

Appeal Decision

Site visit made on 23 September 2016

by Timothy C King (BA Hons) MRTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/B1550/W/16/3154012

Birch Farm, Land rear of 14 Main Road, Hawkwell, Essex, SS5 4JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Boxell against the decision of Rochford District Council.
 - The application Ref 15/00591/FUL, dated 7 August 2015, was refused by notice dated 29 April 2016.
 - The development proposed is '*Detached bungalow and garage with additional detached garage to existing house and new garden wall. Provide new crossover and driveway to proposed bungalow.*'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The sole reason for refusal, as set out in the Council's decision notice, refers to Policy DM17 of its Local Development Framework Development Management Plan (DMP) which, given that this particular policy is concerned with extensions to existing dwellings within the Green Belt, is somewhat erroneous as the proposal would actually involve the erection of a new dwelling. In the circumstances, given that I must assess the proposal against the local development plan I consider that Policy GB1 of the Council's Core Strategy (CS) and DMP Policy DM21 are, along with the National Planning Policy Framework (the Framework), of greatest relevance in determining this appeal.

Main Issues

3. The main issues in this case are:
 - i) whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
 - ii) the effect of the proposal on the openness of the Green Belt;
 - iii) any other effects arising from the proposal; and
 - iv) if it is inappropriate development, whether the harm by reason of inappropriateness and by reason of any other harm is clearly outweighed
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by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development

4. The appeal property, set within the Metropolitan Green Belt, relates to land to the rear of 14 Main Road which, some years ago, was in its previous use as a commercial nursery. The remnants of this use are still evident with a large greenhouse and other, smaller, buildings still standing, although now in a general dilapidated state. A single-storey building to the very rear of the site enjoys lawful use rights for residential purposes. Much of the site has returned to its natural state with a fair amount of undergrowth evident. It is proposed that the various buildings be demolished and a bungalow erected at the site. No 14 would be provided with a new detached rear garage, reached via the existing access driveway, whilst a new accessway would be created on the opposite side of No 14 to facilitate the proposed bungalow which itself would have a detached garage built. No 14 and the proposed dwelling would be occupied independently of one another and the former would retain a good sized, open, rear garden.
5. The Council's DMP was adopted in 2014, subsequent to the national guidance provided within the Framework which was issued in 2012, subsequent to the Council's Core Strategy being adopted in 2011. As a starting point, in advising on related Green Belt issues, the Framework states that inappropriate development is, by definition, harmful to the Green Belt. To clarify, all development is inappropriate unless, in the case of any new building constructed, it falls within one of the exceptions referred to in paragraph 89 of the Framework. This would 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. In this particular instance the Council has estimated that the building with residential use rights has a total floor area of some 76 sqm whilst the proposed bungalow would have an internal floorspace of approximately 119 sqm, which represents an increase of 57%. The appellant has instead calculated a floorspace of 115 sqm and appears to have also quite reasonably taken into account that the proposal would also involve the demolition of other buildings.
6. On the above issue DMP Policy DM21 states that the total size of the dwelling should result in no more than a 25% increase in floorspace of the original dwelling. Although the increase would be significantly greater than this percentage I am also mindful that other existing buildings would be demolished to allow for the development to take place, including the substantial greenhouse. Nonetheless, as it is also the case that two new detached garages would be built on the land the proposed built form would go beyond that of new dwelling itself, thereby reducing the benefits that might occur from tidying up the site with a single consolidated footprint. Further provisos in the policy require that the visual mass and bulk of the new dwelling should not be significantly larger than that of the existing dwelling and the overall height should be similar. Reflecting the Framework, the policy also states that the replacement building should be sited in the same location within the plot. Whilst the appellant might be afforded a degree of latitude on the latter proviso

given the site layout the proposed increase in height by reason of the ridgeline reaching a maximum of some 5.75m, as against the existing building's 3m height, would clearly be significant.

7. Given the above factors I conclude that the extent of the proposed development would be pronounced and of heightened significance. Accordingly, it must be seen as inappropriate development within the Green Belt, contrary to the exceptions set out in paragraph 89 of the Framework and also in material conflict with DMP Policy DM21 and CS Policy GB1 which, in turn, seeks to direct development away from the Green Belt.

Openness

8. The Framework states that an essential characteristic of Green Belts is their openness and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land within them permanently open.
9. Although I acknowledge that a sizeable residential development, permitted by the Council in 2012, has taken place on a large piece of land beyond the appeal site's rear boundary I am also of the view that the proposal would necessitate the site being largely cleared of its prominent verdure, and views into the site from Main Road, currently impeded, would then be possible. The development of the proposed dwelling, not insubstantial in size, height, and appearance would be compounded by the proposed detached garages and, as such, I consider that the proposal would consequently impact on the Green Belt's openness.
10. Accordingly, I conclude that the proposal would be detrimental to the Green Belt's openness, conflicting with relevant advice within the Framework and also DMP Policy DM21.

Other effects

11. The Council has raised no objections as to the proposed bungalow's design and appearance in its intended location which would, I consider, allow for a development not unattractive in form. Similarly, the Council is satisfied that the proposal would not give rise to any significant undue effects on the living conditions of neighbouring occupiers, and I also agree with this approach. Further, the appellant submitted an ecological assessment at the application stage and the Council is satisfied with the report's findings and proposals. Additionally, a revision to the siting of the footprint of one of the garages would ensure that an Oak tree, close to the site's boundary and subject to a preservation Order, would not be threatened by the proposal.
12. Given the above I conclude that the proposal would not be harmful to the character and appearance of the surrounding area nor the living conditions of neighbours.

Very Special Circumstances

13. I have found the proposal to constitute inappropriate development within the Green Belt and I consider it would also be harmful to the openness of the Green Belt. The acceptability of the proposal with regard to other matters, which I have highlighted, does not, however, mean that the harm by reason of inappropriateness is outweighed by these other considerations so as to amount

to the very special circumstances necessary to justify the development. I must therefore conclude that such circumstances do not exist in this instance.

Conclusion

14. For the above reasons, and having had regard to all other matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR