



The Planning Inspectorate

3/05a Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0303 444 5427
Customer Services: 0303 444 5000
Fax No: 0117 372 8443
e-mail: teamp11@pins.gsi.gov.uk

Miss J Marcsik
Rochford District Council
Planning Services Department
Council Offices
South Street
Rochford
Essex
SS4 1BW

Your Ref: 13/00382/FUL
Our Ref: APP/B1550/A/13/2208271
Date: 28 January 2014

Dear Miss Marcsik

**Town and Country Planning Act 1990
Appeal by Mr & Mrs Alex and Rikki Waterfield
Site at 609 Ashingdon Road, Ashingdon, SS4 3JF**

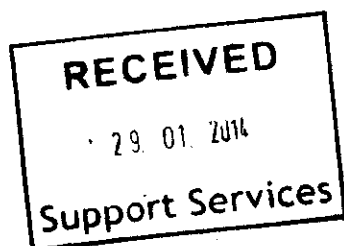
I enclose for your information a copy of the appellant's final comments and costs response on the above appeal. Normally, no further comments, from any party, will now be taken into consideration.

Yours sincerely

Joanna Martin

217L(BPR)

*You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*

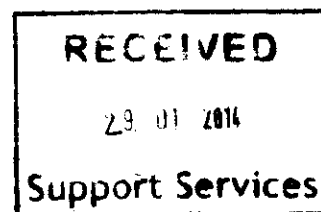


COPY 2

Planning and Design Consultancy
5 MacIntyres Walk
Ashingdon
Essex SS4 3ED

10th January 2014

The Planning Inspectorate
3/05a Wing
Temple Quay House
2 The Square
Bristol BS1 6PN



Your reference: **APP/B1550/A/13/2208271 - Joanna Martin**

Dear Sir/Madam

Town and Country Planning Act 1990, as amended
Appeal by Mrs Alex and Mr Rikki Waterfield
Site at 609 Ashingdon Road, Ashingdon, Essex SS4 3JF

Thank you for your letter of 27th December 2013 enclosing the LPA's statement, their response to our application for costs and third party representation.

Our necessary comments are as follows -

Previous applications

Prior to purchasing the property the appellants viewed documentation held by the Council. The Council's records showed that the detached garage built alongside the dwelling was given planning permission in 1977, i.e. post-July 1948 and therefore not part of the original dwelling

The Council has confirmed in writing that the existing dwelling has the benefit of full permitted development rights including infill enlargement between the main rear wall of the building and the existing back addition, as shown on the updated plan, which accompanied the appeal form (Document B).

