



Appeal Decision

Site visit made on 7 October 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2019

Appeal Ref: APP/V1505/W/19/3226008

Jessamine, Hovefields Avenue, Wickford, Essex SS12 9JA

- 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 Casey against the decision of Basildon District Council.
 - The application Ref 18/01056/FULL, dated 24 July 2018, was refused by notice dated 20 December 2018.
 - The development proposed is described as 'demolition of existing bungalow and demolition of existing buildings associated with a kennels business and the erection of two detached bungalows'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing bungalow and demolition of existing buildings associated with a kennels business and the erection of two detached bungalows at Jessamine, Hovefields Avenue, Wickford, Essex SS12 9JA, in accordance with the terms of the application, Ref: 18/01056/FULL, dated 24 July 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Although the Council have opted not to submit an appeal statement its concerns can be deduced from the decision notice and the committee minutes. I observed several caravans positioned within the appeal site, but I understand that these are unauthorised and therefore their presence has not been a matter that has been factored into my assessment.

Main Issue

3. The main issue in this appeal is whether the proposal would amount to inappropriate development in the Green Belt.

Reasons

4. The appeal scheme is for the erection of a replacement bungalow (Plot 1) and a second bungalow to replace existing kennels (Plot 2). In ascertaining whether the proposal is inappropriate development, the Council's reason for refusal does not refer to any specific policy in the development plan. Nevertheless, the Council has submitted two Green Belt policies with its submissions. The first is Policy BAS GB1 of the Basildon District Local Plan (LP), which identifies the boundaries of the Green Belt but does not set out criteria for establishing whether a scheme is inappropriate development.

5. Alternatively, Policy BAS GB3 of the LP is concerned with replacement dwellings in the Green Belt. It states that a dwelling will be allowed to enlarge on replacement to 90 square metres, or a maximum of 35 square metres over the floor area of the original dwelling (or the floor area as at 1 July 1948), whichever is the greater. According to the appellant, the existing bungalow is 237sqm. The Council has not disputed this. However, this is unlikely to be the original floor area as the bungalow appears to have been extended to both sides and a front addition added in the form of a conservatory type structure. It is doubtful whether Plot 1 would adhere to Policy BAS GB3 as it would have a floor area that would be greater than 90 sqm. The enlarged dwelling would also probably add more than 35sqm of floor space over the original.
6. That said, the Council has considered the proposal against Paragraph 145 of the National Planning Policy Framework (the 'Framework') instead of Policy BAS GB3. The Framework refers to replacement buildings rather than replacement dwellings and has separate tests relating to previously developed land. The test for a replacement building is that it should be in the same use but not materially larger than the one it replaces (as opposed to the original). Accordingly, Policy BAS GB3 is not consistent with the Framework and therefore any conflict with it is of limited weight.
7. Plot 1 would have a floor area of 266sqm, which is around 30sqm greater than the existing bungalow. In a numerical sense the replacement dwelling would not be materially larger. In a spatial sense it would also be similar, being single storey and of a comparable maximum width and depth. Moreover, it would be moved further back into the site behind a landscaped front garden which would provide a greater sense of space. Overall, the replacement dwelling at Plot 1 would not appear materially larger than the existing.
8. Paragraph 145 of the Framework permits the partial or complete redevelopment of previously developed land when it would not have a greater impact on the openness of the Green Belt than the existing development. In this instance, the existing development encompasses three single storey kennel buildings arranged around a yard laid to hard standing. There is no disagreement between the Council and the appellant that the kennels and yard are previously developed land. The floor area of the kennels is in the region of 420sqm whereas Plot 2, which would be a bungalow, would have a floor area of around 266sqm. Thus, the new bungalow would not be materially larger than the existing structures and would be the redevelopment of previously developed land that, in a numerical sense, would have a reduced impact on the openness of the Green Belt.
9. When considered spatially, Plot 2 would be sited further forward in the site and thus closer to the road. It would also be taller than the kennels. However, it would be positioned behind a generous front garden that would be landscaped. This would include a native hedge along the front boundary in lieu of the existing front boundary wall, gate and the hard standing. The bungalow would also have a more compact form which would offset the increase in height. The overall effect of Plot 2 would be a more rural appearance and a sense that the overall extent of development had decreased. As such, Plot 2 would enhance the sense of the openness of the Green Belt.
10. In conclusion, the proposal would encompass a replacement dwelling that would not be materially larger than the one it is intended to replace, and Plot 2

would be the redevelopment of previously developed land that would enhance the sense of openness. Therefore, the proposal would not be inappropriate development in the Green Belt. It follows that it is unnecessary to consider whether there are very special circumstances to justify the proposal.

Other Matters

11. Reference was made in the committee report to the Council's emerging policies, but these are not currently of determinative weight given the stage of preparation. Notwithstanding this, the draft policies appear to refer to the Framework in ascertaining whether a proposal is inappropriate development.
12. Concerns have been advanced by interested parties in respect of drainage given the clay subsoil. Similar, foul drainage has proven to be complicated locally. These are, nevertheless, matters that can be addressed through the imposition of a planning condition.

Conditions

13. In allowing the appeal it is necessary to impose conditions. In so doing I have had regard to the advice in the Planning Practice Guide and the conditions suggested in the Officer's committee report. In the interests of certainty and protecting the openness of the Green Belt it is necessary for the proposal to be undertaken in accordance with the submitted plans and for the existing structures to be demolished prior to occupation. Similarly, it is necessary, exceptionally, to remove permitted development rights so that the appropriateness of further extensions can be considered in the context of Green Belt policy. To safeguard the character and appearance of the area it is necessary for details of external materials and landscaping to be submitted and approved. It is necessary for details of foul and surface water to be submitted given the concerns expressed by local residents.

Conclusion

14. The proposed development would not adhere to the development plan but material considerations, namely the Framework, indicate that the appeal should be determined other than in accordance with the development plan. Accordingly, the appeal should succeed.

Graham Chamberlain

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall commence not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans.
 - 030, 031A, 032, 033 and 034
- 3) Prior to the occupation of the development hereby approved a detailed scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be carried out in accordance with a phasing plan approved in writing by the Local Planning Authority which shall have been submitted concurrently with the landscaping scheme. If any of the landscaping dies, is removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development it shall be replaced in the next planting season (October – March) with others of a similar size and species unless the Local Planning Authority gives written approval to any variation.
- 4) There shall be no development beyond slab level until a scheme of foul and surface water drainage for that dwelling has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, which shall be installed prior to the first occupation of the dwellings.
- 5) Details of all external facing (including windows and doors) and roofing materials to be used in the development shall be submitted to and approved in writing by the Local Planning Authority prior to the first installation, application or use. Such materials as may be approved, shall be those used in the development hereby permitted.
- 6) The existing bungalow shall be demolished before Plot 1 is occupied and the existing kennels, hard standing and front boundary wall shall be demolished or removed before Plot 2 is occupied.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification) no buildings, extension or alterations permitted by Part 1 of Schedule 2 of the 2015 Order shall be erected, constructed or placed on any part of the land without the prior written approval of the Local Planning Authority.