
Appeal Decision

Site visit made on 29 September 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2020

Appeal Ref: APP/H1515/W/20/3256071

The Cabin, Ashwells Road, Pilgrims Hatch CM15 9SE

- 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 Laws against the decision of Brentwood Borough Council.
 - The application Ref 20/00487/FUL, dated 14 April 2020, was refused by notice dated 12 June 2020.
 - The development proposed is use of land as residential garden to dwelling known as The Cabin.
-

Decision

1. The appeal is dismissed

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including its effects on the openness of the Green Belt and the purposes of including land in it; and
 - if the development is inappropriate, 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.

Reasons

Whether inappropriate development

3. The appeal site is situated in the Metropolitan Green Belt. The National Planning Policy Framework ('the Framework') states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Cabin, is a small single storey timber building that benefits from a lawful development certificate as a residential dwelling. However, the certificate did not include any residential garden or amenity space.
4. The proposed garden would be located to the rear of The Cabin, and encompasses an area which is currently fenced with post and rail fencing and a small area of hardstanding directly behind The Cabin. The site currently has the

- appearance of a paddock with the large areas of grass subdivided by fencing and is seen in the context of the open land to the rear of Fallow Barn.
5. The Council have considered within their delegated report whether the appeal would be inappropriate development under paragraph 145 (b) of the Framework. However, the exceptions listed under paragraph 145 relate solely to the construction of new buildings and therefore this exception does not apply in this instance.
 6. However, paragraph 146(e) states that material changes in the use of land are not inappropriate in the Green Belt provided they preserve openness and do not conflict with the purposes of including land in it and therefore I will assess the appeal against these criteria.
 7. Policies GB1 and GB2 of the Brentwood Replacement Local Plan 2005 (LP) restrict development within the Green Belt, except in limited circumstances. However, the policies predate the Framework and therefore I have given the policies limited weight as a result of the more limited list of exceptions, such that it has not altered my overall decision.
 8. Policy GB8 states that extensions of a domestic curtilage into the green belt will not be allowed. The supporting text to the policy sets out that the extension of domestic curtilages leads to further urbanisation and increased general activity, changing from rural to suburban character which is contrary to the aims of the Green Belt.
 9. The use of the appeal site as garden area is likely to lead to the introduction of garden furniture, washing lines or play equipment and other domestic paraphernalia associated with its use. Such paraphernalia would have a visual impact and would result in a loss of openness and a visual impact. Because the area is not easily visible from public vantage points the impact would be slight, but nevertheless would not preserve the openness of the Green Belt.
 10. It is suggested that permitted development rights for incidental buildings, walls, fences and the like can be controlled by condition. However, this would not restrict everyday domestic paraphernalia and it would not be reasonable to impose a condition restricting this as it would, to a large degree, nullify the purpose of changing the use of the land.
 11. The change of use would result in encroachment of domestic garden into the countryside. It therefore conflicts with the purpose of the Green Belt in Framework paragraph 134 c), namely to assist in safeguarding the countryside from encroachment. Accordingly, the change of use of land to garden does not comply with the exception in Framework paragraph 146 e) and is therefore inappropriate development in the Green Belt and is contrary to policies GB1, GB2 and GB8 of the LP.

Other considerations

12. As set out above, the development constitutes inappropriate development in the Green Belt. I have found it to result in significant harm in terms of loss of openness to the Green Belt. 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 is clearly outweighed by other considerations.

13. I acknowledge that the development would provide a garden area for the occupiers of the host property and thereby improving their living conditions. However, this is of limited benefit and does not extend beyond the appellant's private interests.
14. I have also been referred to the previous refusal for a replacement dwelling on the site where the same residential curtilage was proposed. It has been put to me that the Council raised no objection to the scale of the curtilage proposed during this application. However, this was in connection with a replacement dwelling and therefore different policy considerations apply and therefore I can give this only limited weight.

Other matters

15. The appellant has put forward evidence, including aerial photos, to suggest that the area of land subject of this appeal may be lawful. However, that is not the proposal before me and there are other mechanisms available to the appellant to establish the lawful use of the land.

Conclusion

16. In summary, the proposal is inappropriate development in the terms set out by the Framework and fails to preserve the openness of the Green Belt. Having taken into account the other considerations outlined above, they do not outweigh the substantial weight which must be given to Green Belt harm, and therefore they are not sufficient to demonstrate very special circumstances.
17. For the reasons given, the appeal should be dismissed.

G. Pannell

INSPECTOR