
Appeal Decision

Site visit made on 9 June 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2020

Appeal Ref: APP/J1535/D/20/3244998

**Fir Tree Cottage, Bournebridge Lane, Stapleford Abbots, Romford
RM4 1LU**

- 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 L. Philp against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/2291/19, dated 24 September 2019, was refused by notice dated 20 November 2019.
 - The development proposed is basement to existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) whether the proposal would constitute inappropriate development in the Green Belt,
 - (b) the impact of the proposal on the openness of the Green Belt,
 - (c) 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 necessary to justify the development, and
 - (d) the planning balance.

Reasons

Whether inappropriate development

3. The proposal relates to a detached two storey house that has previously been enlarged by the addition of a rear extension and a conservatory. There are extensive gardens to the rear and north-western sides of the house. A large outbuilding comprising a garage, workshop and garden store has been constructed close to the north-western boundary. There are also small sheds in the garden. To the rear of the site is open countryside and there is open land to both sides of the curtilage. The site forms part of a ribbon of housing on both sides of Bournebridge Lane interspersed with open land and is in the Green Belt.

4. The proposed basement would occupy the full footprint of the present house apart from the conservatory. Three rooms are indicated on the plans, each to benefit from its own lightwell, two to one flank wall and one to the other. The appellant has calculated the additional floor area to be 86.7 square metres.
5. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt, but lists as an exception at c), *"the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building"*.
6. The Council's adopted policy on development in the Green Belt is Saved Policy GB2A of the Epping Forest District Local Plan, initially adopted in 1998 and with Alterations in 2006 (LPA). The LPA pre-dates the Framework and is not wholly consistent with it in that it refers to *"a limited extension to an existing dwelling that is in accordance with Policy GB14A"* as the relevant criterion as to whether an extension would be appropriate, rather than to a *"disproportionate addition"*. Policy GB2A therefore attracts limited weight.
7. The Council is preparing a new development plan. The Epping Forest District Local Plan Submission Version (2017) (LPSV) has reached an advanced stage having been presented for Independent Examination. Policy DM4 of the LPSV applies the same exception to inappropriate development in the Green Belt as Paragraph 145(c) of the Framework. I consider that significant weight can be afforded to this policy due to its consistency with the Framework and the advanced stage of preparation of the Plan in accordance with Paragraph 48 of the Framework. Supporting paragraph 4.34 to Policy DM4 states it is not intended to define *"disproportionate"* since this would depend on the characteristics of the site locality, and existing buildings themselves in relation to the specific proposals. Similarly, there is no definition of *"disproportionate"* in the Framework, but the key comparator is the *"size"* of the original building.
8. There is no disagreement between the parties on floor area measurements. The original building (as at 1948) had a floor area of 108 square metres. Previous additions to this have resulted in another 35 square metres. The proposed basement at 86.7 square metres when combined with previous additions would result in 121.7 square metres, a total increase larger than the original floor area, an increase of 112.7%. Planning permission has also been granted for small first floor extensions, and a lawful development certificate issued for a ground floor rear extension. But setting aside these developments, which have not been implemented, there would still be a substantial increase in floor area in relation to the size of the original building.
9. It is my judgement that the proposal, in combination with previous enlargements, would result in a disproportionate addition over and above the size of the original building. As such, the proposal would amount to inappropriate development in the Green Belt.

Openness

10. It is relevant to consider the impact of the proposal on the openness of the Green Belt. This has visual and spatial aspects. All new floor area and volume would be below ground level and access to the basement would be internally only. The excavations to create 3 light wells would be minor works, just visible from Bournebridge Lane but otherwise not perceptible from beyond the site

curtilage. The proposal would not therefore have any impact in relation to the visual aspect of openness.

11. The appellant asserts that there would be no harm to openness arising from its spatial aspect citing that this concept would be more appropriate to provision of a large building which cannot be seen from anywhere. However, the mathematical increase in floor area and volume cannot so readily be set aside. The overall quantum of development is a relevant consideration in constraining the spread of development in the Green Belt and preventing urban sprawl, even if a proposal is not readily seen. Paragraph 133 of the Framework states, *"The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open"*. The absence of harm arising in respect to the visual aspect to openness is acknowledged but there would nonetheless be an impact on the openness of the Green Belt in relation to its spatial aspect.

Other considerations

12. Paragraph 143 of the Framework states *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"*. The appellant contends there are considerations that would outweigh harm arising from inappropriate development and any other harm to amount to very special circumstances.
13. The first consideration is that the proposal is *"wholly below the existing building, does not increase footprint, does not increase visual prominence, does not increase visual bulk and therefore has no visual impact on openness"*. This relates to the examination of openness above. I do not dispute the assertions about the visual impact on openness. It is a factor attracting significant weight in favour of the proposal, but it is still relevant to also consider the spatial impact on openness.
14. The appellant asserts a relevant consideration is the proposal's compliance with Policy DM12 of the SVLP regarding subterranean, basement development and lightwells. Part G relates to basement developments in the Green Belt. It states these may be considered acceptable provided *"they do not have a greater impact on the openness of the Green Belt, either themselves or cumulatively with other developments"*. This stem to Policy DM12 leads back to the same consideration on openness and as such is not a separate consideration on very special circumstances.
15. Part B to Policy DM12 states *"The siting, location, scale and design of basements must have minimal impact on, and be subordinate to, the host building and property. Basement development should: (i) not comprise of more than one storey; and (ii) not exceed 50% of each area of garden within the curtilage of the property"*. Whilst the proposal is clearly for only one basement storey and does not exceed 50% of the garden area, the term *"each"* indicates that the draft policy would be more applicable to dwellings with distinct front and rear gardens in established residential areas rather than to a detached dwelling set within a large garden. The term *"subordinate"* is not defined in the SVLP but reference to 50% of the garden area gives an indication of meaning.
16. However, the Inspector in the Examination of the SVLP had sufficient concerns about the wording to Part B to Policy DM12 to require modifications in relation to the subordination of basement developments. She commented, *"I remain concerned about whether Part B as worded would be effective in securing*

basement developments which are subordinate to the host building. This is because Part B(ii) would invite proposals occupying up to 50% of the garden area of a building to its front, sides and rear, which could result in a very large basement extension to a small house with a large garden". Furthermore, that, "the inclusion of the 50% 'threshold' would skew the balance in favour of schemes that comply with it".

17. The Inspector's concerns are applicable to the current appeal proposal. The existing house could be described as modest in size, but it is set in a large garden. The proposal comfortably satisfies the 50% threshold, but with a floor area of 86.7 square metres compared with 108 square metres for the original dwelling, in my opinion it would not be "*subordinate*". I have not been provided with details of how Policy DM12 may be revised, but having regard to the need for modification, the appellant's claim of compliance with the policy as a material consideration attracts only limited weight.
18. The appellant has submitted a Basement Impact Assessment (BIA) which concludes that the proposal would not adversely impact the site or its immediate environs, providing measures are taken to protect surrounding land and properties during construction. The submission of a BIA is a requirement of Part F to Policy DM12. Demonstration of the absence of harm in compliance with the policy does not amount to an exceptional circumstance. The existence of the BIA therefore does not attract weight in the planning balance.

Planning balance

19. The proposal would be a disproportionate addition that would amount to inappropriate development in the Green Belt. Furthermore, it would not preserve the openness of the Green Belt in relation to its spatial dimension. Paragraph 144 of the Framework states that, "*substantial weight is given to any harm to the Green Belt*".
20. I have attributed significant weight to the fact that the proposal would have no visual impact on the openness of the Green Belt, but other considerations raised by the appellant attract only limited weight. Paragraph 144 of the Framework also states that "*very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations*". The proposal's benefits would not clearly outweigh the substantial harm to the Green Belt identified. Very special circumstances therefore do not exist. There would also be conflict with Policy DM4 of the SVLP and with the Green Belt provisions of the Framework.

Conclusion

21. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR