

APPLICATION NO. 22/01114/FUL**31 BARLING ROAD, GREAT WAKERING****DEMOLISH EXISTING DWELLING AND CONSTRUCT
REPLACEMENT DWELLING (REVISED DESIGN)**

APPLICANT: MR SANDAT
ZONING: MGB
PARISH: GREAT WAKERING PARISH COUNCIL
WARD: FOULNESS AND THE WAKERINGS

1 RECOMMENDATION

1.1 It is proposed that the Committee approves the application, subject to the following conditions:

- (1) The development hereby permitted shall be begun before 18th March 2023 and completed within 1 year of the date of this decision notice.

REASON: To align with the requirements of the enforcement notice and prevent the persistence of unauthorised development in the interests of the green belt and visual amenity.

- (2) The development hereby permitted shall be carried out in complete accordance with the following approved plans: 100; 101; 102; 250a; 251a; 252a; 253a; 254a; 255a; 256a; 257a; 258a; 259.

REASON: For the avoidance of doubt and to ensure that the development is completed out in accordance with the details considered as part of the planning application.

- (3) The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed in the application, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure the external appearance of the development is appropriate to the locality in accordance with policy DM1 of the Development Management Plan.

- (4) Within 3 months of the date of this decision notice, plans and particulars showing precise details of the hard and soft landscaping which shall form part of the development hereby permitted, have been agreed in writing by the Local Planning Authority. Any scheme of landscaping details as may be agreed in writing by the Local Planning Authority, which shall show the retention of existing trees, shrubs and hedgerows on the site and include details of:
- schedules of species, size, density and spacing of all trees, shrubs and hedgerows to be planted including a minimum of three substantial trees within the front curtilage;
 - areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
 - paved or otherwise hard surfaced areas;
 - existing and finished levels shown as contours with cross-sections if appropriate;
 - means of enclosure and other boundary treatments;
 - car parking layouts and other vehicular access and circulation areas;

shall be implemented in its entirety during the first planting season (October to March inclusive) following commencement of the development, or in any other such phased arrangement as may be agreed in writing by the Local Planning Authority. Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title, with species of the same type, size and in the same location as those removed, in the first available planting season following removal.

REASON: To enable the Local Planning Authority to retain adequate control over the landscaping of the site, in the interests of visual amenity.

- (5) The first floor windows serving the proposed en-suite depicted in drawing no. 256a, shall be obscure-glazed and shall be of a design not capable of being opened below a height of 1.7 metres above finished floor level. Thereafter, the said windows shall be retained and maintained in the approved form.

REASON: To enable the Local Planning Authority to retain adequate control over the approved fenestration, in the interest of privacy between adjoining occupiers.

- (6) Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A and B of the Town and Country Planning (General Permitted Development) Order 2015 (including any Order revoking or re-enacting that Order, with or without modification) no extensions shall be erected on any elevations of the dwelling hereby permitted.

REASON: To enable the Local Planning Authority to retain adequate control over such extensions, in the interests of protecting the open character of the Metropolitan Green Belt.

2 PLANNING APPLICATION DETAILS

- 2.1 This application is identical to the previous application (REF: 22/00867/FUL) which was published on the weekly list of 11th November 2022. The decision for this application was sent out in error and the Council are in the process of submitting a claim to the High Court to quash the decision on application 22/00867/FUL.
- 2.2 Planning permission is sought for the part demolition of the dwelling on site and the re-build of a replacement dwelling. The proposed dwelling is said to vary from the on-site dwelling by reducing the scale and massing to be reflective of the dwelling which was originally demolished and that was subsequently granted planning permission to be re-built like for like in 2020 (ref: 20/00321/FUL).

Application Context

- 2.3 Following the granting of a lawful development certificate for a single storey side extension in 2019 (ref: 18/01195/LDC), the dwelling was demolished instead of extended. The Council's Enforcement team required the applicant to submit an application for a replacement dwelling on the site as the applicant had started to re-build the dwelling. The applicant submitted an application for a like-for-like replacement (excluding the permitted development side extension) which was ultimately granted (ref: 20/00321/FUL). Around the same period, the applicant submitted an application for an alternative replacement dwelling which was refused due to the greater size and impact on the green belt (ref: 20/00339/FUL).
- 2.4 The applicant went on to construct a dwelling similar to that refused, albeit not identical due to an additional canopy which connected the dwelling to a garage and the second floor which extended out into a gable end rear projection. A second application was submitted for the dwelling built on site (ref: 21/00015/FUL), although again not mirroring the development which had actually occurred on site and this was again refused due to the greater impact on the green belt.

- 2.5 An enforcement notice was served in June 2021 and this was appealed. At the hearing, the Inspector considered under ground (a) whether the dwelling on site was materially larger than the one it replaced. The Inspector also considered whether the dwelling on site needed to be completely demolished in order for the approved dwelling (ref: 20/00321/FUL) to be constructed on site.
- 2.6 The inspector ultimately concluded that the dwelling that had been constructed on site was materially larger and had a greater harm to the green belt. Planning permission was therefore not granted under ground (a). The Inspector concluded that requiring the dwelling to be entirely demolished was excessive and altered the enforcement notice to read as follows:

“Either demolish the new dwelling house shown in the approximate position labelled A on the attached plan 2, or make alterations to it to comply with the terms of the planning permission 20/00321/FUL dated 24 June 2020 including the conditions subject to which that permission was granted”

- 2.7 The Inspector also extended the compliance period from 6 months to 12 months and gave the applicant until 18th March 2023 to carry out those works stated above. The applicant has chosen to alter the existing unauthorised building to a revised design to accord with the approved dwelling and which is the subject of this current application.

Helpful Key Words

- 2.8 “Demolished dwelling” and “approved dwelling” – refer to the dwelling which stood on the site and was granted like-for-like planning permission.
- 2.9 “Proposed dwelling” – refers to the dwelling that is now being proposed and subject to this planning application.
- 2.10 “On-site dwelling” – the dwelling which presently stands on site that is unlawful and was the subject of the enforcement notice and ground (a) appeal.
- 2.11 “Refused dwelling” – applications submitted for a revised dwelling and refused references: 20/00339/FUL and 21/00015/FUL.

3 MATERIAL PLANNING CONSIDERATIONS

Site and Context

- 3.1 The application site is located on the southern side of Barling Road. The site has a large curtilage and the nursery to the rear is also within the ownership of the applicant. The site has, for the most part, been cleared of all landscaping and the ‘existing dwelling’ has been demolished. Prior to the demolition on site, there was a garage to the east of the dwelling and an annexe to the west. The dwelling that exists on the site is unlawful and the

enforcement notice for the demolition of the dwelling was upheld by the recent appeal decision which is outlined in further detail below.

- 3.2 The existing street scene is made up of a ribbon of large detached dwellings with substantial curtilages. Whilst the application property lies within the Metropolitan Green Belt where restrictive policies apply, the street is relatively built up. The dwellings are substantial in size and have been heavily extended despite these current restrictive policies which now apply as a result of earlier less restrictive rural settlement policies practiced for many years prior to the adoption of a new and the current policy suite in 2014.

Relevant Planning History

- 3.3 Due to the extensive site history, only the applications relevant to the consideration of the current application are listed below.
- 3.4 Application No. 20/00321/FUL – demolish existing dwelling and re-build as replacement dwelling – Permitted.
- 3.5 Application No. 20/00339/FUL – proposal to demolish existing dwelling and construct replacement dwelling – Refused for the following reasons:
1. The Allocations Plan (2014) shows the site to be within the Metropolitan Green Belt and the proposal is considered to be inappropriate development contrary to the National Planning Policy Framework. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness and any other harm, it clearly outweighed by other considerations.
The proposed replacement dwelling would have a material increase greater than 25% of the original dwelling. The proposal would result in an enlargement of 96% from the original dwelling and a 35% increase from the existing dwelling. As such, the replacement dwelling would have a significant increase on the visual mass and bulk, resulting in a dwelling materially larger than that existing. No very special circumstance has been presented. On balance, the replacement dwelling would reduce the openness of the green belt relative to the existing dwelling and would therefore be inappropriate development and would lie contrary to parts (i) and (iii) of policy DM21 of the Development Management Plan and Section 13 of the NPPF.

3.6 Application No. 21/00015/FUL – demolish existing dwelling and construct replacement dwelling (revised design) – Refused for the following reasons:

1. The Allocations Plan (2014) shows the site to be within the Metropolitan Green Belt and the proposal is considered to be inappropriate development contrary to the National Planning Policy Framework. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness and any other harm, it clearly outweighed by other considerations.

The proposed replacement dwelling would have a material increase greater than 25% of the floorspace of the original dwelling. The proposal would result in an enlargement of 164% from the original dwelling and a 35% increase from the existing dwelling. As such, the replacement dwelling would have a significant increase in the visual mass and bulk, resulting in a dwelling materially larger than that existing. No very special circumstance has been presented. The replacement dwelling would reduce the openness of the green belt relative to the existing dwelling and would therefore be inappropriate development and would lie contrary to parts (i) and (iii) of policy DM21 of the Council's Development Management Plan and Section 13 of the NPPF.

3.4 Appeal Reference: APP/B1550/C/21/3279502 – Enforcement notice served requiring the demolition of the new dwelling (amongst other breaches). The enforcement notice was appealed and the appeal decision upheld the notice and required the demolition of the dwelling within 12 months.

3.5 Application No. 22/00868/FUL – ground floor and side extension – Pending consideration.

3.6 Application No. 22/00867/FUL – demolish existing dwelling and construct replacement dwelling (revised design).

Material Considerations

3.7 The proposed development must be assessed against relevant planning policy and with regard to any other material planning considerations. In determining this application regard must be had to section 38(6) of the

Planning and Compulsory Purchase Act 2004, which requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 3.8 The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

Green Belt Considerations

- 3.9 Section 13 – Protecting Green Belt land of the NPPF states that great importance is attached to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. Taking into account recent case law (Timmins and Lymn v Gelding Borough Council 2014 and Goodman v SSCLG 2017) the openness of the Green Belt should be assessed considering both spatial and visual impact.
- 3.10 Paragraph 147 of the NPPF outlines that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 expands on this by stating that when considering any planning application, 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 resulting from the proposal, is clearly outweighed by other considerations.
- 3.11 Paragraph 149 states that the construction of new buildings within the green belt should be considered as inappropriate development with the exception of a number of circumstances, of which includes (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
- 3.12 The question of whether a building is materially larger than that existing, is one that has been met with challenge. R Heath and Hampstead Society v Camden LBC (2007) discuss the reasons why the relevant test for replacement buildings in the Green Belt is one of size rather than visual impact; the essential characteristic of Green Belts is their openness not their appearance. Christopher Lockhard-Mummery QC in Surrey Homes Ltd V Secretary of State for Environment (2000) said that which physical dimension is most relevant for the purpose of assessing the relative size of the existing and replacement dwellinghouse, will depend on the circumstances of the particular case. It may be floor space, footprint, built volume, height, width etc. But in most cases floor space will undoubtedly be the starting point, if indeed it is not the most important criterion. In the judgement of Heath and Hampstead Society V Camden (2007), the courts agreed with the conclusion of Surrey Homes stating that the general intention of the materially larger test is that the new building should be similar in scale to that which it replaces. The Surrey Homes case illustrates why some qualification to the word “larger”

is needed. A small increase may be significant or insignificant in planning terms, depending on such matters as design, massing and disposition on the site.

- 3.13 In line with this, the Development Management Plan permits within Policy DM21, the replacement or rebuild of existing dwellings in the Green Belt. Permitting the replacement or rebuild of existing dwellings offers the opportunity to achieve an improvement in the appearance of many dwellings in the Green Belt. Policy DM21 of the Development Management Plan takes into account the overall siting, scale and bulk of the replacement dwelling and whether this would be appropriate development.

Floor Space

- 3.14 Part (i) of Policy DM21 requires the total size of the dwelling to not result in an increase over 25% floorspace of the original dwelling.
- 3.15 In this case the original dwelling had a floor area of some 158.76m² across the two storeys. The proposed dwelling would have a floor area of some 318.22m² across two storeys and an additional 65m² of floor space within the second floor. The proposed dwelling would unequivocally exceed the additional 25% over the original floor space which is permitted by Policy DM21.
- 3.16 However, this was also the case for the demolished dwelling which had been extended in excess of the 25% requirement. Of material consideration is the planning permission which was granted in 2020 (ref: 20/00321/FUL) for the replacement of the demolished dwelling. This permission permitted to replace the demolished dwelling like-for-like. As outlined within the Inspectors decision, the approved dwelling does not form a baseline in deciding whether the proposed dwelling is materially larger. Policy DM21 and the NPPF require a comparison with the extent of what had been physically built on the site.
- 3.17 As the demolished dwelling far exceeded the parameters permitted by Policy DM21, national policy must be considered. Paragraph 149 (d) of the NPPF states the replacement of a building where it would be within the same use and not materially larger than the one it replaces would be considered as appropriate development within the green belt.
- 3.18 Also of consideration, is how the proposed dwelling differs from the applications which were previously refused on site (ref: 20/00339/FUL and 21/00015/FUL) as well as the dwelling on site which was refused planning permission under ground (a). Each of these proposals were considered materially larger than the demolished dwelling. Albeit direct comparison to the dwelling which exists on the site is not possible due to there being no formal plans submitted, measurements were taken during a site visit and therefore a rough estimate can be explored.

- 3.19 It is noted that the window on the rear projecting gable end which was installed to serve the additional rooms within the roof has been retained on the proposed rear elevation. However, the floor plan does not show the floor space extending up to this window. The matter was clarified with the agent who stated that the ridge height would not be great enough to use the space as a habitable room but that this area would be used for storage which is why it has been omitted from the plans and subsequently not included within the second floor, floor area calculation.

	Demolished/approved dwelling (m ²)	Refused (m ²)	On-site (m ²)	Proposed (m ²)
Ground floor	Approx. 186.42	Approx. 259.12	Approx. 259.12	Approx. 160
First floor	Approx. 138.2	Approx. 160.95	Approx. 160.95	Approx. 158.87
Total floor area across two storeys	Approx. 324.62	Approx. 420	Approx. 420	Approx. 318.87
Second floor	Approx. 55 (although it is not clear how much of this floor space would have been habitable due to ridge/eaves heights. See photo below)	Approx. 65.2	Approx. 72.4	Approx. 65.2
Total floor area	Approx. 379.62	Approx. 485.27	Approx. 492.5	Approx. 384.07

Ground floor and first floor - floor space

- 3.20 When comparing the total floor area across the ground floor and first-floor, it is clear that the proposed dwelling is comparable to that of the demolished/approved dwelling whereas the floor area of the refused application and the dwelling on site are far larger across the two storeys.

Second floor – floor space proposed vs refused

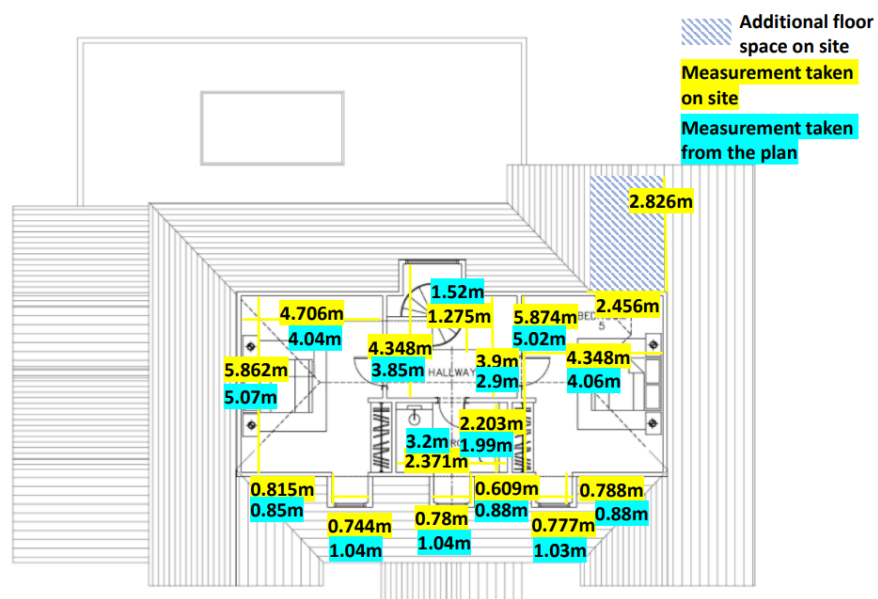
3.21 The table highlights that the second floor of the proposed dwelling draws greater comparison with that of the refused applications. The reasons these applications were refused has been detailed in the planning history section above. However, the impact of the rooms within the roof on the floor space calculation was examined within the application ref: 20/00339/FUL as follows:

“The proposed replacement dwelling would have a total floor area of 420m² across two-storeys. Whilst the dwelling would have a second-floor, this would be within the loft conversion so has therefore not been counted within the additional floor area.....However, the proposed replacement dwelling would far exceed the 25% allowance of even the existing dwelling. Overall, it is fair to ascertain that the size of the dwelling is proposed to be increased from the 25% allowance of the original dwelling and would be inappropriate detrimentally impacting the character and appearance of the green belt.”

3.22 In the case of floor space within the two refused applications, the harm upon the green belt was not considered to be a result of rooms within the second floor but rather the increase of floor area across the two-storeys which has now been rectified in the current proposal.

Second floor – floor space proposed vs on-site dwelling

3.23 Of consideration is the Inspectors decision which under ground (a) in the enforcement appeal, took into account the dwelling which currently stands on the site. It is appreciated that there are no completely accurate plans for this dwelling, however, the plan below depicts internal measurements of the second floor which were taken during a site visit prior to the hearing for the appeal to depict the accuracy of the plans which had been submitted with the refused applications.



- 3.24 The Inspector provided the following comments in terms of the impact of the second floor:

“[12.]... Further, the building is taller than the one it replaced⁵ [⁵ 1.5m taller according to the appeal form, 1.043m according to Mr Coxall’s rebuttal proof] and has an additional storey of accommodation. Taking all of these factors into account, I find that the appeal dwelling is materially larger than the one it replaced.”

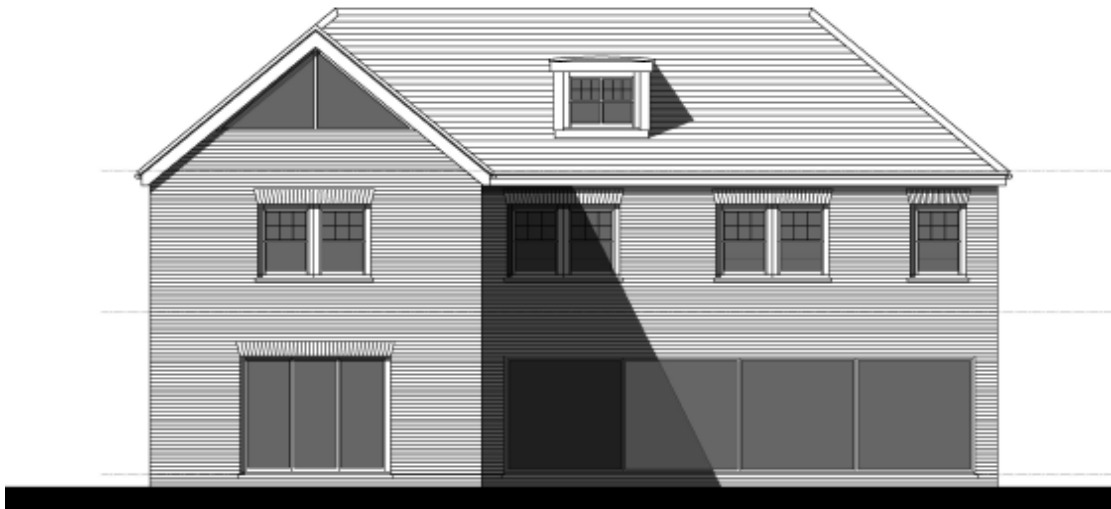
- 3.25 The Inspector is clear within his decision that collectively the second floor accommodation does add to the dwelling on site being materially larger than the one it replaced. Despite the ground-floor and first-floor being comparable to that of the demolished dwelling, the second floor accommodation of the proposed dwelling would be similar in scale to that of the on-site dwelling, albeit the gable end would no longer be able to be utilised as habitable space. Consideration must therefore be had as to whether second floor accommodation within the proposed dwelling would amount to a floor space that would be inappropriately larger than the demolished dwelling.

Second floor – floor space proposed vs demolished/approved dwelling

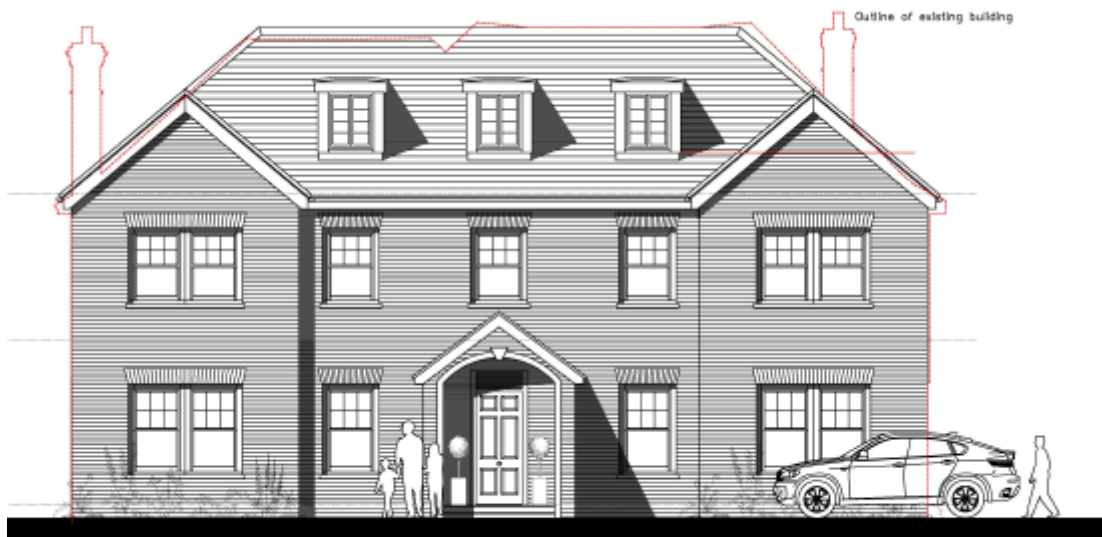
- 3.26 As noted in the table above, it is not entirely clear what proportion of the loft space of the demolished dwelling would have been capable of accommodating a second floor. Drawing no. 258a depicts an idea of what could have been achieved within this dwelling, however it is not clear the extent that this drawing takes into account the eaves and ridge height of the demolished dwelling. Nevertheless, as demonstrated by the generous roof space that is depicted within the picture below of the dwelling prior to its demolition, it is considered that a floor space of some sort would have been able to have been accommodated within the second floor.



Photo: Previously existing rear elevation dwelling prior to demolition



Plan: Proposed rear elevation of dwellinghouse.



Plan: Proposed front elevation showing dotted outline of the previously existing building compared with the proposed dwelling.

- 3.27 Furthermore, the proposed dwelling albeit has a greater cumulative floor space, has contained this largely within the footprint of the dwelling, whereas the demolished dwelling had a greater footprint and sprawl. As a result, the demolished dwelling would be considered to have had a similar impact upon the green belt to that of the dwelling now proposed in this current application, as although the proposed dwelling would be materially larger in terms of the space within the second floor, this is considered to be counteracted by the fact that it would have a slightly less impact over the other floors, particularly the smaller ground-floor.

Floor Space Conclusion

- 3.28 It is considered that the proposed dwelling would not have a floor space that would have a greater impact upon the green belt than that of the demolished dwelling given the reasons outlined above. Nevertheless, whilst the spatial impact upon openness would not be greater, case law is clear that even where there is a minor increase in floor space, the impact may still be significant or insignificant depending on the massing and design of the proposal. The scale, mass and bulk of the dwelling will therefore be examined below.

Mass and Bulk

- 3.29 As outlined by the case law in paragraph 24 to this report, floor space is primarily the first test of whether a dwelling is considered to be materially larger, but the impact of this may still be significant depending on the massing and bulk of the replacement building. In this instance, the floor space has not been considered to be materially larger in isolation as whilst the proposed dwelling would have a greater floor space within the second floor, this would be compensated by a smaller ground-floor. This therefore leads to the consideration as to whether the proposed dwelling would have a material impact on openness and the aims of the green belt when considering its bulk and massing as a result of the re-distribution of floor space.
- 3.30 The table below examines the massing of the relative buildings to aid consideration of whether the proposed dwelling, in particular the additional accommodation at second floor, would have a material impact upon the openness of the green belt. Both previously refused applications raised concern with the mass and bulk of the dwelling and the Inspector also discussed this within his decision. It is therefore imperative that the proposed dwelling must not be considered to be materially larger as a result of its massing and bulk.

	Approved/demolished (m)	Refused (m)	On-site (m)	Proposed (m)
Ridge height	Approx. 9.75	Approx. 10.54	Unable to measure	Approx. 9.69
Eaves height	Approx. 6.45	Approx. 6.6	Approx. 6.6	Approx. 6.52
Max. depth	Approx. 14.38	Approx. 15.48	Approx. 15	Approx. 11.37
Min. depth	Approx. 10.97	Approx. 11.62	Approx. 11.34	Approx. 10.48
Width	Approx. 16.8	Approx. 20.93 (ground floor) Approx. 16.94 (first floor)	Approx. 20.75 (ground floor) Approx. 16.85 (first floor)	Approx. 16.88

3.31 It is evidenced from the table above that the proposed dwelling is comparable to that which was demolished/approved. Albeit the proposed dwelling would have a greater width of some 10cm, it would have a depth which is less than that of the demolished/approved dwelling. Although the proposed dwelling would have a greater volume due to the squaring off of the dwelling and additional bulk and massing to the roof as a result, it is considered that the proposed dwelling would condense the dwelling into a smaller footprint than that of the approved/demolished dwelling which had a greater sprawl. As such, although the bulk and massing of the roof would have a greater impact than the demolished/approved dwelling, at the ground floor it would have less of an impact and it is considered that the impact of these two aspects would off-set one another. Whilst space which would have been absent of development, were the approved dwelling built out, would as a result be occupied by development (in terms of the additional bulk from the first-floor and roof), there would also be space absent of development that wouldn't have been otherwise.

