
Appeal Decision

Site visit made on 1 October 2019

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 17 October 2019

Appeal Ref: APP/V1505/D/19/3236733

Foxfield House, Potash Road, Billericay CM11 1HH

- 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 Reeve against the decision of Basildon District Council.
 - The application Ref 19/00887/FULL, dated 20 May 2019, was refused by notice dated 28 August 2019.
 - The development proposed is two-storey side extension and alterations to front and rear dormer arrangements. Construction of an outbuilding and carport.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Additional evidence was submitted by the appellant prior to my site visit¹. Because the Council would not have had an opportunity to comment under the householder appeal procedures the appellant was given an opportunity for the appeal to be transferred to a s78 written representations appeal. However, the appellant confirmed they did not wish to transfer the appeal and consequently the information has not been taken into account.
3. I have been referred to the Council's Revised Publication Local Plan (October 2018) presented to the Secretary of State on 28 March 2019 ('the ELP'). Whilst the ELP is at an advanced stage, it has not yet been formally adopted by the Council. In accordance with paragraph 48 of the National Planning Policy Framework 2019 ('the Framework') and on the evidence before me, it carries little weight.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt.
 - The effect on the openness of the Green Belt.
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal.

¹ Email from appellant's agent dated 26 September 2019.

Reasons

Whether inappropriate development

5. The proposal relates to what both parties consider are extensions to an existing dwelling albeit including a replacement outbuilding and a new freestanding car port. Policy GB4 of the Basildon District Local Plan 2007 ('the LP') refers to a quantitative limit for extensions of 90 or by 35 square metres over and above the original floor area of the dwelling, whichever is the greater.
6. However, the Framework is not as prescriptive and does not set out any volumetric, or other, standards. It does not contain any detailed guidance on how 'disproportionate' should be assessed and Paragraph 145 (c) of the Framework simply refers to size. To my mind, it is therefore primarily a consideration of the overall size increase in terms of volume and external dimensions, as well as consideration of floorspace and the disposition of that on the site. Accordingly, the general application of a percentage referred to in other appeals is not helpful or determinative. Whilst a number of cases² drawn to my attention refer to increases of around 50%, that figure is not part of the adopted development plan policy before me. Much larger extensions that the policy allows may well have been granted but those extracts also clearly state that essentially it is a 'matter of judgement' and I agree.
7. This is a substantial detached property that appears to have been previously extended including the conversion of the detached garage and formation of rooms in the roof. Prior to that there is some dispute as to the extent of the original building but the appellant does not dispute the Council's calculations of the proposal being a 31% floorspace increase over existing. The Council's contention of a 596% increase from the original is disputed on the basis that a permission for a bungalow in 1954 was never implemented. Further, that the application for the dwelling as it currently exists is also not available. On the evidence before me I am unable to be conclusive and in the absence of any substantive details or plans, I must use my own judgement.
8. Even in considering the extensions in comparison to the building as it exists, the first floor extension and alterations would appear as if the building has been nearly doubled in size due to the replication of the existing form of the dwelling, the gable feature at first floor level, its similar width and matching height, scale and appearance. In combination with the proximity and size of the car port and the bulkier and taller replacement outbuilding, which I have considered as normal domestic adjuncts for such a property, there would be a wholly disproportionate increase to the building as it stands, let alone when considered in combination with previous additions and what the planning history and my own observations indicate is highly likely to be a much smaller original building.
9. For these reasons and in either scenario, the proposal would be a disproportionate addition over and above the size of the original building and would not constitute an exception as specified within paragraph 145 c) of the Framework. On the evidence before me, no other exceptions would apply and the proposal would be inappropriate development in the Green Belt. In accordance with paragraph 144 of the Framework, I attach substantial weight to the harm, by reason of inappropriateness. Although it is not entirely

² Appendix 4 of appellant's statement of case.

consistent with the Framework's approach, nonetheless, the proposal would still conflict with Policy GB4 of the LP insofar as it seeks to restrict the size of extensions in the Green Belt.

Openness

10. Consideration of openness can include both spatial and visual aspects. The extension has been designed to reflect the main dwelling but in doing so, the overall increase in mass and height would result in a considerably bulkier addition and the encroachment of substantial built form across a larger and significantly less developed part of the appeal site, in particular at first floor level and because of the siting and scale of the outbuildings. Although the appellant refers to the demolition of existing structures, I observed these are minor incidental sheds and other similar structures of a domestic garden scale. When compared to the disposition and size of the overall proposal their removal would be of little consequence to openness or mitigation of the scheme's effects.
11. As well as consideration of scale, or a volumetric approach the visual perception is also relevant. In this case the gap in between the existing low level stable building and the 2 storey flank of the existing dwelling allows for views of sky and mature trees which positively contributes to the openness and appearance of this part of the Green Belt. This space would be substantially diminished by the proposal, primarily due to the replication of the forward projecting gable, its substantial roof form and the much taller replacement outbuilding and new 3 bay car port. There would be an overly dominant and prominent clustering of development in a relatively small area of the site. Re-siting of the outbuilding away from the side boundary would do little to mitigate this effect as the replacement would be of a much greater scale.
12. I acknowledge that in some cases the perceived effect upon openness could be less than might be expected because the development would have a minimal effect upon people's perception of openness from beyond the boundary of the site. In this case views would be limited and through woodland and mature trees located both outside and within the appeal site. Nonetheless, for the reasons given above and inherent in my finding of inappropriateness by reason of being disproportionate, the proposal would cause some moderate harm to the openness of the Green Belt.

Other considerations

13. The appellant contends a fallback position exists in terms of extensions that could be built under permitted development rights³. Having regard to the relevant case law, if the development taking place is more than a theoretical possibility, then it is material. Secondly, only if it satisfies that requirement does any assessment of its weight fall to be determined.
14. There is a theoretical possibility such works could take place and drawings have been submitted showing 2 substantial single storey extensions and a narrow 2 storey rear extension. However, although I am not conducting an appeal into its lawfulness, I have some doubts about the extent, form and siting of those extensions and whether they could be implemented, in full and as shown, in accordance with the relevant terms and conditions of those rights. In any

³ Class A, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015).

event, even if they were deemed to be lawful the single storey nature combined with the narrow depth of the rear extension and its overall lower height, means that its size and disposition, as a whole would result in a less dominant development than the proposal before me and would have a lesser effect on openness both spatially and visually. In this particular case I therefore give such a fallback position little weight.

15. The contention of high quality design by the appellant is no more than should be expected in order to accord with the development plan and national policy. Accordingly, the lack of conflict with this and with other development management matters and policies is neutral in the planning balance. I have no details of the 'vital' improvements referred to by the appellant that are required and whilst there would be some benefits to the residential occupation of the property, on the evidence before me this carries a small amount of weight in favour. A contended more efficient use of the appeal site would be at the expense of safeguarding and improving the environment and adds little in favour. With such existing spacious grounds, the improvement to amenity space close to the dwelling would be a negligible benefit in favour. The future status of an adjoining site⁴ is plainly a matter for the local plan examination process and there is no certainty that such development will take place. At this point it adds little in favour of the proposal.

Planning balance and conclusion

16. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
17. The other considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist. In terms of paragraph 11 of the Framework, even if Policy GB4 should be regarded as being out of date and the tilted balance applied, there are no very special circumstances and the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. As such, the proposal would not be the sustainable development for which paragraph 11 indicates a presumption in favour.
18. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

⁴ Housing Allocation H16 of the ELP.