Application No. 12/00533/LDC

RECEIVED

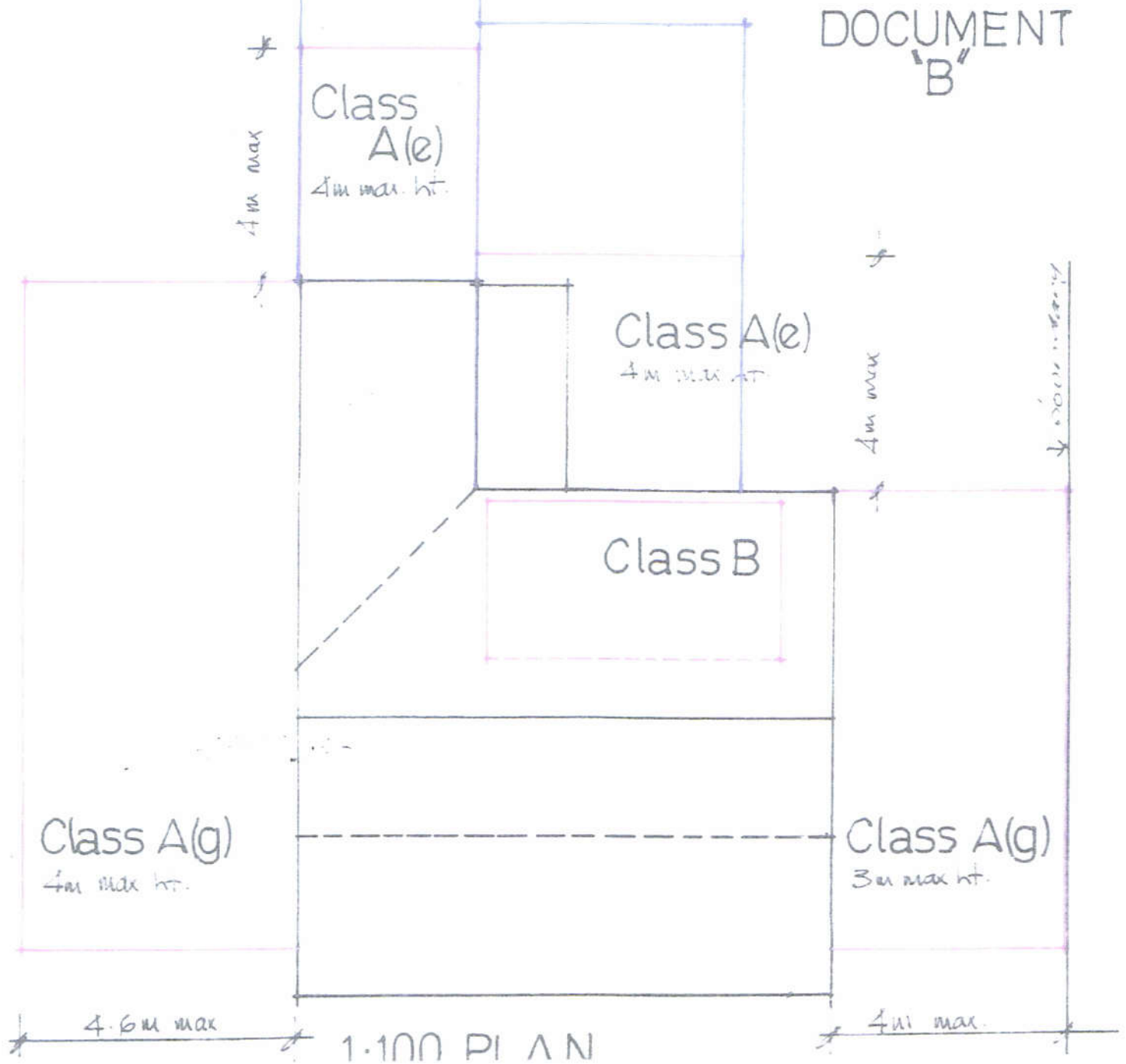
29.01.2014

Support Services

Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

Town and Country Planning G.P.D. Order 2008
"Permitted development"
609 Ashingdon Road, Ashingdon, Essex.

DOCUMENT
"B"



The Council had previously treated the proposed rear extension forming the dining room as a side extension and by refusing to issue a certificate for it they implied that no rear extension could be carried out as permitted development, whereas quite clearly this amended plan shows the slight amendment which would satisfy Class A, part (e). The LDC issued on 23.10.2012 is misleading and would necessitate the submission of a further application for a lawful development certificate.

The Council failed to advise that the dwelling may be extended at the rear and the Inspector will be aware of the further changes to the extent of permitted development introduced by the 2013 Amended General Permitted Development Order (please see below).

RDC10 - Pre-application for replacement dwelling

Design and Layout

The Council took the view that “*the proposed bungalow would represent a uniform shape and form*” and seemed to previously prefer this rather than “*the potential for extensions granted under LDC application 12/00533/LDC leading to an ad-hoc arrangement of extensions.*” This is a totally contrary view now expressed in the Council’s statement of case.

The LPA’s statement of submissions

1. Introduction

Paragraph 1.3

It is our understanding that officers have delegated powers handed down to them from the Council/ Development Committee to determine less complicated applications for planning permission, and, whilst they may refuse planning permission, were they minded to grant planning permission an application, such as the one the subject of this appeal, would be required to be determined by the Members of the Development Committee.

This suggested to the appellants that from day one the only decision that was going to be made was that planning permission was going to be refused. This application should have been put before the Committee for Members to decide in light of the full circumstances of such a proposal.

2. *Enlargement of Reason for Refusal*

Paragraph 2.2

The Council's description of this as a "*small group of chalets and bungalows located..... away from the residential envelope of Ashingdon*" is misrepresentation. This is not an isolated group of dwellings in an otherwise area of open countryside but continuous frontage development extending the low rise urban form into the more rural area. There are no significant breaks (apart from the side garden of the appeal premises) between the top of the hill - the junction of Ashingdon Road with Stanley Road to the south and the bottom of the hill - the junction with Canewdon Road to the north of the appeal site.

Paragraph 2.4

We disagree with the statement that the saved Policy R6 is consistent with NPPF. Any reference to the previous PPGs/PPSs is irrelevant to this appeal. The policy (R6) is outdated and does not reflect the changes made by Central Government with regards to permitted development in relation to extensions to people's homes, whether or not they are located within the Green Belt. Its basis is the provisions of the 1995 General Permitted Development Order and does not take into account the subsequently amended versions of 2008 and 2013.

Paragraph 2.5

The Council maintain that the adopted local plan policy (Policy R6) limits the floor space of the replacement dwelling to 167sq.metres, i.e. the floor space of the original dwelling (132sq.metres) plus 35sq.metres. This is not the figure given to the appellants in the Council's letter dated 14th February 2013. The original figure given by the Council was 111.57sq.metres and did not include the habitable floor space contained within the roof space of the dwelling.

The appellants should have been advised by the Council at the pre-application stage but they were not. The figure of 167sq.metres has not been mentioned prior to this appeal and they feel that they have been charged a fee for inaccurate and poor advice.

Paragraph 2.6

Had they followed the Council's guidelines for the replacement dwelling they would have finished up with a new dwelling with a smaller floor space than their existing dwelling.

This paragraph is unclear in light of the previously made points.

The appellants met with a senior planning officer of the Council prior to their submission of the application for a lawful development certificate and showed the officer a drawing showing their interpretation of the current permitted development provisions. Their interpretation was believed to be correct.

Paragraph 2.5 (should be renumbered 2.7)

It is agreed that the lean-to back addition is not part of the original dwelling and should be excluded from these calculations.

Paragraph 2.6 (should be renumbered 2.8)

The Council states that the replacement dwelling should have a floor space no greater than 167sq.metres in order to comply with Policy R6. This statement conflicts with their calculation (para. 3.2) of the permitted development fall-back position of a total floor space of 209sq.metres which they equated by adding the 77sq.metres agreed as lawful development (the sideways extensions granted an LDC) to the 132sq.metres of the existing dwelling. This calculation took no account of the possible lawful development of an extension between the rear main wall of the dwelling and the side wall of its back addition and, in addition, the further 8metre deep enlargement provided for by the 2013 amended GPDO. We calculate this further enlargement to total approximately 277sq.metres (276.84sq.metres).

Paragraph 2.7 (should be renumbered 2.9)

In fact, the appeal proposal would provide a replacement dwelling with a habitable floor space of 195sq.metres, i.e. less than 200sq.metres, and less than midway between the 167sq.metres of the outdated local plan policy (R6) and the 277sq.metres of current permitted development (amended GPDOs of 2008 and 2013).

3. PD Fallback

4.

Paragraph 3.1

The LPA appears to agree here that the fallback position should the appeal be dismissed is a relevant/material consideration at this appeal.

Paragraph 3.2

This statement is inaccurate and misleading. Whilst the split decision might well imply that no further enlargement is permitted beyond the amount the element for which a certificate was issued, the true position is as follows.

Please refer to the plan (Document B), which accompanied the appeal form. We calculate that the existing dwelling (132sq.metres) could be enlarged by a further 145sq.metres (144.84sq.metres) to 277sq.metres (276.84sq.metres).