3.32 However, the proposed dwelling must still be considered in relation to the refused and on-site dwellings to ensure that it has addressed the concerns raised by the previous refusals and the inspector's decision.

Bulk and mass – proposed vs refused

3.33 The refused applications (ref: 20/00339/FUL and 21/00015/FUL) provided the following analysis within the officers report:

"[16. Of ref: 21/00015FUL] The proposed replacement dwelling would appear materially larger both in terms of the footprint and overall built volume. The dwelling would have an increased height and the increased eaves height towards the front elevation and infill to the rear would contribute to this."

3.34 It is considered that by reducing the ridge height and eaves height, as well as the overall floor space and footprint, the proposed dwelling would successfully overcome the objection raised by the refused applications.

Bulk and mass – proposed vs on-site dwelling

3.35 The Inspector made the following observation within the appeal decision:

"[12.] Further, the building is taller than the one it replaced and has an additional storey of accommodation. Taking all of these factors into account, I find that the appeal dwelling is materially larger than the one it replaced."

3.36 Although it appears that the Inspector takes issue with the additional storey of accommodation, this is only in terms of the building being taller and materially larger as a result of accommodating this. Whilst the proposed dwelling would still utilise the loft space, the ridge height has been significantly reduced and the dormers are modest and proportionate to the roof space. As discussed above, it is considered that where the bulk and mass of the proposed dwelling is greater in some respects to that of the demolished dwelling, it is offset by

having less of an impact in other respects whereas the on-site dwelling is materially larger in all respects. It is considered that the proposed dwelling would successfully reference the objections which had been raised by the Inspector within the appeal decision.

Effect on the Green Belt – Conclusion

- 3.37 As the dwelling now proposed would compare closely with that that was demolished, the proposed development would therefore not be considered to result in urban sprawl as the development would preserve the openness of the green belt respective of the proportions and scale of the demolished dwelling. The proposal would comply with the five aims of the green belt stipulated by Section 13 of the NPPF and paragraph 149 (d) of the NPPF as the development would not be materially larger than the dwelling which was demolished.

Impact on Character

- 3.38 Although the previous applications on site (ref: 20/00339/FUL and 21/00015/FUL) took no issue with the design of the proposed replacement dwelling, the inspector took the view during the appeal (app ref: APP/B1550/C/21/3279502) that the increased height of the dwelling would protrude significantly above the ridge heights of neighbouring properties. In addition, the inspector noted that the scale and width of the dwelling would be contextually dominant and taken together with the unlawful outbuildings, had an overbearing and overdevelopment effect which significantly harms the character and appearance of the area.
- 3.39 The proposed dwelling reduces the height of that built from some 10.54m to some 9.69m and would be comparative to the demolished dwelling. In terms of the ridge height, it is considered that the dwelling would successfully reference the scale of the other dwellings within the street and would not have a ridge height that dominantly sits above that of adjoining properties. Although to achieve this height a small portion of flat roof would be introduced which would normally be resisted.
- 3.40 In most circumstances, the introduction of a flat roofed element is usually to be able to achieve greater depth or massing to a site which cannot otherwise comfortably achieve that scale of development and it therefore represents overdevelopment. In this case, the flat roofed element is introduced to reduce the scale of the development than that which is present on site. Furthermore, the steep roof pitches would mean that the flatted element would not be at all visible from street level or from the first-floors of the adjoining properties. Of consideration is an appeal at No. 8 Kenilworth Gardens in Rayleigh (ref: 19/00657/FUL app ref: APP/B1550/D/19/3238802) where the inspector considered that a flat roofed first-floor extension would appear bulky with its significant depth creating an over-dominant appearance. The use of the flat roof here would not be dominant nor would it appear bulky given its depth and extensive sloped elements of the roof space surrounding it.

- 3.41 It is not considered that given the small area of flat roof proposed and for the reasons stated above, that a reason for refusal relating to this feature would be sustained at appeal.
- 3.42 Whilst the width of the proposed dwelling would not be decreased it is acknowledged that within his decision the inspector was taking account of the cumulative impact of the dwelling and the canopy connection with the numerous unlawful outbuildings. The canopy has been required to be removed as part of the enforcement notice and the outbuildings have also been required to be reduced in size. As such it is considered that the scale of the proposed dwelling would sit comfortably within the application site and the surrounding area. In this respect, it would not be considered to dominate or overbear the street scene in compliance with Policy DM1 of the Development Management Plan.

Impact on Residential Amenity

- 3.43 The proposed scale, bulk and height would be considered acceptable relative to neighbouring dwellings which are of a similar scale. The proposed dwelling would not over-shadow or dominate beyond what is reasonable. For the most part the additional fenestration would not overlook neighbouring dwellings. It would be reasonable to obscure glaze by condition, the first-floor flank window as it would serve an en-suite. This would mitigate any overlooking impact that would arise from this window. The proposal would not have a significant detrimental impact upon residential amenity.

Living Conditions for Future Occupiers

Garden Sizes

- 3.44 The NPPF seeks the creation of places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 3.45 The Council's guidance in SPD2 (3) requires the provision of a minimum useable private garden area for new dwellings of 100m². An exception for this is one and two bedroom dwellings where a minimum private garden area of 50m² is considered acceptable when the second bedroom is not of a size that would allow subdivision into two rooms.
- 3.46 The proposal would erect a five-bedroomed detached dwelling. The garden amenity space required for a dwelling of this size would be met by the proposal. However, as the garden has been cleared, an approval of this application would be conditioned to provide details of the landscaping provision for the rear garden.

Refuse and Waste Storage

- 3.47 The Council operate a 3-bin refuse and recycling system. The proposed side garden space would provide ample storage space for the three bins.

Sustainability

- 3.48 The Ministerial Statement of the 25th March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalise the many differing existing standards into a simpler, streamlined system and introduce new additional optional Building Regulations on water and access, and a new national space standard.
- 3.49 Rochford District Council has existing policies relating to all of the above, namely access (Policy H6 of the Core Strategy), internal space (Policy DM4 of the Development Management Plan) and water efficiency (Policy ENV9 of the Core Strategy) and can therefore require compliance with the new national technical standards, as advised by the Ministerial Statement.
- 3.50 Until such a time as existing Policy DM4 is revised, this policy must be applied in light of the Ministerial Statement. All new dwellings are therefore required to comply with the new national space standard as set out in the DCLG Technical housing standards - nationally described space standard March 2015.
- 3.51 A 5-bedroomed 8-person three storey dwelling would require an internal floor space of 134m² and built-in storage of 3.5m². The standards require that the main bedroom must be at least 2.75m wide and have a floor area of at least 11.5sqm. The proposed dwelling would exceed these space standards but would not provide any built-in storage. This would be considered acceptable given that the dwelling far exceeds the floor area required for a property with this number of bedrooms allowing for any storage required.

Highway Safety

- 3.52 The Parking Standards Design and Good Practice guide (2010) states that dwellings with in excess of two bedrooms require two car parking spaces with dimensions of 5.5m x 2.9m and garage spaces should measure 7m x 3m to be considered usable spaces. Quality urban design dictates that care should be taken that the parking layout would not result in streets dominated by parking spaces in front of dwellings or by building facades with large expanses of garage doors.
- 3.53 The site would be able to accommodate two off-street car parking spaces. A dwelling of this size would be required to provide two off-street parking spaces. Therefore, no objections are raised in relation to transport and highways issues. However, further information will be required showing the landscaping of the site frontage to ensure that the hard-standing for parking does not dominate the appearance of the front curtilage and that soft landscaping would be re-introduced following the clearing of the site.

Trees and Ecology

- 3.54 Paragraph 134 of the NPPF seeks to ensure that opportunities are taken to incorporate trees in developments. To the contrary, there are a number of trees that have been removed on the site within both the front and rear curtilage. Although some trees have been replanted within the front curtilage, the details of the size or species of these have not been submitted with the application. The Council's Arboricultural Officer has been previously consulted and recommended a condition to secure the planting of at least 3 substantial trees to the front of the site to replace those lost. It is therefore considered reasonable to require a landscaping condition to allow for the Council's Arboricultural Officer to consider whether the size and species of the trees planted on site would be considered substantial and acceptable. Furthermore, additional trees should be planted to the rear curtilage to secure protection of species/habitats.

4 CONSULTATIONS AND REPRESENTATIONS

Great Wakering Parish Council

- 4.1 No comments have been received.

Anglian Water

- 4.2 No comments.

Cadent Gas

- 4.3 No objection.

Rochford District Council Arboricultural Officer

- 4.4 All trees have been removed from the front, I would recommend a tree planting scheme be submitted, concentration to the front of the site to offer visual amenity and landscape value.

Neighbour Representations

- 4.5 Two responses have been received from the following address:

Barling Road; No. 14 (two letters)

- 4.6 In the main, the comments received can be summarised as follows:

- The description is not correct for what they intended to do
- The application does not comply with the inspectors decision
- The planning permission that has been granted does not include second floor accommodation
- The previous dwelling did not have second floor accommodation and the inspector did not consider this in the determination of the appeal

- The dormers are additional floor space in the green belt
- The amount of floor space claim could have been used in the previous dwelling is not accurate
- The proposed dwelling is much larger when viewed from the side than the demolished dwelling
- The proposed dwelling is approximately 10% bigger in volume than the existing dwelling
- In terms of mass and bulk the two are not comparable and the proposed dwelling will have a far greater impact on the green belt
- If planning permission were approved it would contravene with green belt policy and the appeal decision

5 EQUALITY AND DIVERSITY IMPLICATIONS

- 5.1 An Equality Impact Assessment has been completed and found there to be an unlikely impact (either positive or negative) on protected groups as defined under the Equality Act 2010.

6 CONCLUSION

- 6.1 For the reasons outline above, the proposal is considered acceptable.



Phil Drane

Director of Place

Relevant Development Plan Policies and Proposals

National Planning Policy Framework 2021

Core Strategy Adopted Version (December 2011) Policy CP1, H6, ENV9

Development Management Plan (December 2014) Policy DM1, DM4, DM21, DM25, DM27, DM30

Parking Standards: Design and Good Practice Supplementary Planning Document (December 2010)

Supplementary Planning Document 2 (January 2007) – Housing Design

The Essex Design Guide (2018)

Background Papers

None.

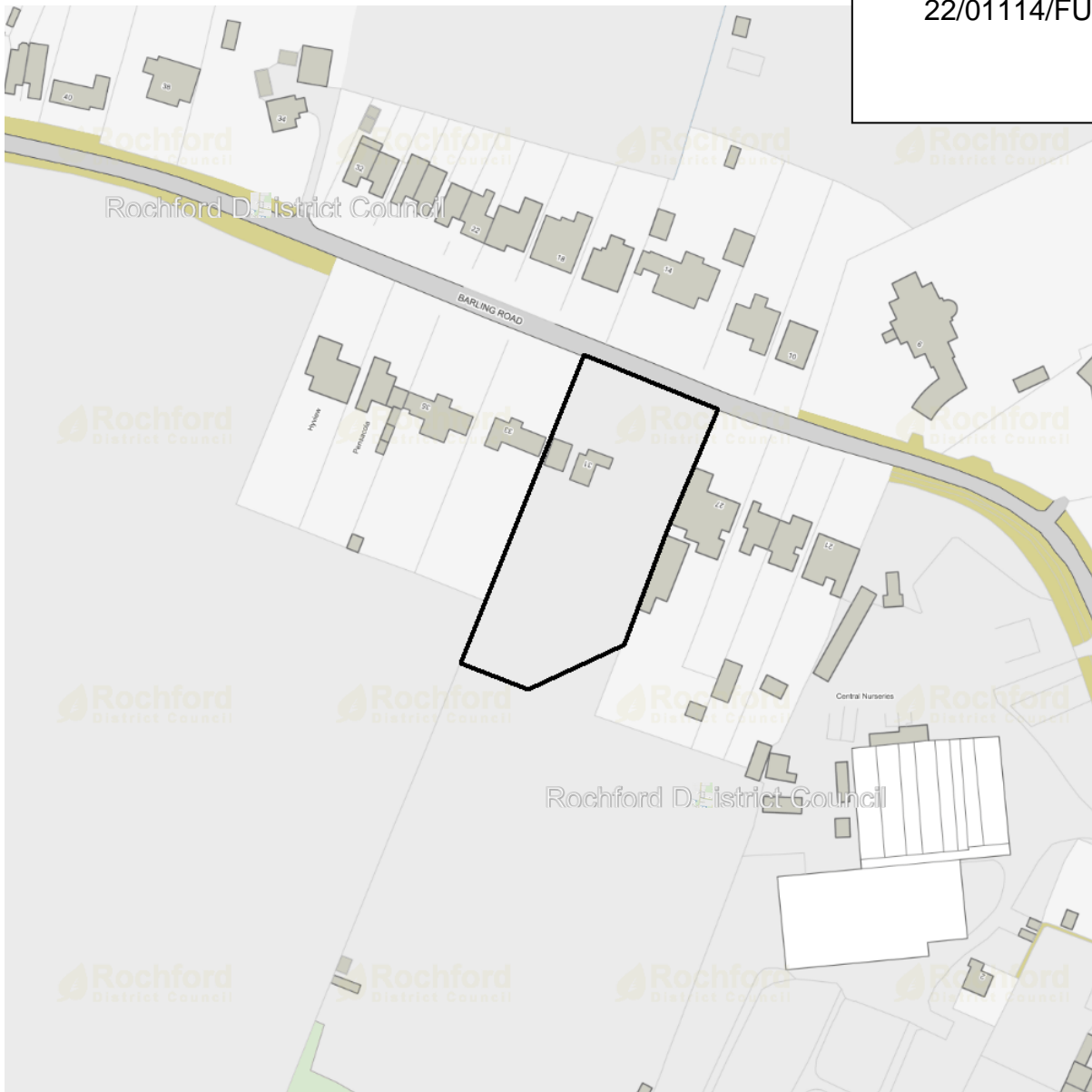
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NTS

1. Amendment to Condition 2

An amendment is required to condition 2 to substitute the location plan (from drawing no. 100 to drawing no. 100a) which includes the depiction of land owned by the applicant outlined in blue to the south of the red lined site.

- (2) The development hereby permitted shall be carried out in complete accordance with the following approved plans: 100a; 101; 102; 250a; 251a; 252a; 253a; 254a; 255a; 256a; 257a; 258a; 259.

2. Additional Condition

Officers recommend that in addition to the conditions listed within the officer report, that the following condition is also attached to the planning consent, were Members minded to approve the application:-

- (7) The area shown hatched on drg no. 100a shall be the only area used as residential garden at any time. Notwithstanding the provisions of Article 3 Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015 (including any order revoking or re-enacting that Order, with or without modification) no outbuildings shall be erected, or otherwise provided on any part of the site either shown hatched or the area beyond that.

REASON: In the interests of preserving the character and appearance of the Green Belt.