

Appeal Decision

Site visit made on 13 September 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2016

Appeal Ref: APP/V1505/W/16/3152871

Bromfords Villa, Borwick Lane, Wickford, Essex SS12 0QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Nicholls against the decision of Basildon Borough Council
 - The application Ref, 16/00328/OUT, received by the Council on 8 March 2016, was refused by notice dated 5 May 2016.
 - The development proposed is described as 'Use of land at side for one family dwelling. This is a residential area, a flood bund will be provided.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. All matters were reserved for further approval. The Location Plan (Project 6857) submitted with the application shows a single detached building on the appeal site and a flood bund around the appeal site and part of the adjoining land in the appellant's ownership. I have taken this plan to be indicative. A separate, untitled, plan (also Project 6857) shows the removal of three buildings to the north of the appeal site.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - flood risk
 - other considerations;
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal?

Reasons

Whether Inappropriate Development?

4. The appeal site comprises part of the garden of a detached dwelling on the north side of Borwick Lane. There is further residential development to the west of the appeal site. The site falls within the Metropolitan Green Belt.
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5. Paragraph 89 of the National Planning Policy Framework (the Framework) states that new buildings in the Green Belt will be inappropriate unless they fall into specified exceptions. These include the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. No information has been provided regarding the size of the proposed building or the size or use of the buildings to be removed. However, there is nothing to suggest that the existing buildings are in residential use. Accordingly, the appeal proposal would not fall within this exception. There is no evidence to indicate that the proposal would fall into any of the other exceptions set out in Framework paragraph 89. As such, I conclude that the proposed building would be inappropriate development in the Green Belt.
6. Paragraph 90 of the Framework states that certain other forms of development, including engineering operations, are not inappropriate development, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of designating the land. The proposed flood bund would amount to an engineering operation. No information has been provided regarding the height, width or profile of the flood bund. However, it would extend around two reasonably sized residential plots, enclosing a number of buildings. Moreover, as far as it is possible to tell from the submitted plans, the bund would, in places, be located outside of the established site boundaries. Consequently, on the basis of the information available, I am not persuaded that the bund would preserve the openness of the Green Belt. It would, therefore, be inappropriate development in the Green Belt.
7. The Council has not sought to rely on any development plan policies in respect of this issue. Nevertheless, Framework paragraph 87 advises that inappropriate development is, by definition, harmful to the Green Belt. The loss of openness would lead to further Green Belt harm.

Flood Risk

8. The Environment Agency's Flood Map for Planning shows the appeal site within Zone 3 where there is a high probability of flooding. Framework paragraph 100 seeks to direct development away from areas at risk of flooding and paragraph 103 (read with footnote 20) requires all proposals in Zones 2 and 3 to be informed by a site specific flood risk assessment. The appellant accepts that the site is within the flood plain, but contends that it has not flooded in the last 50 years. However, this information does not amount to a flood risk assessment as defined in the Planning Practice Guidance (paragraph reference ID: 7-030-20140306).
9. In the absence of a site specific assessment I am unable to establish conclusively whether the proposed development would be likely to be affected by current or future flooding, whether it would increase flood risk elsewhere and whether the proposed bund would effectively mitigate any flood risk. In these circumstances I rely on the Environment Agency's Flood Maps that there is a high probability of flooding at the appeal site. Consequently, the proposal conflicts with paragraphs 100 and 103 of the Framework.

Other Considerations

10. The appellant argues that the proposal would not be harmful to the character and appearance of the area. Nevertheless, the absence of further harm does not amount to a positive point in favour of the proposal.
11. It is also contended that the proposal would provide accommodation for older members of the appellant's family. However, it has not been adequately demonstrated why such accommodation needs to be provided at the appeal site. Accordingly, I give this matter limited weight.
12. Reference has been made to a larger development to the north of the appeal site. I have not been provided with the details of this development or the circumstances of any relevant planning decisions. As such, I can give this consideration little weight.

Very Special Circumstances

13. The proposal would be inappropriate development and would be likely to lead to a loss of openness of the Green Belt. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt. On the basis of the information available, I consider that the proposal would also result in an unacceptable flood risk.
14. On a collective basis, the other considerations outlined above do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and the loss of openness. Consequently, it has not been demonstrated that the very special circumstances necessary to justify the development exist.

Conclusion

15. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR