
Appeal Decision

Site visit made on 23 June 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Appeal Ref: APP/V1505/W/20/3245751

Rose Cottage, Gardiners Lane North, Billericay CM11 2XA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Roger and Pat Farley against the decision of Basildon District Council.
 - The application Ref 19/00183/OUT, dated 6 February 2019, was refused by notice dated 29 July 2019.
 - The development proposed is the demolition of existing residential home and other buildings and replacement with a single storey bungalow, parking, gardens and use of access via lane to Gardiners Lane North.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with only access applied for in full. All other matters are reserved. An indicative plan has been provided showing that the proposed house would be sited in a similar location to the existing home and would be 1-storey. I have taken this into account as indicators of the potential layout, siting and design of the proposed dwelling, but it is important to clarify that this level of detail is indicative only and has not been applied for in full. This is reflected throughout my decision.

Main Issues

3. The main issues in this case are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect on the openness of the Green Belt and on the purposes of Green Belt land; and
 - if the proposal were 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 it.

Reasons

Inappropriate development

4. The construction of new buildings should be regarded as inappropriate in the Green Belt other than in respect to a limited range of specified exceptions, as set out in Paragraphs 145 and 146 of the National Planning Policy Framework (the Framework).
5. One exception, as set out at Paragraph 145(d) of the Framework, is for the replacement of a building in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces. Policy BAS GB3 of the Basildon District Local Plan Saved Policies 2007 (the LP) allows for replacement dwellings in the Green Belt but this is subject to restrictions, including criteria iii) of Policy BAS GB5 of the LP, which explicitly excludes existing mobile homes or structures without foundations. These policies are broadly consistent with the Framework.
6. The site comprises a static mobile home on a concrete base, with associated garden containing hardstanding and two shed-type outbuildings. It is common ground between the parties that, while the existing mobile home includes many of the same building materials as a permanent building, it is a mobile structure which does not have foundations. The proposed development is to replace the mobile structure with a permanent building, ie the bungalow. It therefore fails to meet the criteria set out above.
7. A further exception, as set out at Paragraph 145(g) of the Framework, is for the partial or complete redevelopment of previously developed land (PDL). PDL is defined 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 Inspector for a recent appeal relating to the appeal site¹ concluded that, although the existing mobile home is not a permanent structure, its concrete base is and therefore that it comprised fixed surface infrastructure and the site was therefore PDL.
8. However, my interpretation of the definition of PDL is different. The basis for land to be considered as PDL is that it is occupied by a permanent structure. If this is not the case, as at the appeal site, then it is not necessary to further consider any fixed surface infrastructure, even if this is in itself permanent, because it must be associated with a permanent structure.
9. I further note that the Inspector for the recent appeal did not come to a definitive conclusion of whether the site was PDL or not, instead only finding that the land might meet the definition of PDL, before proceeding to assess the proposal against openness.
10. I have found no other reason to believe that the appeal scheme would meet any of the wider exception criteria of either Paragraphs 145 or 146 of the Framework. Accordingly, the proposal would be inappropriate development in the Green Belt in the terms of the Framework, and also with regard to the relevant parts of Policies BAS GB3 and BAS GB5 of the LP.

