
Appeal Decision

Site visit made on 18 September 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/M1595/W/19/3232156

Four Acres, Brentwood Road, Bulphan RM14 3TL

- 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 S Foster against the decision of Thurrock Borough Council.
 - The application Ref 19/00539/FUL, dated 5 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is the demolition of garage and stable and the replacement of an existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. These are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt; and
 - If the proposed development 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 the proposed development.

Reasons

Inappropriate Development

3. Paragraph 145 of the Framework¹ sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I shall come onto this in more detail later. Both the Framework and the development plan set out 'exceptions to the rule' for new buildings in the Green Belt. One of which, asserted by paragraph 145(d) of the Framework is the replacement of a building, provided the new building is in the

¹ The National Planning Policy Framework 2019

same use and not materially larger than the one it replaces. The Local Plan², as part of Policy PMD6, states that replacement dwellings in the Green Belt will only be permitted provided the replacement dwelling is not materially larger than the original building.

4. Taking the more up to date expression of national policy concerning development in the Green Belt as set out by the Framework there seems little doubt that the proposed replacement building would be larger than the one it would replace. The question therefore remains if such an increase in size would amount to a building materially larger. What is meant by material is not defined and therefore has to be considered on a case by case basis. To my mind, a conclusion needs to be based on a quantitative and qualitative exercise.
5. Both the appellant and the Council have advanced a series of volumetric and floor space/footprint comparisons to support their conclusions which differ on this matter. Both sets of figures take account of existing development to be replaced as well as how large the existing dwelling could be theoretically made as a result of an extant planning permission for a side extension.
6. Firstly, it would be correct to point out that the Framework advances the point of a building not being materially larger by comparing it to the one it replaces. In the absence of the extant extension being erected, it cannot by definition be considered as part of the building being replaced. Purely on the figures therefore, I would consider, even taking into account the demolition of the stable and garage, the new building would be larger by some significant degree. Indeed, materially so.
7. Taking on board the extant side extension as a perceived fallback position however, the figures would be close and it would be debateable if on that matter alone the proposed replacement would be materially larger. However, factoring in the qualitative assessment of the replacement, one would appreciate a building of a more grandiose design and appearance. A building which would also be taller, have a mostly single span, spreading crown roof and of a discernibly greater mass and presence than the existing (albeit slightly more sprawling) chalet style bungalow. In qualitative terms therefore, I would consider the replacement building would be materially larger than the one it replaces.
8. With regard to Policy PMD6, and in regard to dwellings rather than buildings, a replacement is required to not be materially larger than the original. Whilst I am unclear based on the evidence before me what amounted to the original dwelling on site, it seems that, if I conclude that a replacement would be materially larger than the existing, it must by definition also be materially larger than the original. Whatever that may have been. Thus, the appeal scheme would conflict with PMD6.
9. The appellant advances that the appeal scheme would constitute the partial or complete redevelopment of previously developed land. A matter the Council dispute. The appellant refers to paragraph 145(g) of the Framework in this regard which also sets out that the erection of buildings under this exception might not be inappropriate development provided they would not have a

² Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) 2015

greater impact on the openness of the Green Belt than the existing development.

10. The Framework's glossary defines previously developed land and states that such is land which is or was occupied by a permanent structure, including the curtilage of the developed land. Amongst other things, land in built up areas such as residential gardens are excluded from the definition. I note the Council's understanding that therefore residential gardens are not previously developed land for the purposes of the Framework. However, the definition clearly precedes such a statement with 'land in built up areas such as.....'. To my mind this therefore means that residential gardens outside of built up areas could be considered previously developed land for the purposes of the Framework. In the case of the appeal site, it is the land and buildings associated with the extended curtilage of Four Acres. The site is contained and located, at best, beyond the edge of the nearest area I would consider built up. That being Bulphan village. There is therefore, perhaps, a legitimate argument to say that the appeal site is previously developed land for the purposes of the Framework.
11. Subject to one being satisfied this is the case, whilst exception (d) requires consideration of whether a building is materially larger, exception (g) states that any redevelopment must not have a greater impact on openness. There is no suggestion that such an assessment relies on materiality in any way. Whilst I shall address the effect of the proposed development on the openness of the Green Belt in more detail later, by virtue of the new building being larger by any degree (which the replacement would be even taking into account other factors that I have highlighted), there would accordingly be a reduction in the openness of the Green Belt. This would represent a greater impact on openness than the existing development.
12. Turning again to Policy PMD6, it sets out further criteria by which redevelopment will be considered. Amongst other things, it states that it should not exceed the height of existing buildings (discounting any abnormally tall existing structures). As I have alluded to above, the proposed replacement building would be taller than the existing, thus it would fail to comply with this part of PMD6.
13. With the above factors in mind, the proposed development would be inappropriate development in the Green Belt. As I have set out, this is harmful by definition.

The Openness of the Green Belt

14. As per paragraph 133 of the Framework, the Government attaches great importance to Green Belts. The essential characteristics thereof being their openness and permanence. It has been established that openness has both a visual and spatial aspect. The latter can be taken to mean the absence of built form.
15. The appeal site benefits from boundary landscaping which screens existing development to some degree. The resulting building would be set back a substantial distance from the passing road from which views into the site would be fleeting at best. Some views may be possible from the south in Bulphan but due to the flatness of the landscape in the immediate area and planting the new dwelling would not be obvious. Be this as it may, there would be clear

and obvious views of the building from within its curtilage which is also in the Green Belt. Indeed, it covers a fairly expansive swathe of it. Thus, there would be equally as clear and obvious reduction in the visual aspect of the Green Belt's openness. Whilst this would give rise to harm, I would be minded to say that such would be tempered to some degree by how enclosed and inconspicuous the appeal site is in the context of the Green Belt as a whole.

16. The spatial aspect would experience an unavoidable reduction in openness as I have explained earlier. This would be particularly through the more grand and imposing design in its plot and the scale and bulk of the proposed dwelling compared to what is a more modestly proportioned chalet style bungalow. The impression of the proposed height, in the spatial sense, would be exacerbated by the building being a full additional storey with rooms in the roof space. In addition, whilst demolishing other buildings elsewhere may increase the openness of an area to the south of the proposed building, its increased size and bulk, close to another substantially proportioned outbuilding, would rationalise and concentrate a significant amount of new built form in one smaller space, more than offsetting any benefit the demolition of the aforementioned buildings would yield.
17. By virtue of these factors, the proposed development would reduce the openness of the Green Belt, resulting in harm thereto and conflict with the Framework. This would be in addition to the harm that would arise out of its inappropriateness.

Other Considerations and Any Other Harm

18. The Council express substantive concerns over the effect of the proposed development on the character and appearance of the area, citing the design of the proposed replacement building and in particular its roof form in the context of the rural character of the area and the recently approved garage. The appeal site's immediate context is indeed a rural and agrarian one, it is surrounded on two of its sides by open agricultural land and other built development is some distance from another. The Bulphan bypass is located to the front.
19. I agree that the proposed design would appear odd and somewhat incongruous in this context. Its height and mostly single span roof spread, central gable, substantial entrance portico and fenestration rhythm to the front elevation are more befitting of a mansion style building. Such that one would expect it to have a defined and purposeful situation in its plot, associated and designed in conjunction with landscaped grounds. The use of such a design here seems uncomfortably retrofitted to the overall site, arbitrarily placed in one corner. I would also share the Council's view on how the design would jar visually alongside the adjacent garage which has a more traditional agrarian appearance in the use of small dormer windows, a narrow elongated floorplan and barn hips to the roof.
20. There would therefore be further harm arising from the appeal scheme in terms of how the above would affect the character and appearance of the area. This harm would lead to conflict with Policies PMD2, CSTP22 and CSTP23 of the Local Plan which, amongst other things, seek to ensure a high quality and contextually appropriate design and appearance to new development that protects, manages and enhances the character of Thurrock.

21. The appellant has advanced planning permissions that have been granted by the Council for replacement dwellings in the Green Belt. One in Bulphan³ and the other at Langdon Hills⁴. I note in the case of the former the design being similar to that proposed as part of the appeal scheme and the latter noticeably contemporary. Even so, they are not before me to determine and I am not fully cognisant of the circumstances of each approval, plans and decision notices aside. I have made a judgement on the appeal scheme before me on its own merits and found it to be harmful for the reasons given.

Conclusion

22. The appeal scheme would be inappropriate development in the Green Belt. This would be harmful by definition. There would be a reduction in the Green Belt's openness which would give rise to additional harm. Harm would also arise from the effect of the proposed replacement building on the character and appearance of the area. In each case, the appeal scheme would be contrary to both the policies of the development plan as I have identified them and the relevant sections of the Framework.
23. As per paragraph 144 of the Framework, substantial weight should be given to any harm to the Green Belt. Against this, I have not been provided with any other considerations advanced to weigh in favour of the appeal scheme. There are therefore no matters capable of amounting to the very special circumstances necessary to justify the proposed development.
24. Whilst having regard to other matters that have been raised, which include representations from local residents, it is for this reason that the appeal is dismissed.

John Morrison

INSPECTOR

³ Local Planning Authority Reference 17/01209/FUL

⁴ Local Planning Authority Reference 18/01099/FUL