

Appeal Decision

Site visit made on 25 June 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2019

Appeal Ref: APP/B5480/W/19/3226340

Land adjacent to The Thatch, Broxhill Road, Havering-atte-Bower, Romford RM4 1QJ

- 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 Alan Peck against the decision of the Council of the London Borough of Havering.
 - The application Ref P1827.18, dated 23 November 2018, was refused by notice dated 18 January 2019.
 - The development proposed is construction of a detached dwelling together with associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site lies within an area of Green Belt. Therefore, the main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the Framework;
 - The effect on openness and purposes of the Green Belt;
 - The effect of the proposal on character and appearance of the area, in particular on the setting of The Thatch, a Grade II listed building;
 - Whether the proposed dwelling would provide an acceptable standard of accommodation for future occupants;
 - Whether, if necessary, satisfactory provision is made to mitigate the impact of the proposed development on local education infrastructure;
 - 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 inappropriate development

3. The Government attaches great importance to Green Belts. Paragraph 145 of the Framework states that the construction of new buildings within the Green

- Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate, one of which is limited infilling in villages.
4. Policy DC45 of the LDF Core Strategy and Development Control Policies Development Plan Document (August 2008) (the CS&DCP) is inconsistent with the Framework in that it limits infilling to designated Major Developed Sites. Accordingly, I afford this policy limited weight and have considered the proposal primarily against the provisions of the Framework.
 5. The appeal site is located on land forming part of the garden of The Thatch, a listed dwelling located at the edge of a group of dwellings on Broxhill Road, a short distance outside the village of Havering-atte-Bower. Despite being detached from the main village, the housing on Broxhill Road is continuous on both sides of the road for several hundred metres, and collectively, has the characteristics of a village. My findings in this respect mirror those of my colleague Inspector in an appeal decision¹ referred to me by the appellant.
 6. Therefore, as the appeal site lies within a village, the determinative question to be considered is whether the proposal would constitute limited infilling. There is no definition of 'infill' within national policy or any local policy or guidance to which I have been referred. However, a straightforward interpretation of the term would indicate that the development would occupy a gap between two buildings or developments.
 7. In this case, there is an existing dwelling to one side of the appeal site, The Thatch, with a detached garage. To the other side of the appeal site, and extending as far as I could see, is an open, agricultural field. I drove beyond the site towards Havering-atte-Bower and saw that there was no development on this side of the road for several hundred metres, nor is there development immediately opposite the site on Broxhill Road. Whilst the development would be within the existing grounds of the Thatch, the majority of the site is open and natural in appearance, with built development ending at the detached garage. The proposed dwelling would be located beyond this, in an area of open garden immediately adjacent to the open countryside. As such, it is clear to me that the proposal would not amount to infilling as it would not occupy a gap between two buildings or developments but would extend built development further along Broxhill Road into the countryside. In this respect, the appeal differs from that cited at *Estralita*, which I saw to have demonstrable development to either side of the site.
 8. Therefore, I find that the proposal would not amount to limited infilling within a village. Moreover, no evidence is advanced to indicate that the proposal would meet any of the other exceptions at Paragraph 145. Consequently, in principle, the proposal would be inappropriate development within the Green Belt and would conflict with the Framework. Inappropriate development is, by definition, harmful to the Green Belt and the Framework directs that substantial weight should be given to any harm to the Green Belt.

Effect on openness and Green Belt purposes

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

¹ APP/B5480/W/18/3200843

their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.

10. In spatial terms, the construction of a dwelling on the site would result in built development where there is presently none. The footprint of the dwelling, its bulk and any accompanying domestic features such as a garage, hard landscaping and boundary treatments, would inevitably lead to a loss of openness. Whilst I accept that the boundary planting would offer some screening of the site from the road, the building would be plainly visible from within and in front of The Thatch and would impinge on views of the open countryside beyond the site, thus reducing openness.
11. Given my findings above that the proposal would not amount to infilling within a village, the proposal would lead to encroachment of development into the countryside and would impact on the related Green Belt purpose.

Character and appearance, and setting of listed building

12. The proposed dwelling would be a bungalow with a hipped roof in multiple parts. A driveway and parking area to the front of the site is also proposed, set behind retained front boundary conifer trees. As originally submitted, the dwelling would be finished externally in render. The appellant has submitted revised plans at the appeal stage showing the building clad instead in timber weatherboarding. The change of external materials would result in a significant change to the external appearance of the dwelling, and I do not have evidence these plans were subject to public consultation. If I were to determine the appeal on the basis of the amended plans it is possible that the interests of parties who might wish to comment would be prejudiced.²
13. The surrounding pattern of development is varied, with properties ranging from small cottages to substantial, detached properties on large plots. The proposed render finish would reflect a number of the nearby properties. Though the Council criticises the design as lacking architectural merit, I saw a number of other properties along Broxhill Road of similar design, and in this respect, the dwelling would reflect the surrounding context.
14. However, the immediate properties to the appeal site are towards the smaller end of the scale, mainly single storey and positioned quite compactly. The proposed bungalow, with its elongated shape from front to back would give an impression of a considerably larger building when viewed in context with neighbouring properties. Though the dwelling would maintain the general line of development close to the road, it would be in a detached position beyond the present extent of development. The building as a result would appear discordant in this detached position surrounded by open countryside.
15. The Thatch is a Grade II listed building, designated in September 1979. It is described in the list entry as 'Early C19, small single storey cottage, rendered, sash windows. Thatch roof with axial stack.' Later extensions have been added to the building on three sides, whilst the appellant's Heritage Statement of Case (HSC) notes that the land forming part of the site of the listed building was extended in 1997, creating the present garden area.

² Annex M of the *Procedural Guide Planning Appeals – England* (19 March 2019) advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

16. The HSC describes the significance of the listed building as deriving from its historical connection with the former brickworks which existed to the south. The brickworks are long gone, however, and subsequent residential development has enclosed the listed building. As such, its setting is now strongly influenced by this later development, including the extensive extensions which cumulatively exceed the size of the original building, and other prominent features such as the detached garage.
17. The Council places importance on the building historically marking the limits of the settlement and it being experienced amid an agrarian backdrop of gentle, undulating fields and traditional field boundaries. Whilst the listed building has long marked the settlement limit, the ancillary detached garage excepted, there is little in evidence to suggest the cottage was specifically intended to mark the edge of the settlement, but rather that it has become established as such over time, with the surrounding open countryside forming a prominent and attractive setting.
18. I saw on site that in a number of views, this historically rural, agrarian setting of the building has been compromised by later development. However, views out of the village from in front of the appeal site on Broxhill Road still take in the open fields beyond the site, and there remains a clear sense of the edge of the village and transition to the open countryside which evokes the building's historical setting. The proposed dwelling would, through its size and position, form a conspicuous addition to the surroundings of the listed building, adding substantial built form to the last open side and eroding the surviving connection with the countryside which constitutes to its setting. This would be evident from roadside views in front of the listed building, but also from within the listed building itself and its immediate grounds, where unspoilt views of the countryside would be lost.
19. For these reasons, I find that the proposal would adversely affect the setting of the listed building and would harm the character and appearance of the area. There would be conflict with Policies DC61 and DC67 of the CS&DCP which require that development maintains, enhances or improves the character and appearance of the local area, and does not adversely affect a listed building or its setting.

Standard of accommodation

20. The original drawings submitted with the application showed a bedroom to the front (Bed C) as a double bedroom with an internal area of 9m², falling short of the 11.5m² standard set out under the Technical Housing Standards – Nationally Described Space Standard, and incorporated into the London Plan (March 2016) (the LP) under Policy 3.5. The appellant states that this was an error and has submitted an amended plan³ showing the room as a single bedroom in compliance with the space standard. Given the minor and internal nature of this change, I am satisfied that no party would be prejudiced by my taking this single amended plan into account, and that the single bedroom would be suitable in size.
21. Based on the plans, the property would have a suitable layout, including a spacious, open plan living space and ample external space. Moreover, given the

³ Drawing 2018.053.PA 04 Revision A

separation distance to The Thatch, occupants would not be subject to overlooking or enclosure.

22. Therefore, on the evidence before me, I find that the proposal would offer an acceptable standard of accommodation, in accordance with Policy 3.5 of the LP, which requires housing developments should be of the highest quality internally, including through meeting minimum space standards and the guidance of the Residential Design Supplementary Planning Document (SPD), which indicates that regard should be had to the size and quality of internal spaces in new development.
23. The Council also refers to Policy DC61 of the CS&DCP and Policy 7.4 of the LP; however, these policies are concerned primarily with external character and design, and so I do not regard them as directly relevant to this main issue.

Effect on Local Infrastructure

24. CS&DCP Policy DC72 seeks to secure the provision of contributions through planning obligations in order to ensure that new development follows the principles of sustainable development. This includes contributions to local education infrastructure, in accordance with Policy DC29, to help to meet the additional needs generated by new residential development. These policies are supported by the Council's Planning Obligations Supplementary Planning Document (SPD) (2013). The policies pre-date the Framework; however, they remain broadly consistent with Paragraph 54, which outlines that planning obligations may still be sought to mitigate the impacts of new development.
25. The Council refers me to a number of appeals⁴ where the Inspectors have concluded that the approach of Policy DC29, combined with the Council's monitoring arrangements in relation to payments, would not engage the provisions of Regulation 123 of the CIL Regulations that a planning obligation cannot constitute a reason for granting permission where it would result in funding infrastructure development by means of pooled contributions.
26. The Council has advised that financial contributions would be required towards the provision of education facilities and seeks a contribution of £6,000 per dwelling. However, the contribution is disputed as being neither reasonable nor necessary by the appellant on the basis that the Council's evidence base is out of date and that the proposal is a self-build development for the appellant and his wife who do not have children of school going age. The appellant provides further appeal decisions⁵ in support of his position.
27. The Council accepts that its SPD guidance is out of date, but it maintains that the evidence base underpinning the SPD remains relevant. This indicates a clear lack of capacity in the Borough to accommodate demand for school places at primary, secondary and early years levels generated by new development. The Council has also provided an updated Commissioning Plan for Education Provision for the period 2019-2023 which continues to show a shortfall in future years, particularly in primary places.
28. The proposal for a three bedroom dwelling would be likely to generate material additional demand for school places. Whilst I acknowledge the appellant's

⁴ APP/B5480/W/16/3157634; APP/B5480/W/16/3160652; APP/B5480/W/16/3164262; APP/B5480/W/16/3165731; APP/B5480/W/18/3196765; APP/B5480/W/18/3195571

⁵ APP/B5480/W/18/3200843; APP/B5480/W/18/3201426

personal circumstances, these may change, and I cannot be certain that the development would not place demand on the education system in future.

29. Given the evidence before me, I am satisfied that the contribution of £6,000 is reasonable in light of the impact the proposal would have on education provision in the Borough. The Council has not identified a specific project which is directly related to the development. However, it is clear from the evidence that the monies would be targeted at providing additional school places. In addition, the Council has confirmed that it would ensure, through its monitoring arrangements, that no more than 5 contributions are pooled towards a single project. There is no evidence before me to suggest that the necessary provision would be otherwise made by CIL contributions.
30. I recognise the need for consistency in these matters, and that my findings, whilst consistent with the decisions referred to me by the Council, differ from the conclusions of the Inspector in the appeals referred to me by the appellant. However, I have taken each decision into account, bearing in mind do not have details of all of the evidence before the Inspectors in each case, and I have considered the appeal on its own merits and based on the particular evidence before me.
31. For the foregoing reasons, I am therefore satisfied that the contribution sought would meet the three tests set out in Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations which require obligations to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
32. However, there is no obligation before me which is needed to make the development acceptable in planning terms. It would not be appropriate to secure the obligation by way of a condition. In the absence of an obligation I conclude that the development would fail to make adequate provision towards education infrastructure in the area, and would therefore conflict with Policies DC29 and DC72 of the CS&DCP and the related aims of Policy 8.2 of the LP.

Other Considerations

33. The appellant refers to the Council's inability to demonstrate a five-year housing land supply and that, as a consequence, the presumption is favour of sustainable development under Paragraph 11 of the Framework should apply. However, the first bullet point of part d) of Paragraph 11 indicates that the presumption in favour does not apply where application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Land designated as Green Belt is one such area or asset of particular importance, as made clear by Footnote 6 of the Framework. Notwithstanding the five year housing land supply position, in view of the harm to the Green Belt that I have identified, Paragraph 11 of the Framework indicates the presumption in favour should not apply in this case.
34. A dwelling on the site would nevertheless make a contribution toward rural housing and any shortfall in the Council's housing supply position. However, given the small scale of the proposal, the contribution would be very modest, and I therefore ascribe limited weight to this in favour of the proposal. I also

give some weight to the self-build nature of the proposed dwelling in light of the support for this in the Framework and the emerging Havering Local Plan.

35. No objection was raised by the Council in respect of the effect on neighbours' living conditions or in respect of highway safety, and I have no reason to reach a different view. Although I have not identified harm in these respects, these would be neutral considerations neither weighing for or against the proposal.

Green Belt Balance

36. The proposal would amount to inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
37. In addition, there would be harm arising from the adverse effect of the proposal on the setting of the listed building. This harm would be less than substantial, in the language of the Framework. Paragraph 196 advises that this less than substantial harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
38. However, I find that the considerations identified in support of the proposal, when taken together, do not *clearly* outweigh the harm the scheme would cause to the Green Belt, nor would they amount to public benefits sufficient to outweigh the less than substantial harm to the significance of the designated heritage asset, to both of which I am required to give substantial weight. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

39. The proposal results in conflict with the development plan, and other material considerations do not indicate that planning permission should be forthcoming in spite of this. Therefore, for the reasons given and taking account of all relevant matters, the appeal is dismissed.

K. Savage

INSPECTOR