¹ Appeal Ref APP/V1505/W/18/3193662

Openness and Green Belt purposes

11. Paragraph 133 of the Framework establishes that the two essential characteristics of the Green Belt are its openness and its permanence, and that the fundamental aim is to prevent urban sprawl by keeping land permanently open.
12. The appeal application was made in outline, with layout, appearance, scale and landscaping all reserved matters. The appellant has nevertheless indicated that they would be willing to restrict the bungalow to 75 sq m in area, and 3.8m in height, which would be possible to achieve by condition. This would not control the siting of the bungalow, but it is likely that any proposed dwelling would be sited in a similar location to the existing mobile home, set slightly back from the entrance and the surrounding trees. The submitted drawings, albeit only indicative, indicate a bungalow within these proposed restrictions and in a similar siting to the existing mobile home. I am therefore content to consider the proposal subject to these parameters.
13. The appellant has stated that the existing mobile home is 79 sq m in area and 3.9m in height and this is not contested by the Council. The proposed bungalow would therefore be smaller in both volume and footprint and shorter than the existing mobile home. The proposal would therefore have a lesser effect on spatial openness. It would likely be located in a very similar location to the existing mobile home and be of a very similar footprint and layout, given the limited options for this within the confines of a 75 sq m footprint. The proposal would therefore also likely have a lesser effect on visual openness than the existing mobile home.
14. The existing mobile home has a degree of permanence through its longevity and the building materials, which give an appearance very similar to a permanent building. However, despite this, it remains a temporary structure without foundations and cannot therefore be directly compared to the proposed permanent building. The existing outbuildings would be demolished. The appellant has stated that the area of hardstanding and outbuildings is 37 sq m. However, I observed on site that the outbuildings are two fairly small, shed-type structures that are not precisely as shown on the drawings and may therefore be smaller than this quoted floor area. They particularly lack the feel of permanence. The hardstanding has no appreciable effect on openness, and the shed-type structures have a limited effect.
15. The appellant has the fall-back of lawfully stationing a mobile home anywhere on the site to the maximum dimensions of 20m by 6.8m by 3.05m. This option would involve replacing the mobile home with the larger unit. The fall-back mobile home would be significantly larger than the proposed bungalow and would have a greater effect on the openness of the Green Belt. However, as with the comparison to the existing mobile home, because the proposal would be a permanent structure it would result in harm to the Green Belt in comparison to the fall-back position.
16. Consequently, the proposal would result in a lesser effect on both spatial and visual openness than the existing situation. It would also have a lesser effect on openness than the fall-back position. However, because the proposal would be permanent and would replace temporary structures, in either the existing or fall-back circumstances, it would result in harm to the Green Belt through

conflict with the essential characteristic of keeping Green Belt land permanently open, as set out in Paragraph 133 of the Framework.

Other considerations

17. It is common ground between the appellant and the Council that all other factors are acceptable and that the proposal would not cause any non-Green Belt harm. I agree with this assessment.
18. Paragraph 143 of the Framework confirms that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
19. In favour of the proposal is that would create temporary economic benefits during construction. The replacement dwelling would be permanent and may increase the number of bedrooms from 2 to 3, although this level of detail is a reserved matter. It would therefore provide long-term economic benefit from the boost to local facilities and services from the permanent, and potentially higher, occupancy of the site. The benefits would however be limited because only one permanent residential unit is proposed. A permanent building would likely be more energy efficient. Although it has not been applied for at this stage, it is also likely that at the reserved matters stage landscaping would be provided which would improve the appearance of the site, that the permanent building would be built to accessible and adaptable standards, and that the design quality of the proposed building would be higher than the existing structure. I place moderate weight on these factors.
20. The appellant has highlighted a recent approved application for a new dwelling on a nearby site. However, I have not been provided with the full background of this site. In any event, the site is of a different character and in a different location to the appeal site. Both sites may lie within the Plotlands area, although the evidence before me does not confirm this either way. In any event, Policy BAS GB3, in relation to this issue, merely restricts the height of any replacement dwellings in the Plotlands area. This does not preclude the full assessment of any proposal against Green Belt policy. The example application does not therefore provide precedent for the appeal.

Very special circumstances

21. Paragraph 144 of the Framework directs me to give the harm to the Green Belt by inappropriateness and loss of openness in the context of the permanence of the proposal substantial weight in decision making terms. Overall, these harms would significantly and demonstrably outweigh the benefits of the proposal. The other considerations in this case do not clearly outweigh this harm. In this context the 'very special circumstances' necessary to justify the inappropriate development and other Green Belt harm do not exist. The proposal therefore fails to comply with the Framework, and with the relevant parts of Policies BAS GB3 and BAS GB5 of the LP.

Planning Balance

22. The evidence before me is that the Council cannot demonstrate a 5-year housing land supply. However, I have determined that very special circumstances do not exist and therefore there is a clear reason for refusing the development proposed. Paragraph 11d of the Framework is not therefore engaged.

Conclusion

23. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR