



Appeal Decision

Site visit made on 12 June 2019

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th July 2019

Appeal Ref: APP/B1550/W/18/3217247

Valentine Cottage, Ethelbert Road, Ashingdon, SS4 3JS

- 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 R Wilson against the decision of Rochford District Council.
 - The application Ref 18/00148/FUL, dated 13 February 2018, was refused by notice dated 13 August 2018.
 - The development proposed is to demolish existing dwelling and construct a new bungalow.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the proposal is inappropriate development in the Green Belt;
 - (b) The effect of the proposal on the openness of the Green Belt;
 - (c) If the proposal is inappropriate, whether any 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

Inappropriate development

3. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One of the exceptions is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. Policy DM21 of the Rochford Development Management Plan 2014 (DMP) requires that replacement dwellings in the Green Belt should result in no more than a 25% increase in floorspace of the original dwelling.
4. The appeal site currently contains a modestly proportioned single storey bungalow which has a half hipped and tiled roof and rendered walls. The property is set in a large plot and has been extended in the past with flat

roofed extensions to the side and rear. The original footprint of the dwelling is estimated at around 50square metres.

5. It is proposed to demolish the existing bungalow and erect a larger bungalow with attached garage. This would be set further into the site than the current bungalow. The external floor area of the proposed dwelling would be around 218 square metres, with the attached garage forming an additional 30 square metres. There is a discrepancy in terms of the floor areas being measured internally for the existing bungalow and externally for the proposed development, and there is a dispute between parties as to whether the garage should be included in a measurement of floor area as this is not considered by the appellant to be habitable.
6. If the floor area of the proposed development reflected the internal floorspace measurements and even if I were to accept that the garage area should be excluded, by any reasonable estimation there is a substantial increase in the size of the proposed dwelling, when compared against the original footprint of the existing building.
7. Consequently, there can be little doubt that the proposed building would be materially larger than the one it replaces and that also, for the purposes of DMP Policy DM21, such an increase would be over 25%.
8. I conclude therefore that the relevant Framework exception is not met, and that the proposal would be inappropriate development in conflict with the Framework and DMP Policy DM21. Substantial weight should be given to any harm to the Green Belt as directed by Framework paragraph 144.

Openness

9. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
10. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The proposal would involve the demolition of the existing house on the site, however as noted above, the proposed new dwelling would be materially larger than the current extent of built development on the site, and therefore would have an adverse impact on the openness of the Green Belt in spatial terms.
11. Visual impact forms part of the concept of openness of the Green Belt, and the visual dimension of the Green Belt is an important part of the point of designating land as Green Belt. The site is in a location with limited public access and the proposed dwelling would be set further back into the plot. However, the increase in its scale and bulk would be partially visible from vantage points along Ethelbert Road and in light of the increase in scale, the proposed set-back from the street scene would not be successful in increasing openness. Thus I also find that there would be some visual harm in terms of openness.
12. While it is argued that the proposal would lead to less impact upon openness in visual terms than the additions which could be undertaken using permitted development rights, this assessment is reliant on the inclusions of extensions which do not exist on the site at the present time. The appellant's fallback position is however a matter which needs to be weighed in the overall planning

balance, rather than in terms of the impact of the proposal upon the openness of the Green Belt. This is considered below.

13. I therefore consider that in spatial terms, and to a lesser extent visual terms, the proposal would have an adverse impact on the openness of the Green Belt, in conflict with paragraph 133 of the Framework.

Other considerations

14. By way of a fallback position, the appellant draws attention to the existence of permitted development (PD) rights which benefit the existing bungalow. For significant weight to be afforded to a fallback position, it would need to be more harmful than the scheme for which permission is sought and there needs to be a reasonable prospect of it being carried out in the event that planning permission were to be refused.
15. Single storey side and rear extensions are deemed to be permitted development at the property¹ and a certificate of lawful development² has been granted at the property which includes the conversion of the loft incorporating flat roof dormer windows. A separate lawful development certificate has been granted for a detached garage at the site.³ A plan has been submitted as part of the appeal to illustrate the details of the fallback position of the extensions to the bungalow.
16. The floor area of the above permitted extensions, including the loft conversion, would amount to some 252 square metres in comparison to around the proposed 218 square metres of the replacement building. It would be around 248 square metres including the integral garage. Taking into account the integral garage, the proposed development would be smaller than the development afforded by the fallback position, albeit on a marginal basis.
17. In taking into consideration the PD garage at the site, which would be around 45 square metres, the total floorspace created by all of the permissible schemes would be greater than what is proposed at the site. This would be more harmful than the proposed scheme in terms of the spatial aspects of openness. I also accept that future extensions (including separate buildings in the garden) could reasonably be restricted by planning condition should permission be forthcoming.
18. It is apparent from the drawings submitted by the appellant that the design and appearance of the appeal scheme would not be inconsistent with the mixed character of the area. By contrast, I find that the PD schemes would have a less positive effect on the general character and appearance of the area, through their composition and design.
19. However, the proposed bungalow would be at a far greater width and depth than the combined schemes that could be achieved by the extant PD rights at the bungalow and I agree with the Council that this would add greatly to the bulk of the development in visual terms.
20. I also note that the height of the proposed dwelling would be increased over the pitch height of the existing dwelling by around 300mm. The appellant

¹ Reference 16/00911/DPD1

² Reference 10/00123/LDC

³ Reference 10/00670/LDC

- considers this to be minimal and the effects mitigated by the hipped design as opposed to the extant front gable. However, the form and footprint of the dwelling would be as such that the roof would have a significant massing, particularly when compared to the flat roof nature of the PD extensions.
21. A sketch plan of the PD garage has been provided, as well as a proposed site plan which outlines this garage and the footprint of the bungalow including the PD extensions. This would be a 4-bay garage, although specific dimensions are not given in terms of its width, depth and height. This would undoubtedly reduce the openness of the Green Belt in both spatial and visual terms. However, this would appear as an ancillary outbuilding and would be visually separated from the existing bungalow, and set back from this, even in an extended form.
22. I acknowledge that spatially, there would be a benefit arising from the proposed development, in comparison to the floorspace which could be achieved as PD. This would, however, be countered by a greater visual effect of the proposed development upon the openness of the Green Belt.
23. Moreover, while the appellant attests that they would make full use of the permitted development rights at the site if I were to dismiss the appeal, I have no detailed evidence to support such a claim. As evidenced by the plan detailing the fallback position, the rear extension which would comprise of a lounge would need to be constructed independently of the two side extensions which would flank it, with foundations not to be touching. I have no evidence that this would be practically possible, nor whether it would be a viable proposition.
24. Taking the above into consideration, there would be some benefits in terms of character and appearance and the physical footprint of the proposed bungalow would be less than the combined footprint of the PD schemes, thus reducing the effect on openness in spatial terms. However, I consider that there would be greater visual effects in terms of openness of the Green Belt and that openness would still be harmed. I also have doubt as to whether there is a reasonable prospect of the fallback position being carried out. When taken together, these factors limit the weight I can attach to the fallback position.
25. My attention has been drawn to another residential scheme. However, while I have been provided with the decision notice, fallback position and proposed plans and elevations, no other details in terms of the Council's detailed assessment and justification for allowing that scheme, nor measurements or dimensions have been provided. Without such information a full and detailed comparison between this development and the case before me cannot be drawn. In any case, each application and appeal must be judged based upon their own merits.

Conclusion

26. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition the scheme would also have an adverse effect on openness, which is an essential characteristic of the Green Belt.
27. Only limited weight can be attached to the fallback position, as set out above, and this would not *clearly* [my emphasis] outweigh the substantial harm that

the scheme would cause. Consequently, the very special circumstances which are necessary to justify inappropriate development in the Green Belt do not exist. In conclusion, the development would therefore conflict with the Framework and DMP Policy DM21.

28. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Searson

INSPECTOR