

3/11/1391/FP - Demolition of existing dwelling and erection of detached replacement dwelling with basement, glazed link, triple garage and covered swimming pool at Hedgegrove Farm, Pembridge Lane, Brickendon, Broxbourne Herts EN10 7QR for Mr L Williamson

Date of Receipt: 08.08.2011

Type: Full – Minor

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:-

1. Three Year Time Limit (1T12)
2. Levels (2E05)
3. Approved Plans (2E10):10324-003E and 10324-001-Q.
4. Samples of Materials (2E12)
5. Withdrawal of PD Rights Part 1 Class A. (2E20)
6. Withdrawal of PD Rights Part 1 Class E. (2E22)
7. Materials arising from demolition (2E32)
8. Landscape Design Proposals (4P12) (e, h, l, j, k, l)
9. Landscape Implementation (4P13)
10. All Mitigation and Compensation Measures (Section 5.2, 5.3 and 5.4 of the submitted Bat Report, September 2011 by ELMAW Consulting for the protection of bats identified on the site shall be carried out prior to any works commencing on site or in accordance with a timetable to be agreed by the local planning authority in writing.

Reason: To protect the habitats of bats which are an indicator European protected species under the Wildlife and Access to the Countryside Act 1981, and in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 9: Biodiversity and Geological Conservation 2005.

Directives

1. Other Legislation (01OL)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007), and in particular policies GBC1, ENV1, ENV2, ENV5, ENV13, ENV14, ENV16, BH1 and HSG8 and Planning Policy Guidance 2: Green Belts. The balance of the considerations having regard to those policies and the previous approval of 3/09/1923/FP is that permission should be granted.

_____ (139111FP.SD)

1.0 Background

- 1.1 The application site is shown on the attached OS extract. It is situated within the Metropolitan Green Belt in an isolated location within the rural landscape setting on the northern side of Pembridge Lane, east of Brickendon.
- 1.2 The site (approximately 18.6 hectares) comprises an access driveway through a copse of woodland leading from the highway to a domestic garden curtilage and hard standing surrounding a single detached two storey dwelling constructed in 1964.
- 1.3 The property has been largely unimproved and is of poor construction, originally constructed as an agricultural workers dwelling some 50 years ago. In 2008, a certificate of lawfulness was granted to confirm that the agricultural restriction on the dwelling had been breached for a period in excess of 10 years and was therefore lawful (ref: 3/08/1834/CL). A replacement dwelling was approved in 2010 (ref: 3/09/1923/FP) for the demolition of the existing dwelling which was of poor construction not capable of retention by reason of its poor structural integrity and failed foundations and the construction of a replacement two storey dwelling on the existing footprint. This permission was not implemented.
- 1.4 The current proposal again comprises the demolition of the existing dwelling with a full replacement dwelling on the same footprint with modest infill areas to the front and rear elevations, sited 1.0m lower in the ground to maintain the

3/11/1391/FP

roof height of the original dwelling on the site of 8.5m. It would be of the same form as the previous approval for a replacement dwelling under ref:3/09/1923/FP

1.5 However, this proposal also comprises additional development in the form of:-

- A triple garage 9.9m x 7.0m, 3.8m in height with tractor store to side, with a floor area of 70sqm.
- An enclosed swimming pool 20.0m x 10.7m, 4.0m in height, with a floor area of 214sqm.
- A basement beneath the replacement dwelling with internal access only, of 18.7m x 12.8m with a floor area of 239sqm.
- A single storey glazed link from the replacement dwelling to the swimming pool and garage 2.3m x 5.2m, 3.0m in height, with a floor area of 11.96sqm.

2.0 Site History

2.1 The property has had a limited planning history as follows:

- 3/64/1712/FP Construction of house, flat and garage, approved subject to a condition requiring occupation by agricultural worker(s) tied to part (65acres) of the agricultural land holding.
- 3/08/1834/CL Certificate of lawful Use was approved for dwelling not occupied as agriculturally tied dwelling for 40 years.
- 3/09/1257/FP Planning permission for two storey front and rear extensions, refused.
- 3/09/1923/FP Demolition of existing dwelling and replacement dwelling on same footprint with same roof height , approved
- 3/11/0125/FP Demolition of existing dwelling and erection of detached replacement dwelling - revised scheme with basement, swimming pool, garage and glazed link recommended for refusal with drawn by applicant

3.0 Consultation Responses

3.1 Herts Biological Records Centre (HBRC) comments that the loss of the bat roosts is contrary to European and UK law and will need to be licensed and mitigated for. The report gives an assessment of the Three Stage Test (Habitats Regulations) (section 4.2). It also details Mitigation Measures in

3/11/1391/FP

(section 5.3) and the requirements for a Habitat Regulations EPS licence (section 5.4). It is considered that the LPA has sufficient ecological information to apply the Three Stage Test (Habitats Regulations) in its decision on this application.

- 3.2 In the event of permission being granted, HBRC recommend's that all the Mitigation Measures, Compensation Measures, and the requirement for a Habitat Regulations EPS licence are conditioned

4.0 Parish Council Representations

- 4.1 Brickendon Liberty Parish Council has made no comments.

5.0 Other Representations

- 5.1 The application has been advertised by way of neighbour notification.
- 5.2 No letters of representation have been received

6.0 Policy

- 6.1 The relevant 'saved' Local Plan policies in this application include the following:-

GBC1	Green Belt
HSG7	Replacement dwellings and Infill housing
HSG8	Replacement dwellings in the Green Belt
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV13	Development and SSI's
ENV14	Local Sites
ENV16	Protected species
BH1	Archaeology and new development

- 6.2 In addition, the following National policy guidance is relevant:-

Planning Policy Guidance 1, Delivering Sustainable Development,
Planning Policy Guidance 2, Green Belts

7.0 Considerations

- 7.1 The main issues for consideration in this case are:-

- The appropriateness of the development in the Green Belt and whether there are any special circumstances to offset the harm to the Green Belt by reason of inappropriateness.
- Any impact on the openness and visual amenity of the Green Belt
- Whether the design, form, scale, massing and detailed appearance of the development responds to the site context.
- The impact on neighbour amenity
- Whether the development would have an impact on protected species, wildlife site and adjacent SSSI.

Green Belt

- 7.2 The site lies within the Green Belt wherein there is a presumption against development except in certain specified circumstances or where very special circumstances exist that warrant a departure from Green Belt policy.
- 7.3 Policy GBC1 set out the forms of development that may be considered appropriate in the Green Belt and these include “replacement dwellings in accordance with policy HSG8”.
- 7.4 Policy HSG8 then requires that, where the original dwelling is of poor appearance or construction not capable of retention and not contributing to the character and appearance of the Green Belt, replacement may be acceptable provided that “the volume of the new dwelling is not materially larger than the dwelling to be replaced, plus any unexpended permitted development rights excluding separate buildings” and that the new dwelling “is no more visually intrusive than the dwelling to be replaced”.
- 7.5 In 2010 planning permission (ref: 3/09/1923/FP) was given for a replacement dwelling on the site, where the replacement dwelling occupied a footprint of 239.9sqm which amounted to an increase of 32% over the original footprint. This permission remains extant, and the principle of the replacement dwelling has been established.
- 7.6 Under policy HSG8 (b) which states that development may be permitted where: “*the volume of the new dwelling is not materially larger than the dwelling to be replaced, plus any unexpended permitted development rights excluding separate buildings*”, the additional 32% of volume of the

3/11/1391/FP

previous replacement dwelling was not considered, at the time, to be materially greater than the dwelling to be replaced. This was in light of the unexpended permitted development rights the property enjoyed which, if employed, could have significantly enlarged the volume of the existing dwelling.

- 7.7 The proposal the subject of this application seeks permission for the same footprint of replacement dwelling with the 32% increase as approved under ref: 3/09/1923/FP. However, it now also includes additional development in the form of a basement, garage, glazed link and swimming pool.
- 7.8 Taking the main dwelling first, the addition of a full basement area would add a floor area of 239sqm; a volume of 525 cubic metres. In terms of the interpretation of policy HSG 8 the resultant volume of the replacement dwelling would be "*materially larger than the dwelling to be replaced*" and this would therefore be contrary to the strict policy provisions and thereby would constitute inappropriate development within the Green Belt. It is therefore necessary to consider whether there are any other material considerations in this case which would constitute 'very special circumstances' that clearly outweigh the harm by reason of inappropriateness. Where a basement is proposed beneath a building with internal access only from within the dwelling; where the additional floorspace would have no physical impact on the openness of the Green Belt or its visual amenity 'very special circumstances' can exist, and Officers consider that in this case, the lack of harm to openness is a material consideration of significant weight.
- 7.9 Looking at the glazed link as additional development of a minor scale it is Officer's opinion that the nature of the design, its scale and size generating 11.9sqm of floorspace would again not have a material impact on the openness of the Green Belt.
- 7.10 Turning to the swimming pool and triple garage, this would result in approximately 550 cubic metres of additional volume in the form of outbuildings. This is not an insignificant development and therefore does not accord with policy HSG8. However, it is a material consideration that outbuildings can currently be constructed for the existing dwelling without express planning permission under Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (amended 2008).

- 7.11 There is therefore a 'fall back' position where it is identified that the proposed outbuildings could (but for the link) constitute Class E permitted development by reason of their height and extent. This again is a material consideration in this case of some weight.
- 7.12 These material considerations, when taken together, lead officers to the conclusion that there are very special circumstances in this case which outweigh the harm caused to the green Belt by inappropriateness and any other harm.

Design

- 7.13 The proposed replacement dwelling would create a single linked form that extends across a wider area of the site frontage than the existing dwelling. Whilst large, the design of the replacement dwelling has previously been accepted in principle through planning approval 3/09/1923/FP.
- 7.14 The design and layout of the proposed new outbuildings generally compliments the main building in terms of exterior finish, height, scale and form, with the single storey nature of the outbuildings creating subservience to the main two storey replacement dwelling establishing a hierarchy of building form that is sensitive to the open character of the site. The swimming pool is located to the rear of garage to minimise the impact of long distance views of the site across open countryside in accordance with the provisions of policy ENV1.

Residential amenity

- 7.15 The site is located in an isolated rural woodland setting at a distance from the highway and other properties, screened by trees and woodland planting. The nearest neighbour, The Blue House, is located some 210m away to the south east, on the other side of established protected woodland. As such there are no neighbour amenity issues in this case.

Ecology

- 7.16 In terms of nature conservation, the site is located adjacent to the SSSI of Wormley/Hoddesdon Park to the west and north of the application site and 2 County Wildlife Sites Broxbourne Wood (71/005) to the north, west and east of the site and Pembridge Lane (71/025) that runs along the

front of the application site. The extent of the proposed development is limited to the existing domestic curtilage and as such it is considered unlikely to have any impact on the wildlife sites, local habitats or the status of the adjacent SSSI.

7.17 However it has been identified from recorded data that the presence of a protected species (bats) has been identified on site. The Bat Survey submitted by the applicants has been assessed by Herts Biological Records Centre and in accordance with the provisions of policy ENV16 a condition is attached to the recommendation to secure the Mitigation, and Compensation Measures identified in the Bat Report. A licence will also be required from natural England but this is covered under separate legislation.

7.18 Finally, in relation to the impact the development will have on bats, the survey found evidence of bats roosting in the building and therefore the development for a replacement dwelling could disturb or harm these. It is therefore a statutory duty of the Local Planning Authority to apply the three derogation tests contained in the Conservation of Habitats and Species Regulations 2010. The three tests are as follows

- The proposals must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative;
- The favourable conservation status of the species in their natural range must be maintained.

7.19 I consider that the proposals are for imperative reasons of overriding public interest. i.e. the existing dwelling is of poor construction and not capable of being used as sustainable residential accommodation; there is no satisfactory alternative as the replacement of the dwelling is necessary to provide a satisfactory and safe unit of residential accommodation and an appropriate mitigation strategy has been submitted, as confirmed by Hertfordshire Biological Records Centre and Herts and Middlesex Wildlife Trust to ensure the favourable conservation status is maintained.

7.20 I therefore conclude that in line with policy ENV16 and the Conservation of Habitats and Species Regulations 2010 the proposed development will not adversely impact upon protected species and the scheme is therefore acceptable in this respect.

8.0 Conclusion

- 8.1 The proposal represents a substantial replacement dwelling with additional internal and external development that, in terms of volume, under policy HSG8 would constitute inappropriate development in the Green Belt.
- 8.2 However, having regard to the details of the proposal and the potential for Class E buildings for the existing dwelling, it is considered that the development would not result in any significant loss of openness to the Green Belt or harm to the rural character of the area and in this instance “very special circumstances” are demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
- 8.3 It is therefore considered that there are very special circumstances in this case to allow permission to be granted contrary to Policies GBC1 and HSG8 of the East Herts Local Plan Second Review April 2007, and it is recommended that permission be granted, subject to the conditions set out above. In particular, it is felt necessary and appropriate to restrict normal ‘permitted development’ rights for Class A extensions and Class E outbuildings due to the significant size of the proposed linked swimming pool/garage building and the potential of further permitted development to have a significant detrimental impact of the rural character and appearance of the area and the openness of the Metropolitan Green Belt.