
Appeal Decision

Site visit made on 31 October 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 14th November 2016

Appeal Ref: APP/W1525/W/16/3156158

Brookdene, Blind Lane, West Hanningfield, Chelmsford CM2 8UF

- 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 & Mrs C Bingley against the decision of Chelmsford Borough Council.
 - The application Ref 16/00865/FUL, dated 16 May 2016, was refused by notice dated 14 July 2016.
 - The development proposed is the replacement of the existing bungalow with a new bungalow together with permission for storage of a temporary caravan.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing bungalow with a new dwelling together with permission for the occupation of a temporary caravan at Brookdene, Blind Lane, West Hanningfield, Chelmsford CM2 8UF, in accordance with the terms of the application, Ref: 16/00865/FUL, dated 16 May 2016, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr & Mrs C Bingley against Chelmsford Borough Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. I have altered the description of development in my formal decision as I do not consider the proposed dwelling to be a bungalow as it has a first floor. I have also referred to the occupation of the caravan rather than storage as this better reflects what is intended. The Council has referred to Policy DC47 in one of its reasons for refusal but it is not relevant to my assessment as it is a policy relating to extensions to dwellings.

Main Issues

4. The main issues in this appeal are: 1) Whether the proposal would be inappropriate development in the Green Belt; 2) The effect of the proposal on the openness of the Green Belt; 3) The effect of the proposal on the character and appearance of the area; and 4) If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether or not the proposal would be inappropriate development

5. Policy DC1 of the Core Strategy and Development Control Policies 2001-2021 (DCP), which was adopted in 2008 and reviewed in 2013, states that planning permission will be refused for development within the Metropolitan Green Belt except, in part, where it is a replacement dwelling that accords with Policy DC11.
6. Policy DC11 is a criteria based policy and requires, amongst other things, that a replacement dwelling is not materially larger than the building it is intended to replace¹. I consider this approach is consistent with Paragraph 89 of the National Planning Policy Framework (the Framework), which also states a replacement building in the Green Belt should not be materially larger than the one it replaces. The policy does not however, provide an indication as to what the local interpretation of 'materially larger' is and to what extent this is based on floor space.
7. The appellant is of the view that the existing bungalow has a floor space of around 100 square metres (sqm). Floor plans of the existing bungalow have not been supplied so it is difficult to verify this. However, an indication of the footprints of the existing and proposed dwellings has been shown on drawing 16-6505/001. In any event, the Council have not disputed the appellant's figure so I am content to use it as the basis of my assessment.
8. The appellant has suggested that the proposed dwelling would be approximately 159sqm. The Council have suggested it is more likely to be 187sqm. Neither party have robustly set out how they have arrived at these figures. For example it is unclear whether internal or external dimensions have been used, whether areas with restricted head height have been included and if or how any allowance has been made for the vaulted living room and the storm porch. The proposed dwelling is therefore likely to be in the region of 59 – 87sqm larger than the existing, which can also be expressed as a 59 – 87% increase in floor space. Even if I were to take the appellant's figure, an increase in excess of 50% of the existing house is a considerable uplift in floor area. This is even though it would apparently be a significant reduction relative to the previously refused planning application (Ref 14/01946/FUL).
9. However, the appellant has drawn my attention to a number of recent decisions undertaken by the Council including a dwelling granted under application 16/00709/FUL which would be 67sqm larger than the building it would replace and 0.9m higher. The dwelling approved under application 12/01880/FUL resulted in a 90% increase over and above the previous dwelling. The appellant has also referred to other decision where the apparent increase approved is greater than what is proposed as part of the appeal scheme. Whilst each application should be considered on its own merits, it is also important to be consistent in decision making as like applications should be considered in a like manner.
10. This is particularly so in this instance where there is no local definition of what constitutes a materially larger replacement dwelling. The Council have not clarified how it generally interprets this term or provided examples. The Council

¹ Rather than the 'original' dwelling and thus the presence of existing extensions is irrelevant in this instance

appears to suggest that the main differences between the approved developments referred to by the appellants and the appeal scheme before me is that the appeal site is more rural and isolated and thus the effect on the openness of the Green Belt would be greater than the approved developments.

11. In this respect it is unclear whether the replacement dwellings referred to by the appellant were inappropriate development but permitted because there were very special circumstances or not inappropriate and permitted because they were contextually acceptable. Consequently, other than the contextual difference, which has limited bearing on ascertaining whether a replacement building is inappropriate development, it is unclear what the difference is in the approach used. As such, I find that a floor space increase in the region of what is proposed appears to be consistent with approvals at other sites and thus I am satisfied the proposed uplift in floor space would not result in a materially larger building.
12. Nevertheless, in the absence of existing floor plans, and given the apparent ambiguities over how the floor space may have been calculated, it is also necessary for me to consider the overall change in scale, bulk and massing. Again, this is difficult to verify in the absence of existing elevations. However, the appellants have suggested the replacement dwelling would be only 0.1m higher than the existing dwelling. The Council suggests it would be significantly more, but I do not consider an increase of 0.3m could be regarded as significant in this instance. Regardless of which figure is used, I am satisfied the proposed increase in height would not, in itself, result in a materially larger building.
13. The replacement dwelling would be notably wider when viewed from the front with a bulkier roof design. This weighs against the proposal. However, the depth of the replacement dwelling would be similar to the existing and I have not seen substantive evidence demonstrating it would be of a comparable scale to the replacement dwelling previously refused. On balance, I am not satisfied that the increased massing of the replacement dwelling, which would be appreciated through the increase in the width and bulk of the roof, would render it a materially larger building. This is because the floor space would be proportionate and the increase in height only marginal.
14. I therefore conclude that the replacement dwelling would not be materially larger than the one it is intended to replace and would not be inappropriate development in the Green Belt.
15. Turning to the proposed caravan, which I observed has already been moved onto the site and is occupied. I share the view of the Council that the occupation of the caravan, in a way which would not be ancillary to another dwelling, would be a use of land that is not covered by any of the exceptions in either the development plan or the Framework. Consequently, I conclude that the occupation of the caravan is inappropriate development.

The effect of the proposal on the openness of the Green Belt

16. I have concluded that the replacement dwelling would not be inappropriate development in the Green Belt and thus it is unnecessary for me to consider its effect on openness. However, the siting of the caravan in a position where there was not one previously has had a negative effect on the openness of the Green Belt both spatially and from a visual intensification in built form. The

Framework advises that openness is an essential characteristic of the Green Belt. Consequently the caravan has a modest degree of harm to the openness of the Green Belt in addition to that arising from the inappropriate nature of the development.

The effect of the proposal on the character and appearance of the area

17. The appeal site is located towards the eastern end of Blind Lane, a narrow rural route characterised by high levels of landscaping, some sporadic development nearby and views out over adjoining countryside.
18. The replacement dwelling would have a greater presence in the appeal site than the existing bungalow and would be larger in views along Blind Lane and from the adjacent footpath. However, a reasonable gap to the boundaries of the site would be retained and this would provide ample space for landscaping, including the retention of existing hedges. This would soften views of the proposed dwelling, retain the rural character of the site and ensure the dwelling would not appear cramped. Additionally, the proposed dwelling would not be unduly large relative to nearby properties and its massing would be broken up. Furthermore, the Council are content with the detailed design of the proposed dwelling. The proposed dwelling would thus respect its context.
19. I therefore conclude that the proposed dwelling would preserve the character and appearance of the area. It would therefore adhere to Policy CS11 of the DCP, which seeks to protect the character, appearance or visual amenity of an area as well as the intrinsic character and beauty of the countryside. Aims consistent with Paragraphs 17 and 58 of the Framework.
20. On the other hand the caravan is located close to the boundary of the site and is of a form and finish incompatible with the rural charm of the area. In my view it is an addition of moderate harm to the character and appearance of the area and thus contrary to the aforementioned planning policies.

Other Considerations

21. I have found that the caravan is inappropriate development and harmful to both the openness of the Green Belt and the character and appearance of the area. However, the caravan is not a permanent structure and the appellants intend to remove it. The Council have suggested that a temporary caravan sited on the site whilst building works are being undertaken would be appropriate. There is nothing before me to suggest a planning condition could not be imposed to ensure the caravan is only sited temporarily within the appeal site. This would dissipate any harm and facilitate the implementation of the appeal scheme. I therefore conclude that these considerations attract significant weight as matters in favour of the proposal.

Whether there are Very Special Circumstances

22. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

23. I have concluded that the caravan would be inappropriate development and does, by definition, harm the Green Belt. I have also concluded that the caravan results in moderate harm to the openness of the Green Belt. Paragraph 88 of the Framework requires substantial weight to be given to any harm to the Green Belt. I have also identified moderate harm to the character and appearance of the area.
24. On the other hand, the caravan would be temporary and would facilitate the implementation of the replacement dwelling. These considerations carry significant weight in favour of the proposal by mitigating the harmful impacts identified. As such the harm to the Green Belt, and any other harm, is clearly outweighed by the other considerations I have identified. Consequently, the very special circumstances necessary to justify the development exist. Accordingly the proposal overall adheres to local and national Green Belt Policy.

Conditions

25. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. In addition to the standard commencement period, it is necessary in the interests of safeguarding the Green Belt and character and appearance of the area to impose a condition requiring implementation in accordance with the submitted drawings, for the caravan to be temporarily sited on the site and for materials and levels to be approved.
26. It is necessary to remove permitted development rights to extend the property as extensions could otherwise undermine the planning system if they resulted in a material larger dwelling. In the interests of managing surface water and thus flooding, it is necessary for the parking area to be constructed from a permeable material.

Conclusion

27. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall commence before the expiration of three years from the date of this decision.
- 2) The development hereby approved shall be carried out strictly in accordance with the following approved drawings (or any approved non material amendment to the drawings or any drawings submitted pursuant to a condition attached to this planning permission):
 - 16-6505/001, 16-6505/002, 16-6505/003, 16-6505/004 and 16-6505/005
- 3) Prior to their use, details of the external finishing materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall be used.
- 4) Prior to the digging of any foundations, detailed drawings and sections showing the finished levels of all parts of the development in relation to the levels of the surrounding area and any adjoining buildings shall have been submitted to and approved by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 5) Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), the dwelling hereby permitted shall not be enlarged or extended before or without the grant of an additional planning permission by the Local Planning Authority.
- 6) The proposed parking area shown on approved drawings 16-6505/001 and 16-6505/005 shall be constructed using permeable materials.
- 7) The siting of the caravan within the appeal site is hereby permitted shall be for a limited period being the period of 24 months from the date of this decision. The caravan shall thereafter be removed from the site and the land restored within six months of the caravans removal in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.

End of Schedule