

The overall height of the replacement building is shown to be 6.4 metres as scaled from the submitted plans for the current application. This is the same height as is shown for the original building on the submitted plans for the current application. The height of the original building and the extended building shown on the plans submitted for the LDC application also scales at 6.4 metres.

The height of the replacement building that has been constructed has not been measured on site to verify whether the height is the 6.4 metres as shown on the submitted plans. However, if the current proposal were approved, the approval would be for the replacement building at the dimensions scaled from the submitted plans, i.e. 6.4 metres in overall height.

The proposal would be contrary to Policy R6, however, the proposal is for a replacement dwelling which results in exactly the same form of development as shown on the LDC permission and which would have resulted if the original dwelling had been retained or of substantial enough construction to enable the extensions subject to the Lawful Development Certificate to be added. In Green Belt terms, therefore, the proposal would not result in any greater degree of harm to the openness or character and appearance of the Green Belt than if the original dwelling had been of substantial enough construction to enable the extensions subject to the Lawful Development Certificate to be added.

The applicant has provided photographic documentation to demonstrate that the extensions authorised by the Lawful Development Certificate were commenced to the existing dwelling on the site rather than the existing dwelling being demolished prior to any new building works taking place.

If the existing dwelling had been retained to enable the extensions permitted by the LDC to have been implemented then effectively the dwelling as now applied for would be present on site, lawfully. In the light of the weight given to the fallback argument of 'permitted development' extensions by virtue of the 2008 amendments of the GDPO in Green Belt cases it would seem unreasonable refuse the same form of development that was being undertaken as 'permitted development' on the basis that it is now a rebuild. On this basis it is considered that very special circumstances exist to warrant approval of the proposal notwithstanding Policy R6.

Approval of this application would not set a precedent for allowing replacement dwellings in the Green Belt which greatly exceed the habitable floor space restrictions of Policy R6 unless the resulting building form would be exactly the same as the building form that would result from extensions to the dwelling undertaken as permitted development. There are unlikely to be very large number of dwellings in the Green Belt where the condition is so poor such as to necessitate rebuild rather than extensions.

Policy R6 also requires replacement dwellings to be sited in the same location within the plot as the original unless an alternative siting is perceived to be more appropriate in Green Belt or amenity terms. The proposed replacement dwelling has been built in the same position as the original dwelling and therefore would not be contrary to this requirement of Policy R6.

RESIDENTIAL AMENITY

Assessed in relation to Policy HP6 the application is not considered to be objectionable. The design and form of the replacement building is considered acceptable in the street scene, not harmful to visual amenity.

Had the dormer windows been constructed as permitted development by virtue of the LDC, the glass would have been required to be obscure glazed and fixed shut below a height of 1.7 metres from finished floor level.

Given that the proposal now is for planning permission consideration must be given as to whether a harmful degree of overlooking and loss of privacy would occur from any of the proposed windows to neighbouring properties. The first floor dormer windows would look over neighbouring properties and their garden areas to the north and south. Whilst a fairly substantial separation distance would remain between the host property and the neighbouring property to the north it is considered that the

windows at first floor would give rise to potential for overlooking and loss of privacy that would be harmful to amenity.

The dwelling would be served by adequate parking to meet the parking standard requirements.

A number of letters in support of the application were submitted with the application from occupants of nearby residential properties.

Representations:

HAWKWELL PARISH COUNCIL: Object

o Members recognise the efficacy of provision of family accommodation whilst such a project of 'refurbishment' is underway and accept that the building provided for these purposes may well be demountable. However the size, cost and services provided do not seem congruent with the temporary nature of the building. Accordingly Members would like the Planning Authority to insist that this be removed when and however the project is concluded. The Parish Council would not be satisfied with such a decision by the Planners for it to be ignored by the applicant followed by a failure by the authority to enforce the decision.

o Members believe that in purchasing the property and then, in planning for a very significant refurbishment of it, the applicant would have sought extensive professional advice. It is inconceivable that, in providing a report, the Building Surveyor/Constructional Engineer would not have indicated the poor condition of the original building and the impracticality and consequences of the work originally envisaged in the application for an LDC. It would surely be no surprise to any expert that examined the building that it was in an extremely poor state, refurbishment of the later extensions was not really an option and it would require rebuilding to bring it up to acceptable standards. As such it would require a planning application to rebuild and not an application for a LDC. Members cannot not help but suspect the original application was a ploy to avoid the consequences of seeking planning permission for a new build in the Green Belt. If the planning authority had not visited the site the complete demolition and rebuild would probably have gone un-noted with the work completed in the guise of the LDC. Members cannot agree that the work now completed and, whether covered by the application for the LDC or not, results in a building that is largely the same as the extended original in bulk, appearance and level of instruction in the surrounding area.

o The application for planning permission has clearly only been lodged as a consequence of action by RDC. If the applicant is now given permission he will have flouted the planning restrictions felt by all others in the Green Belt and will have driven a coach and horses through the legal requirements. Seeking an LDC and then finding that a rebuild is necessary is akin to holding a loaded gun to the heads of the Planning Authority.

o Members are also aware that the applicant has installed a CCTV camera on a public utility (i.e. to a telegraph pole) presumably owned by the National Grid outside of his own land. So far as we are aware, this is without permission. The applicant states that the camera is focused on his gate/driveway however we are unaware of the functionality of this camera and consider it unacceptable and a probable intrusion to the users of Clements Hall Lane and the surrounding properties. In addition, he appears to have supplied the camera with power by providing a 'flying supply' over the lane from his own property, surely this is unacceptable.

o Members seek the agreement of the Planning Authority to resist this application with all the means at their disposal.

HIGHWAYS (ECC):

De-minimis

LONDON SOUTHEND AIRPORT: No safeguarding objection

NEIGHBOURS: 1 response received

o Object with regard to windows overlooking neighbouring property in side elevation and temporary house on the site.

Policies:

Rochford District Replacement Local Plan 2006
Policy R6
SPD 2

Conclusions:

APPROVE

CONDITIONS:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A and B of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) no extensions or enlargements shall be erected on any elevations or to the roof 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.

- 3 Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the window(s) marked OBS on the approved drawing(s) date stamped 18 FEB 2011;, shall be glazed in obscure glass and shall be of a design not capable of being opened below a height of 1.7m above first floor 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 such details, in the interests of residential amenity.

REASON FOR DECISION

The proposal would result in the same form and scale of development with the same impact upon the openness, character and appearance of the Green Belt as would have been lawful had the existing dwelling on the site been of substantial enough construction such as to enable the extensions deemed lawful under 10/00551LDC to have been implemented. These circumstances are considered to amount to very special circumstances which clearly outweigh the harm to the Green Belt.

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area, to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in neighbouring streets.

WEEKLY LIST

APP. NO	11/00101/FUL
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CASE OFFICER	TEAM LEADER	HOPS/P M	COND. COLOURING		COND. MONITORING	Comino CHECKED	POSTED
			COND. NO	PLAN NO.			
KR 06.04.11		Jw 6/4/11				KR 06.04.11	

Proposal: Retrospective Application to Retain Re-built Chalet Dwelling House

Site Location: St Clements Clements Hall Lane Hawkwell

Legal Agreement: NO

Plan Numbers/Letters/Supporting Statements

Plans date stamped 18 FEB 2011, Drawing Numbers; 441/100 441/101

Zoning:MGB

Parish Council - Hawkwell Parish Council

Officer Report:

NOTES

Retrospective planning permission is sought to retain the re-built chalet dwellinghouse.

A Lawful Development Certificate (10/00551/LDC) was issued in October 2010 which confirmed that proposed extensions to the original dwelling did not require planning permission from the Local Planning Authority as they constituted 'permitted development'. Works commenced on these extensions thereafter.

During construction works on the extensions, the original walls of the dwelling were found to be in very poor condition and were replaced. The works that have been undertaken at the site therefore amount to a rebuild of the original property. The Lawful Development Certificate (10/00551/LDC) only however confirmed that proposed extensions to the original property would be 'permitted development' and did not grant the required planning permission for the rebuilding of the original property with the extensions.

The current application was submitted following planning enforcement investigations and seeks retrospective planning permission for the re-build of the original dwelling with the extensions identified in the Lawful Development Certificate (10/00551/LDC).

Policy R6 of the Local Plan (2006) which relates to the replacement or rebuild of existing dwellings in the Green Belt is relevant to the determination of this application as the application site is located within the Green Belt.

This policy allows for the replacement of existing dwellings taking account of the following criteria;

- the condition of the original dwelling;
- the total size of the new dwelling is no greater than;
- a) 35 square metres in floor area above the size of the habitable floorspace of original dwelling;
- b) The size of the original dwelling together with the maximum permitted development allowance provided for by Schedule 2, Part 1, Class A of the Town and Country Planning General Permitted Development Order 1995; or

c) The size of the habitable floorspace of the dwelling lawfully existing at the time of the application.

the visual mass of the new dwelling which should be no greater than that of the existing dwelling (taking into consideration any additional mass allowed for in respect of criterion (a) and (b) above). The overall height of the replacement dwelling should not exceed that of the existing dwelling, unless a modest increase in height can be justified on design or visual amenity grounds.

CONDITION OF DWELLING

As this application is a retrospective application the original dwelling no longer exists. However, the original dwelling was in a habitable condition, although in poor structural repair, prior to demolition and would have been considered suitable for replacement in relation to Policy R6.

SIZE OF DWELLING

The planning history shows original plans for the dwelling dated 1907. The property was then extended with a side and rear extension, bay window and porch addition. The planning record indicates that these were erected after 1947 and would not therefore be considered to be part of the 'original' dwellinghouse for the purpose of Policy R6. A later rear extension was added to form the 'lobby' as shown on the plans of the 'existing' dwelling submitted with the current application. It is not clear from the planning history when the first floor accommodation was added.

The 'original' floor space for the purpose of considering the amount of habitable floor space that could be added under Policy R6 in a replacement dwelling would as a minimum amount to that of the original 1907 property, namely 71.52 square metres as calculated from the original plans for this property.

As a minimum, therefore, Policy R6 would allow a rebuild property on the site 35 square metres greater than this original which would amount to 106.52 square metres.

The proposed replacement dwelling has a habitable floor area of 186.03 square metres at ground floor and 56.21 square metres at first floor; a total of 242.24 square metres and would therefore result in 135.72 square metres of additional habitable floor space over the original.

If the habitable accommodation that was added within the roof space of the original property was in existence in 1947 it would be classed as 'original' for the purpose of Policy R6 and would reduce the amount of additional habitable floor space that the proposal would add over and above the original property. The amount of habitable floor space that would be added by the current proposal would however remain significantly over that allowed by Policy R6.

Whilst Policy R6 allows for consideration of the size of the replacement dwelling in respect of the size of the original dwelling together with the maximum permitted development allowance provided for by Schedule 2, Part 1, Class A of the Town and Country Planning General Permitted Development Order 1995, it does not enable consideration of permitted development rights as amended in 2008. Consideration of permitted development allowance by virtue of the GPDO 1995 on top of the original habitable floor space would not equate to a dwelling size even approaching the additional habitable floor space of approximately 135.72 square metres as applied for.

Consideration of the size of the habitable floor space of the dwelling lawfully existing at the time of the application would also not equate to a dwelling size even approaching the additional habitable floor space of approximately 135.72 square metres as applied for.

The visual mass of the replacement dwelling is greater than that of the existing dwelling even taking into account additional mass that could be added under parts a) and b) of Policy R6. Given Policy R6 does not allow for consideration of mass created by adding extensions under the General Permitted Development Order 1995 as amended in 2008.