



Appeal Decision

Site visit made on 5 October 2020

by Joanna Gilbert MA(Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020.

Appeal Ref: APP/J1535/W/20/3246995

Oakleigh House, Hamlet Hill, Roydon, Harlow CM19 5JZ.

- 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 Mustaf Pnishi against the decision of Epping Forest District Council.
 - The application Ref EPF/2103/19, dated 7 August 2019, was refused by notice dated 22 October 2019.
 - The development proposed is proposed demolition of existing house and outbuilding and erection of 5 bedroom new dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At my site visit, it was evident that building works had been taking place. The single-storey structure and the conservatory to the rear of the house on plan PL03 were no longer present. Furthermore, the smaller outbuilding north of the house had been demolished and the L-shaped outbuildings adjacent to the swimming pool had been partially removed, leaving the southernmost outbuilding and two newly constructed timber pitched roof structures in situ.

Main Issues

3. The main issues in this appeal are:
 - a) Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - b) The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
 - c) The effect of the proposed development on the character and appearance of the area, including landscaping and trees;
 - d) If the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

Reasons

a) Whether the proposed development would be inappropriate development

4. The appeal site is in the Metropolitan Green Belt. It consists of a two-storey detached dwelling and its outbuildings and grounds. The proposed development would replace the existing detached house with a two-storey detached house.
5. The Framework at paragraph 145 sets out a number of criteria to assess construction of new buildings in the Green Belt. One of the criteria addresses the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. Policy GB2A of the Local Plan Alterations 2006 (LP) deals with the exceptions for which the construction of new buildings in the Green Belt would not be inappropriate. Criterion vi of Policy GB2A deals with replacement dwellings. I afford this full weight. LP Policy GB15A sets out criteria for assessment of replacement dwellings in relation to material increases in volume, impact on openness, and increased size of associated gardens. This policy is only partially consistent with the Framework and should therefore be afforded limited weight. Policy DM4 of the Epping Forest Local Plan (Submission Version) 2017 (LPSV) forms part of an emerging Local Plan at examination. As I am unclear as to the extent of outstanding objections to this policy, this policy has limited weight.
7. The Council argues that the proposed development would represent a 221% increase on the existing dwelling, though it is not clear on what basis this figure has been reached. The appellant confirms that the proposed development would be 1.22m taller, 8.18m wider and 6.69m deeper, and the footprint would be 303.18m². The footprint would be 9.73m² over and above the footprint of the existing house and outbuildings indicated on the plans. However, footprint alone is not the sole factor in considering whether a building would be materially larger.
8. Notwithstanding that some parts of the existing house have been removed from the site and that the layout of outbuildings has altered, it is evident from the existing house as shown on PL02 and PL03 that the volume of the proposed development would be considerably greater in height, width and depth than the existing house. Its floorspace and volume would significantly exceed the existing house. It would therefore be materially larger than the dwelling it replaces. I find that the proposed development amounts to inappropriate development.
9. The appellant refers to planning applications within the Green Belt for new dwellings at The Yard Hill Farmhouse, Paradise Farm, Springfield Cottage, and Gladwyns Farm. I am not familiar with the particular circumstances of these planning applications. I am required to deal with this appeal on its own merits.

b) Openness

10. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
11. Although the proposed development would involve the removal of the existing outbuildings which have some effect on openness as they are located further

back within the site than the existing house, the proposed increase in height, width and depth in comparison to the existing dwelling on the site would result in a greater impact on openness, both in spatial and visual terms. Its siting also has a part to play, with its height, width and depth rendering it more prominent in its location towards the site frontage.

12. The proposed development would have a moderate effect on openness of the Green Belt and would impact on the purpose of safeguarding the countryside from encroachment as set out at paragraph 134 of the Framework.

c) Character and appearance, including landscaping and trees

13. The existing house is a two-storey brick dwelling with half timbering on the projecting gable ends and on parts of the rear and side elevations. The sloping site is located at a bend in the road along the northern side of Hamlet Hill. It adjoins plant nurseries and a travellers' site. There are open fields and wooded areas on the southern and western side of Hamlet Hill. Where houses exist on Hamlet Hill, they generally vary in architectural style and scale from bungalows to modest two-storey detached houses within large plots. A number of these buildings appear to be associated with agricultural or nursery holdings. In terms of materials, there is a preponderance of render, mixtures of render and brickwork and some use of timber. Buildings are set back at different distances from the road, with a range of boundary treatments employed.
14. The proposed development would be a very large two-storey detached house with living accommodation within the loft void. It would be built of brick, with detailing at the corners, large windows and front gables. Although the appellant has sought to replicate features of the existing dwelling in terms of the two-storey nature of the building, the use of a pitched roof and front gables, and a single-storey rear element, it is not a successful approach. The proposed development would be bulky and overly urbanising in design. Despite consolidating the overall number and spread of buildings on site, the proposed development would be incongruous within its rural setting.
15. Furthermore, as a result of its siting close to the site's frontage, its dominant bulk would be very prominent close to a bend in Hamlet Hill. While the area's character is undoubtedly mixed as evidenced by photographs provided by the appellant, I did not see any houses of a similar scale to the proposed development during my site visit. Although boundary treatments could mask the house to an extent, they do not form a detailed part of the appeal before me.
16. The appellant asserts that the existing buildings on site are arranged in an ad hoc manner and are much further onto the site than is aesthetically pleasing. Despite changes which have been made on site, the existing buildings are less prominent and incongruous than the proposed development would be.
17. LP Policy LL10 deals with retention of trees, natural features and man-made features of historical, archaeological or landscape significance. LPSV Policy DM5, amongst other things, seeks to retain existing green infrastructure. Though the appellant refers to substantial and mature soft landscaping around the site's perimeter, limited vegetation and trees remained on site when I visited. While plan PL05 D indicates that the majority of the site would be landscaped, there is little detail on landscaping and limited retention of any existing landscaping. I note that further information on future provision of hard

and soft landscaping could be provided by means of condition. However, the proposed development would fail to provide adequate information on the retention of existing soft landscaping and trees.

18. I conclude that the proposed development would harm the character and appearance of the area, including landscaping and trees. This would be contrary to LP Policies DBE1 and LL10, LPSV Policies DM5 and DM9, and paragraph 127 of the Framework. LP Policy DBE1, amongst other things, requires new buildings to respect their setting in terms of size, height and siting, while LPSV Policy DM9 deals with high quality design. LP Policy LL10 and LPSV Policy DM5 are outlined above. Paragraph 127 of the Framework addresses design, with the requirement for developments to add to the quality of an area; be visually attractive as a result of good architecture, layout and landscaping; and be sympathetic to local character.

Other considerations

19. In the absence of specific case references, it is difficult to deal with the case law on Green Belt in detail. However, I note the importance placed by Lord Donaldson on the need to balance the harm to the interests of the Green Belt against the extent of the advantages to be derived from the development.
20. The proposed development would not harm the living conditions of neighbouring occupiers. While the proposed development would have ample external amenity space, sustainable design measures, good accessibility in line with technical housing standards, step-free access and refuse and cycle storage, these measures could be implemented on any new dwelling or existing dwelling on the site. These are neutral matters in my decision.
21. The proposed development would replace one house with another house. It would not therefore represent a net additional dwelling to enhance housing land supply. This is a neutral factor.
22. The appellant has provided the plans and decision notices for EPF/1042/20 CLD for a certificate of lawful development for a proposed single storey side extension, hip to gable roof extension, rear dormer window and front porch, and EPF/1113/20 PDE for prior approval for a larger home extension. Having taken an appeal decision¹ for a single-storey rear extension in Hounslow and relevant case law² into account, I recognise that the two permitted schemes have a greater than theoretical possibility of taking place. If they were carried out, while the footprint would be 14% smaller based on the appellant's calculations due to consolidation of buildings, the appellant's floorspace and volume calculations indicate that the proposed replacement dwelling would be materially larger than the existing house with the two recently permitted extensions. As such, I afford the fallback position moderate weight.
- d) If the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development*
23. Paragraph 143 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in

¹ APP/F5540/D/19/3222191, decision issued 8 April 2019.

² Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314.

very special circumstances. Paragraph 144 of the Framework makes clear that substantial weight should be given to any harm to the Green Belt. The proposed development would result in harm to the openness of the Green Belt.

24. Cumulatively, the other considerations put forward in favour of the proposed development would have moderate weight. They do not clearly outweigh the harm to the Green Belt and the other harm arising from the proposed development that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposed development would not accord with LP Policies GB2A and GB15A and LPSV Policy DM4 which seek to restrict and manage development in the Green Belt. The proposed development would also conflict with paragraphs 143 - 145 of the Framework on protecting Green Belt land.
25. Although there is no five year housing land supply, and paragraph 11 d) of the Framework is therefore triggered, paragraph 11 d) i of the Framework is in effect in this instance as the application of policies on Green Belt within the Framework provide a clear reason for refusing the proposed development.

Conclusion

26. For the reasons given above, and having taken account of all other matters raised, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR