



Appeal Decision

Site visit made on 30 July 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2020

Appeal Ref: APP/M1595/W/3227948

Land to the east of Lily Cottage, Kirkham Shaw, Horndon-on-the-Hill, Essex SS17 8QE

- 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 Mrs Jenifer Eaton against the decision of Thurrock Borough Council.
 - The application Ref 18/01041/FUL, dated 11 July 2018, was refused by notice dated 23 November 2018.
 - The development proposed is a 2 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address provided on the application form is "Land Adjacent to Dahlia Cottage". However, the appellant submits that the appeal site should be referred to by an alternative address, namely "Land to the east of Lily Cottage". I concur that this is a more accurate description of the site's location, and consequently I have used the alternative address in determining the appeal.

Main Issues

3. The main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the revised National Planning Policy Framework ("the Framework"), including its effect on the openness of the Green Belt; and
 - (ii) If the proposal 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 required to justify the scheme.

Reasons

Whether the scheme is inappropriate development within the Green Belt and its effect on openness

4. The appeal site lies within the Green Belt. The scheme proposes the construction of a dwelling on an overgrown area which lies towards the edge of

- a settlement. The site lies off a small cul-de-sac set around a central drive. The land lies between a dwelling and an undeveloped area. Built form is not evident within the site, which contains significant undergrowth and boundary trees.
5. Policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for the Management of Development Development Plan Document (2015) ("the DPD") allows for development in the Green Belt only in certain circumstances. These include the replacement of buildings.
 6. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One of the exceptions (at paragraph 145d) is the replacement of a building, provided the building is in the same use and not materially larger than the one it replaces.
 7. The replacement of a building is generally understood to mean the removal of one building and the construction of another at the same location. The appeal scheme proposes the construction of a new dwelling, rather than a replacement dwelling. Accordingly, the appeal proposal does not fulfil the exception requirements within Policy PMD6 of the DPD and paragraph 145d) of the Framework. Thus, the planning history which has been put to me relating to Dahlia Cottage, which lies outside the appeal site, is not relevant to the exception.
 8. The appeal site lies at the edge of a settlement. Policy PMD6 of the DPD allows for the development of new dwellings on infill plots in the Green Belt within an established frontage of residential development. An established frontage is generally formed by buildings on the same side of a road, which may include a private drive or a similar type of access. Lily Cottage and its surrounding plot lie to one side of the appeal site. However, land to the other side of the site does not hold any significant built form, and is bounded by woodland. Thus, I conclude that the appeal site does not lie within an established frontage of residential development and therefore the proposal does not form infill development according to the definition within Policy PMD6.
 9. The exception requirements of paragraph 145e) of the Framework provide that limited infilling in a village does not form inappropriate development in the Green Belt.
 10. Whilst the Framework does not provide a definition for the term infill, the term is generally understood to denote the development of a small gap within an otherwise built up frontage. The appeal site does not comprise such a gap, for the above reasons.
 11. The site lies within an area of residential development along Kirkham Road. However, it is not a defined settlement and there is no indication that the development plan designates the area as a village. Thus, I do not consider that the site lies within a village. In failing to form infilling in a village the proposal consequently does not fulfil the exception requirements of paragraph 145e) of the Framework.

