed within the central part of the roof. This is not reflective of good design approach to the development. The proposed design incorporates three large gables to the front and rear of the dwelling. By contrast with the neighbouring properties, these have high eaves lines, giving a more vertical emphasis to the design, rather than reflecting the low eaves design of the adjoining development.
- 10.13 The variety of development styles and designs in the wider area is also acknowledged. Whilst taking that into account, your Officers conclude that the proposed replacement dwelling would not however represent the most successful design solution for this site and some limited additional harm is attributed to this.

Benefits of the proposals

- 10.14 Energy Efficiency: The applicant and those who have commented on the proposals refer to the benefit of the demolition of a property that is not currently within keeping of the character of the area and replacement with a property which will be far superior in energy efficiency terms.
- 10.15 The NPPF supports the delivery of a wide choice of high quality homes and the transition to a low carbon future in a changing climate. Policies in the emerging District Plan, CC1 and CC2 support developments which show adaptation to climate change. Whilst the general principle that a new modern building will be more energy efficient to run than an older property is understood, no detailed submissions have been made in relation to this matter. In addition, with regard to the terms of the NPPF, the benefit of this proposal in relation to the energy efficiency of

the housing stock generally, will be quite insignificant. Some positive weight is assigned to this matter, but it is limited.

- 10.16 With regard to other benefits, the desire of the applicant to maximise the potential of the plot to support development and the delivery of a new modern home are understood. These personal aspirations do not receive policy support however and therefore cannot be attributed further positive weight in the planning balance.
- 10.17 Potential for permitted development (PD): The applicant sets out that the existing property could be significantly extended under permitted development rights (such that its volume would be comparable to, or slightly less, than the proposed replacement dwelling) and that this would have a similar impact on the Green Belt to the development proposal. As such, this is a fall-back position which requires consideration.
- 10.18 The PD rights that are available for the property would result in single storey extensions only (or dormer windows) and predominantly be sited to the rear of the property. Your Officers view is that they would have a more limited visual impact on the Green Belt location than the proposed development and could only result in the provision of a true chalet style bungalow, similar to others in the area.
- 10.19 When considering what weight to give the potential for PD rights to be implemented, it is appropriate to note that prior approval permission for extensions of this nature have been granted over two years ago, but have not currently been implemented. In addition, the applicant has submitted a structural survey report which sets out strongly that remedial works to the existing property are not advised (in place of a demolition and new built approach). It must be considered therefore that the addition of extension development to the property would be equally ill-advised. Lastly, the policy approach set out in the NPPF makes no allowance for unexpended PD rights.
- 10.20 Concluding on this matter, your Officers are of the view that very limited weight can be assigned to the possibility of the implementation of development under PD rights and the impact it would have in comparison to the proposed development.

Other considerations

- 10.21 There are a number of other relevant issues to be taken into account. These are considered to be neutral in the overall balance.

- 10.22 Impact on neighbour amenity: As established with the previous refused application, Officers consider it unlikely that there would be any loss of privacy to either of the adjacent dwellings due to their orientation and the lack of flank windows proposed within the new dwelling. Given this, and the proposed reduction in land levels at the site (to set the new dwelling lower into the ground), which, whilst it is considered an inappropriate response to the characteristics of the site, assists in ensuring that the proposals would not result in any unacceptable impact on either of the adjacent properties through loss of outlook or overbearing impact.
- 10.23 Landscaping and trees: The Council's Landscape Officer has commented that, provided the advice and recommendations in the submitted arboricultural report are followed, there should be no unacceptable adverse impact on protected trees within the site. This is a matter that could be suitably controlled by planning condition and therefore no additional harm is identified in this respect.
- 10.24 Ecology: It is noted that the applicant consulted with Herts Ecology prior to submitting this application and its response indicates that a precautionary approach should be employed in the construction of any replacement dwelling and an informative added to the grant of permission to provide that, in the event that bats are found on site, then work should cease and specialist ecologist advice sought. Again, this is a matter that could be referred to the applicant as an informative and no additional harm is identified in this respect.
- 10.25 A suitable condition covering land contamination matters would also be possible in this case, and no additional harm is identified in this respect.

11.0 Conclusion – balance of considerations

- 11.1 In undertaking the planning balance in this case, the proposal comprises inappropriate development in the Green Belt, to which substantial harm has to be attributed. Some additional harm is identified with regard to the impact on openness, and as a result of the design, and the adverse impact of the proposals on the character and appearance of the surrounding area. The harm assigned to this latter point is more limited however.
- 11.2 With regard to the benefits of the proposals, some, but limited weight is assigned to the increased energy efficiency of a new dwelling as compared to the existing and the potential implications of the implementation of PD rights.

- 11.3 When undertaking a balance, as indicated, the policy approach is very clear, in that inappropriate development should only be approved in very special circumstances. Very special circumstances will not exist unless the harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 11.4 In this case, substantial harm is assigned by reason of inappropriateness, as is required by the NPPF, further harm is identified as set out above. Whilst the benefits of the proposals are acknowledged, these are assigned limited weight and it is considered clear in this case, that harm is not clearly outweighed by other considerations. Very special circumstances do not exist therefore and planning permission should be refused.
- 11.5 All other relevant issues have been considered, but there are none apparent that alter the balance of considerations set out above.

Reason for Refusal

1. The site lies within the Metropolitan Green Belt as defined in the East Herts Local Plan Second Review April 2007. The proposed replacement dwelling would be of a materially greater size than the existing dwelling. The proposal would thereby constitute inappropriate development in the Green Belt contrary to policies GBC1 and HSG8 of the East Herts Local Plan Second Review 2007 and national policy within the National Planning Policy Framework. Additional harm is identified by loss of openness, poor design and the impact of the proposed development on the character and appearance of the surrounding area. Weight which can be attributed to the positive impacts of the development is not such that the identified harm to the Green Belt by inappropriateness, and other harm, is clearly outweighed. Very special circumstances do not therefore exist to justify the grant of planning permission.

KEY DATA**Residential Vehicle Parking Provision**

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	
2	1.50	
3	2.25	
4+	3.00	3
Total required		3
Proposed provision		5

Emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	
2	2.00	
3	2.50	
4+	3.00	3
Total required		3
Accessibility reduction	<i>None</i>	
Resulting requirement		3
Proposed provision		5.0