
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: 2 October 2019

Appeal Ref: APP/H1515/W/19/3232919

Meadow View, Muthering Lane, Navestock RM4 1HL

- 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 Sportsland Properties Ltd against the decision of Brentwood Borough Council.
 - The application Ref 18/01635/FUL, dated 27 September 2018, was refused by notice dated 1 February 2019.
 - The development proposed is described as 'construction of a replacement single detached dwelling as approved under 14/00629/FUL, with minor adjustments to some window dimensions and conversion of foundation space to form basement-level garden room.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As mentioned above, planning permission has been granted for the erection of a replacement dwelling on the appeal site. In general scale and dimension terms, the above ground appearance of what has been erected appears to be as was approved, save for changing gable roof forms to hips and altering some of the window and door sizes and locations
3. A basement level has also been added which includes enclosed sunken garden spaces to its front and rear, stepped access at the front as well as supported bridge access to the front and rear entrance doors. As per the description of development on the planning application, planning permission is not just sought for the changes but for a replacement dwelling in its entirety. Clearly, what has been erected on site, including the basement level, is one and the same entity. When considering not only the design changes but the addition of further built form, it is not what was granted planning permission. I have considered the appeal accordingly which is for the erection of a replacement dwelling. Planning permission is sought retrospectively.

Main Issue

4. With the above in mind, there are three main issues. These are:
 - Whether the development is inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt; and

- If the development is 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 development.

Reasons

Inappropriate Development

5. 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.
6. Whilst referring to the now replaced Planning Policy Guidance 2, the Local Plan² reiterates this stance in its explanation behind Policies GB1 and GB2. GB1 sets out that planning permission will not be granted for new buildings except in very special circumstances for purposes other than those appropriate to the Green Belt. GB2 outlines that, when considering proposals for development in the Green Belt, the Council will need to be satisfied that they do not conflict with the purposes of including land within it and do not harm openness. I shall come onto this in more detail later.
7. Whilst not explicitly listing exceptions to the rule set out by GB1, Policy GB6 sets out the Local Plan's stance on replacement dwellings in the Green Belt. The policy justification echoes the Framework insofar as stating that the new dwelling cannot be materially larger. GB6 however also has regard to the original dwelling, the amount of additional floor space and if a bungalow is being replaced it should be a bungalow again.
8. The Local Plan is of some age and the wording of the Framework's most recent iteration is the most up to date expression of the national policy position on development in the Green Belt. Whilst the Framework is restrictive in what it permits, it is not as prescriptive as the Local Plan on dimensions and does not refer to the original building when considering replacements. I have taken the approach of the Framework for the reasons I have given and whilst a lack of conformity therewith may cause me to reduce the weight I attach to GB6, along with GB1 and GB2 it has the same broad aims of Framework in protecting the Green Belt from inappropriate development and harm to its openness.
9. Referring to the Framework then, there are exceptions to the 'rule' for the erection of new buildings. One being the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
10. I have been able to see the plans both of the dwelling that was on the appeal site prior and those proposed as part of the planning application referenced above. Between the two I can see that the proposed replacement dwelling was larger albeit having had sight of the delegated officer report the Council did not seem to consider it materially so. The basement level has added an entirely new and clearly discernible floor to the replacement in this case, a floor which

¹ The National Planning Policy Framework 2019

² Brentwood Replacement Local Plan 2005

also includes integral built and enclosed lower level outdoor spaces accessed by steps. The spaces are traversed by footbridges. When taken together with the dwelling above ground level, and compared to the dwelling that this has replaced, there seems little doubt in my mind that the appeal scheme is materially larger. This is in both quantitative and qualitative terms. With this in mind, I can only conclude that the development is inappropriate development in the Green Belt and, as per my earlier comments, harmful to the Green Belt by definition.

The Openness of the Green Belt

11. 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.
12. I accept the appellant's argument that the appeal site is somewhat inconspicuous by virtue of boundary landscaping albeit I was able to appreciate some views of the dwelling currently on the site from the entrance gates which are not solid when closed. One can clearly note the presence of the additional volume taken up by the sunken spaces to the front elevation by virtue of the bridge and the means of enclosure to its front and sides.
13. There is a significant amount of new built form that has been added over and above that which was permitted as being not materially larger. This includes the basement level itself (which is in effect an entirely new storey), the enclosed and engineered sunken spaces to the front and rear as well as the access bridges. Not only does this take up further land in the Green Belt and accordingly reduce its openness from a spatial point of view, as I have said, it is also clearly discernible in public views. The effect of the new building in visual terms is more felt close up and on the approach to the access steps where one appreciates what is effectively a three storey property of a noticeably greater height, looming presence and bulky appearance than that which was on the site previously which was a modestly proportioned chalet style bungalow. Limited though most views would be to visitors to the site and owners, the land it is developed on nonetheless is in the Green Belt.
14. For the above reasons, the development harms the openness of the Green Belt in both visual and spatial terms by reducing it. This is contrary to one of the main aims of Green Belt policy at local and national levels as I have explained it above. This harm is as well as that caused by the development's inappropriateness.

Other Considerations and Any Other Harm

15. The appellant has explained the rationale for the dwelling on the site being erected as it has. However, motives behind a given development will differ in each case and it seems sufficiently clear on the available evidence that the additional works were undertaken out of choice. I therefore attach very limited weight to the reasons for the basement and other associated works.
16. I note the appellant's argument that the majority of the works are below ground level and this, on that basis, is not likely to harm openness. I have to some extent disagreed with this but regardless, the additional works have

amounted to a dwelling which is materially larger than the one it replaces, and the openness of the Green Belt has accordingly reduced. The location of the development does not therefore substantially alter my conclusions on the main issues.

17. The acceptance of a condition requiring further landscaping for the site is noted and whilst this may succeed in reducing the effect of the proposed development on the visual aspect of the Green Belt's openness, harm arising from its effect on the spatial aspect would remain. In any case, I do not subscribe to the notion that unacceptable development should be acceptable if it can be obscured.
18. The appellant suggests that the sunken outdoor areas, by virtue of them being outdoor, are open and thus contribute to the Green Belt's openness. However, the spaces concerned are built and engineered structures in their own right and clearly serve a functional relationship with the basement along with the bridges and access steps. To my mind, and for these reasons, they would not have the same effect as a conventional open and undeveloped 'garden' associated with a dwelling.
19. I accept that some hardstanding can be installed without the requirement for express planning permission. However, that is not what I am considering in this case. I am considering a replacement dwelling which includes purpose built and engineered hard structures including basement levels, bridges and steps all as part of the same broad entity and I have accordingly taken a view on it as such.

Conclusion

20. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. There has been a reduction in the Green Belt's openness which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan as I have identified them and the relevant sections of the Framework.
21. As per paragraph 144 of the Framework, substantial weight should be given to any harm to the Green Belt. Against this, the other considerations that have been advanced are not sufficient so as to be capable of amounting to the very special circumstances necessary to justify the development.
22. Whilst having regard to other matters that have been raised, which include expressions of support from local residents, it is for this reason that the appeal is dismissed.

John Morrison

INSPECTOR