Paragraph 3.3

At no time has the appellant or their agent suggested that were the appeal to be dismissed the opportunity to enlarge the existing dwelling would not be taken up. Our appeal statement does make it clear, however, that the reasons why this would not be the preferred option to provide enlarged and improved accommodation at their home.

Whilst at this point such an alternative proposal has not been fully considered and detailed, I can state categorically that there is a realistic possibility that such alternative enlargement would be implemented. I personally was engaged initially to survey the existing dwelling and produce a drawing, which showed what further enlargement, alteration and improvement was possible. The application for a Lawful Development Certificate was submitted for the LPA's confirmation with the alternative to replacement in mind.

The appellants have had various discussions with officers of the Council on implications of the permitted development options. Quotes from local builders were sought and copies of a couple are enclosed. They have considered the alternative in light of changes to permitted development legislation but remain firmly of the opinion that the environmental benefits to be achieved tip the balance in favour of the appeal proposal.

C.K. DELLAS

Builder

35 Hadleigh Park Avenue
Hadleigh
Essex SS7 1SA

Telephone/Fax 01702 552554

Mobile 07710244776

5th November 2012

Quotation for 609 Ashingdon Road. Rochford. Essex. SS4 3 JF.

Upon inspection of the LPD plans here is a specification and quotation:

Stage 1

Demolish existing garage. Side extensions to both sides of property, footings and block walls to comply with local council building requirements as per notes on plans. Fit en-suite to both new bedrooms, allowing £1000 for fixtures per bathroom. Knock through side wall of house (long Side extension), support with steel beam, fit new kitchen allowing £15,000 including new eco boiler. Rubber membrane coving to both flat roofs. Replace old front windows to match new upvc windows, treat damp issues to front bay walls. Rewire all existing rooms to new consumer unit. Re-plaster walls/ceiling. Extend existing bath room allowing £2000 for fixtures.

To supply labour and materials to build to the above specification £73,500.

Stage 2

Loft extension. Construct rear dormer with 2 bedrooms new staircase and Velux style windows to front of property. New electrics and plaster to match downstairs.

No paint work included in the above prices allow £4,000 for emulsion and labour.

Build new garage to area at side of house and lay semi permeable drive way block paving to entrance £17,000

Stage 3 (once final approval is gained from the council)

Build 4 metre extensions to rear property, footings and block walls to comply with local council building requirements as per notes on plans. Rubber membrane coving to both flat roofs. New upvc windows. . New electrics and plaster to match rest of property

To supply labour and materials to build to the above specification £35,750.

If bi-fold doors are used instead of French door then add £5,000

Customer to supply any water and electric.

Liability insurance certificate available on request.

I trust the above to be acceptable and look forward to your response in due course.

Yours faithfully,
C.K. Dellas,



G.F.C CARPENTRY AND BUILDING SERVICES

07803 606097

gfccarpentry@hotmail.co.uk

QUOTATION FOR SERVICES

ISSUE DATE: 10 nov2012

PLANNED TIME: spring/summer 2013

Ref: 609 Ashingdon Road. Ashingdon. SS4 3 JF.

Remove old garage and sheds. Clear trees and bushes.

Build approx. 30sq metre extension with shower en-suite to right side of property.

Build approx. 55sq metre extension with shower en-suite to left side of property. Remove left side wall of house, fit new kitchen (client to buy) fit new boiler and rads. 3 layers felt roof.

Install new dpc to front of house and liquid membrane the existing floors.

New white upvc windows to all ground floor openings. Fit new front door.

New plaster and paint to all walls and ceiling.

Build rear roof dormer to include, new stairs, and 2 bedrooms and 2 front skylight windows. . New plaster and paint to all walls and ceiling.

New electric circuits to whole house.

Total for above £59,000.00 (client to supply kitchen and appliances)

Build approx. 4 metre extensions at rear of property, same spec as side extensions.

Total for above £29,000.00

Yours sincerely, G CARTER.



Please note that all quotations are valid for duration of 3 months from the issue date.

Paragraph 3.4

It is not necessary to add further to the case made in our statement of the benefits of the proposed replacement dwelling over the implementation of further permitted development provided for by the 2008 and 2013 Amended GPDOs. The appeal proposal would clearly have less visual impact on the openness of the Green Belt and be not dissimilar to other recent developments at this location.

The current view expressed by the Council of their preferred design approach seems to contradict the earlier support for the “*uniform shape and form, instead of the potential for extensions..... leading to an ad-hoc arrangement of extensions.*”

The area is not characterised by designs of this nature. More recent new build, enlargement, alteration and improvement of properties, whilst respecting traditional design principles have adopted more modern strictly urban characteristics.

It has never been the appellants’ intention to replace the existing bungalow with a “house.” The use of the term is inappropriate here. It has always been the intention to build a chalet-style dwelling to reflect the character of the built form at this location.

The originally submitted design has been the subject of numerous changes to minimise the apparent bulk of the building. Prior to submission in response to pre-application criticism, a gable end was removed and replaced with a hipped end roof and traditionally styled dormer windows. The finally submitted (4th set) of drawings is ample evidence of the considerable effort taken to comply with the local planning authority’s limited and often contradictory advice.

Paragraph 3.5

We are not aware of a specific requirement of NPPF to achieve a design, which is “*more organic*”. Our view is that recently completed developments at this location would not be described in this way. The LPA’s view that the appeal proposal would cause “*harm by reason of inappropriateness*” is not supportable.

Re the Application for a Lawful Development Certificate

It is a fact that the existing dwelling maintains the right to further permitted development in the form of enlargement, improvement or other alteration. The then proposed rear extension needed only minor amendment for it too to be given an LDC, as was indicated of the amended plan submitted with our appeal statement at Document B.

There is, in addition, further right to incidental buildings within its curtilage.

RDC11 - List of conditions

1. Time Limit

No objection

2. External materials

This normally imposed standard condition is considered un-necessary. A full list of materials (Part 9 of the application form) and samples of brick and roof tile were submitted with the application for full planning permission. It is apparent that no objections were raised to the proposed external materials/finishes.

We would expect that in consideration of the appeal proposal, particularly of the choice of external material/finishes, that the Inspector will judge the appropriateness or otherwise of these in his/her consideration of the chosen design for the replacement dwelling. Samples of brick and roof tile will be displayed on-site at the Inspector's visit.

3. Removal of Permitted Development Rights for Extensions

No objection

4. Removal of Permitted Development Rights for Outbuildings

We consider this condition unreasonable under the circumstances. There are various redundant structures on the appeal site, which might well form the basis for replacement with better designed and sited outbuildings of benefit to the applicants or future occupants of the new dwelling. What is considered reasonable provision of incidental buildings associated with the existing dwelling should be appropriate for

the new dwelling.

The appellants would like to be assured that in agreeing to the imposition of conditions on the grant of planning permission they could expect a more expedient and positive response to the required submission of further details. They have grave concerns over the protracted and extremely negative responses received so far on their modest proposal and would ask that a clearly defined timescale is imposed for the determination of the further reserved matters. Should the Inspector determining this appeal in our favour, timing would be critical to the building operation in order to ensure the new dwelling is watertight and secure before the Winter of 2014.

The Council's response to our application for costs

The Council's handling of the planning application

My record shows that the original application for full planning permission (reference 13/00382/FUL) was submitted together with our Design and Access Statement on 27th June 2013.

In a letter dated 3rd July 2013, received more than a week after submission, the LPA advised that validation and registration of the application required the following matters to be given our attention.

1. *A bat survey*
2. *Questions on the form to be completed - Q.12 re risk of flooding
- Q.25 re agricultural use*
3. *Site and floor levels*

None of these "omissions" seemed sufficiently serious to warrant delaying the registration of the application.

The completed application form was returned to the LPA on 4th July 2013. A copy of our prompt response letter dated 5th July 2013 covering the other two matters and delivered by hand is attached. In short, the responses to the incomplete questions of the application form should not have required delay and both the bat survey and sections through the site were subsequently agreed to be un-necessary. This was not a situation where the LPA "*has waived an essential requirement so that the consideration and decision would not be delayed.*" More thorough

investigation and the involvement of more senior planning officers would surely have enabled the application to be registered and the process started earlier.

The appellants did not take issue with the need for cross sections because they were advised that these were “*essential requirements*”. Accordingly, on 31st July 2013 they commissioned a qualified surveyor to conduct the survey in order to provide a cross section through the site. After the survey work had been carried out, the appellants received a telephone call from the Council advising that this erstwhile “essential requirement” was not after all necessary as the location of the appeal site/property had been incorrectly identified and that a drive-by investigation had observed that the site was relatively flat. This site visit took place on 27th August 2013 - just two days prior to the Council’s decision on the application dated 29th August 2013. The appellants were required to pay the surveyor’s fee for this aborted work. This was not a case of the Council waiving an “essential requirement”, the additional information was unnecessary.

The application was formally registered as valid on 8th July 2013 (not 8th June 2013), almost two weeks after its original submission date. (Please note the typing error of the fourth paragraph of the Council’s response to the application for costs). We were advised that the statutory eight week period for determination of the application would expire on 2nd September 2013. The Council’s decision dated 29th August 2013 was received on expiry date (a total of ten weeks after the submission date). Surely with the level of consultation, negotiation and requested guidance, which had taken place prior to the submission of the application for full planning permission, it should not have taken the full eight weeks or more to have decided this straight forward development proposal.

Whilst we recognise that the onus is on the applicant to amend submitted plans to alleviate concerns and to meet adopted planning criteria, surely there is an accepted responsibility on the part of the local planning authority to specify the exact criteria relevant to the proposal, e.g. a precise and accurate permissible floor space requirement. The appellants entered into the planning process in good faith and would have responded positively to reliable information given by the Council, but this was not forthcoming. For this reason, they find themselves with new information being provided only now at this appeal stage.

The appellants resent the Council's accusation that "little effort had been made to reduce the size of the dwelling". In response to the pre-application guidance the proposed development was reduced in size from a six-bedroom dwelling to a modest three-bedroomed dwelling and incorporated an integral garage and plant room in order to obviate the need to make provision elsewhere on the site for these incidental facilities. At no time were the appellants advised of the amount of reduction in size required by the Council. The bulk of the building was reduced by removal of the forward projecting gable, balconies were removed from the rear elevation, and substituted with a hip-ended roof and traditional dormer windows. All of which amounted to significant effort and alteration and at further cost to them in terms of professionals' fees and time. The appellants view these statements of the Council abhorrent, uninformed and out of touch with the reality of trying to achieve planning permission.

The Council did identify the relevant planning policies. However, the appellants' repeated requests for a meeting with officers to obtain a clear interpretation and understanding of them were unsuccessful. They neither received a response nor were given this opportunity.

It is the appellants' view that from the outset the Council had no intention of either granting planning permission for the proposed development or negotiating an amended proposal which might have been acceptable to them. Scant attention has been paid to the permitted development fall-back position, which is without doubt a material planning consideration at this appeal. The Inspector will need no reminder that development proposals such as this are required to be considered in light of not only what the "development plan" has to say about it but also any other material planning considerations. At this appeal other material considerations include the more recent changes in planning legislation.

It is our understanding that the wording of the original April 1995 (not 1994) adopted First Review Local Plan policy (Policy R6) has remained substantially the same, and was saved by direction under Schedule 8 to the Planning and Compulsory Purchase Act 2004 issued on 5th June 2009 by the Secretary of State for Communities and Local Government. The policy (R6) has its base in the long since amended 1995 General Permitted Development Order.

The appellants feel that, were they to have followed the Council's flimsy

and inaccurate guidelines for a replacement dwelling at the appeal site, they would have demolished their current home and replaced it with a dwelling at least 36sq.metres smaller (based on the Council's calculation of the existing dwelling at 132sq.metres and minus the advised new build figure of 95.77sq.metres). The relevant policies were identified but attempts to obtain further clarification were denied.

Inaccurate assessment was given at the application stage in that the accommodate within the roof-space was not included in the calculation of existing floor space and this was not recognised until more recently. The appellants consider this omission totally unprofessional and unacceptable.

Few properties at this green belt location retain their original character/appearance/design. The character of this location is not appropriately described as an area of distinctly plotland style dwellings with an organic/rural appearance rather than a more urban form.

The obligatory site visit by a senior planning officer did not take place until two days before the application was determined - rather late in the proceedings we feel. We find the Council's statement that "*unfortunately it has not been possible to resolve matters within the timescale allocated for the determination of this planning application* " unacceptable with the availability of modern technological facilities. The implication that the delay occurred due to tardiness on the part of the appellants is refuted. It took a full two-weeks to notify us that vital information was required to permit registration to take place. This was immediately provided and further items were subsequently considered irrelevant/un-necessary by the Council but very much later on in the process.

Unreasonable Refusal

The Council's original calculation of floor space was -
76.57 (existing) + 35 (policy limit) = 111.57sq.metres

They now calculate it as -

132 (existing including the roof space of 56sq.metres) + 35 (policy limit)
= 167sq.metres.

The replacement dwelling contains a total of 195sq.metres - an increase of 28sq.metres.

We calculate that

- a) the 2008 GPDO would have permitted the existing dwelling (132sq.metres) to be enlarged by 114.44sq.metres creating a total floor space of 246.44sq.metres and,
- b) the further provision made by the 2013 amended GPDO would permit the existing dwelling (132sq.metres) to be permitted to be enlarged by 144.84sq.metres creating a total floor space of 276.84sq.metres (277sq.metres) without the need to obtain express planning permission from the Council.

The appeal proposal is for a replacement dwelling with a floor space calculated as 195sq.metres, i.e 51.44sq.metres (51sq.metres) less than a) above and 81.84sq.metres (82sq.metres) less than b) above.

We have nothing further to add to our case that the Council has behaved unreasonably and that under current circumstances their decision to refuse planning permission for the appeal proposal is unsupportable.

third party representations

The neighbours' support for the appeal proposal is noted and we would advise the Inspector that we consulted our neighbours at the detailed planning stage prior to submission of the application.

Many thanks.

Yours faithfully

Michael Warner
Chartered Planner

Planning and Design Consultancy
5 MacIntyres Walk
Ashingdon
Essex SS4 3ED

5th July 2013

Head of Planning and Transportation
Rochford District Council
Council Offices
South street
Rochford
Essex SS4 1BW

Your reference: **13/00382/FUL - Planning and BC Support Team**

Dear Mr Scrutton

Town and Country Planning Act 1990, as amended
Proposed Replacement of the Bungalow
609 Ashingdon Road, Ashingdon, Essex

Thank you for the letter dated 3rd July 2013.

Re: The Bat Survey

I have completed the required Bat Survey Declaration and returned it to you separately. I question the need in this instance for a Bat Survey to be commissioned and the further expense is unjustifiable.

As part of the process of renovation and repair prior to my client's full-time occupation, the roof space of the existing bungalow was cleaned and a suitable insulation material was laid between/over the ceiling joists. There was no evidence of any creature (bat or other) currently or previously inhabiting the roof space. An inspection of the building would explain the reason for this - there is no apparent access to the roofspace externally - the eaves in particular has a closed soffit.

Re: The Application Forms

The Environment Agency's Flood Map shows the application site clear of any floodplain (zone). A Flood Risk Assessment is not therefore required

in this instance (Q.12).

I confirm that the application site is not part of an agricultural holding (Q.25).

The forms have been amended and returned to you separately.

Re: The Additional Drawing

I question the need in this instance for this additional information. If you could kindly justify this further work at this stage perhaps you would consider it to be something that could be dealt with by way of a suitably worded condition imposed on the grant of planning permission.

Many thanks.

Yours faithfully

Michael Warner
Chartered Planner