12. Policy PMD6 of the DPD additionally allows for development in the Green Belt where this comprises infilling and the partial or complete redevelopment of a previously developed site comprising more than a single building. The term "previously developed" is defined within the policy as land which is, or was, occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The definition excludes certain types of land.
13. The requirements of the exception to inappropriate development at paragraph 145g) of the Framework, relating to the development of previously developed land, are similar to those within Policy PMD6.
14. There is no substantive evidence before me to suggest that the appeal site is, or was occupied by a permanent structure. The inclusion of the area as part of larger sites which were the subject of previous development schemes does not overcome the lack of evidence of any significant permanent structure within the appeal site itself. Thus, the area does not form a previously developed site for the purposes of Policy PMD6 of the DPD and the Framework.
15. The remainder of paragraph 145g) of the Framework requires development proposals not to have a greater impact on the openness of the Green Belt than the existing development. The assessment of openness has both a visual and a spatial aspect.
16. The proposal seeks to construct a single dwelling. Whilst the appeal site is partially screened by boundary trees, glimpses through it and out to the open countryside beyond are available from the central drive near the boundary with Lily Cottage. Furthermore, the availability of such views would be increased in winter due to leaf loss where boundary trees are of a broad-leaved species. The construction of a dwelling and attached conservatory on the site would result in built development where there is presently none. The footprint of the dwelling, its bulk and the accompanying development including car parking and boundary treatments would inevitably lead to a loss of openness. This is particularly the case as the site currently has no buildings or other development on it.
17. Accordingly, I consider that the proposal would have a greater impact on the openness of the Green Belt than the existing development. The proposal is consequently inappropriate development in the Green Belt, and as such it conflicts with the Framework.
18. I therefore conclude that the scheme is inappropriate development because it fails to preserve the openness of the Green Belt and conflicts with the purpose of including land within the Green Belt, in respect of the safeguarding of the countryside from encroachment. Thus, the proposal conflicts with policies CSSP4 and PMD6 of the DPD, which seek to protect the open character of the Green Belt. Further conflict exists with the provisions of the Framework with regard to Green Belts.

Other Matters

19. The use of a similar design to surrounding development and the lack of objection by some consultees do not in themselves make the proposal acceptable. I note the appellant's concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its

planning merits. I have had regard to other matters raised including concerns about the living conditions of the occupiers of neighbouring dwellings. However, as I am dismissing the appeal on the main issues for the reasons given, I have not pursued these matters further.

Other Considerations and the Green Belt Balance

20. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any 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.
21. The appellant submits that the proposal would meet a requirement for smaller units of accommodation which arises from changing population needs. Be that as it may, only limited evidence is before me on this matter. Furthermore, I have no cogent evidence to suggest that smaller dwellings could not be delivered elsewhere such as on allocated sites.
22. My attention has been drawn to a scheme¹ for the development of a new hospice and 80 new homes at Little Malgraves Farm in the area. The scheme would have a lower overall volume of proposed development than that allowed under an extant grant of permission and the residential element would enable the hospice, for which there is an identified need, to be constructed. These are not considerations in the proposal before me. Thus, the circumstances of the two schemes are sufficiently dissimilar that I attach only minimal weight to the relevance of the Little Malgraves Farm scheme in determining the appeal.
23. Reference has additionally been made to the development of a scheme² for four dwellings at "Malvina Close", which lies in the vicinity of the appeal site. It appears likely that the site forms infill development, and furthermore that, given the age of the scheme, it would have been determined against a different policy background. Therefore I have not identified particular similarities with the appeal scheme which might lead me to an alternative conclusion on the matter even if harm were to result.
24. It is likely that occupiers of the proposed dwelling would support local services and facilities. The development would also provide economic benefits to the construction industry, and would increase local population figures. However, as the proposal concerns the development of only one dwelling, these are all matters to which I attach only limited weight.
25. The appellant questions whether the site should be included in the Green Belt. This is not a matter for this appeal. Green Belt boundaries should only be altered through the preparation or updating of the development plan.
26. The improvement of an unattractive site is advanced in support of the proposal. However, whilst the site is a little overgrown, it forms an open and verdant area within the cul-de-sac, and as such it causes no harm to the area's character and appearance. Therefore I do not concur with this submission.

¹ LPA Ref: 17/01683/FUL

² LPA Ref: 05/00121/REM

27. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
28. The appellant submits that the Council cannot demonstrate a 5 year housing land supply. Footnote 6 to paragraph 11d) of the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. This includes Framework policies that protect the Green Belt. As the proposal would be inappropriate development and no very special circumstances exist, there is a clear reason for refusing the development. Accordingly, the presumption in favour of sustainable development of paragraph 11 is not engaged in this case.

Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR