
Appeal Decision

Site visit made on 20 May 2021

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2021

Appeal Ref: APP/H1515/W/20/3263999

Belle Vue, Brook Lane, Doddinghurst, CM15 0RU

- 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 M Wellers against the decision of Brentwood Borough Council.
 - The application Ref 20/01342/FUL, dated 17 September 2020, was refused by notice dated 24 November 2020.
 - The development proposed is demolition of part constructed dwelling, workshop and removal of caravan and replacement with new 4-bed detached dwelling, landscaping, infrastructure and ancillary works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area; 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

Inappropriate development

3. The decision notice refers to saved policies GB1 and GB2 of the Brentwood Replacement Local Plan, Adopted 25 August 2005 (the local plan). The appellant's statement also quotes policy GB6 of the local plan. These policies, which seek to protect the Green Belt, are not entirely consistent with the National Planning Policy Framework (the Framework) and I have therefore afforded them limited weight.
 4. Paragraph 145 of the Framework states that new buildings should be regarded as inappropriate development in the Green Belt. One of the exceptions to this
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- rule (paragraph 145(d)) is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
5. Case Law¹ confirms that the phrase 'the one it replaces' should be factual and based upon the extent of physical built development that exists on the ground as opposed to, for example, what may have previously existed or what may hypothetically be added in the future, with or without the need for planning permission.
 6. What currently exists is a partially constructed building, comprising a concrete floor and some breeze block walls. This building is far from finished and any attempts to complete it appear to have ceased some time ago. It is evident and was conceded in relation to the previous enforcement appeals on the site² that the original dwelling house is not there anymore and the structure that does exist is not habitable.
 7. As there is no existing dwelling on the site to replace, I find that the proposal for a new dwelling would not comply with paragraph 145(d) of the Framework.
 8. The exception at paragraph 145(e) of the Framework is limited infilling in villages. Although the proposal would potentially constitute limited infilling, by virtue of the fact it is for a single dwelling located in a gap between existing dwellings with frontage onto Brook Lane, the site is located and accessed from well outside of the main built up area of the village. Accordingly I find that the proposal would not fall within this exception.
 9. This leaves paragraph 145(f), which permits limited infilling or the partial or complete redevelopment of previously developed land (PDL), which would not have a greater impact on the openness of the Green Belt than the existing development.
 10. There is no dispute that the site would fall within the definition of PDL and for the reasons already given above, I find that the proposal would constitute limited infilling. However, the requirement of the policy is that the proposal would have no greater impact on the openness of the Green Belt than the 'existing' development, not something that once previously existed on the site or that has planning permission and could therefore potentially exist at some point in the future.
 11. As already stated, the site currently comprises only a concrete floor and some breezeblock walls. This is the baseline against which I must compare the proposal. Other buildings, structures and caravans referred to by the appellant are either located outside of the boundary of the appeal site or no longer exist at all. There is no doubt that the proposed dwelling, incidental outbuildings, large area of hardstanding and the substantial earth mound and retaining wall, would have a significantly greater impact on the openness of the Green Belt, both visually and spatially, than what currently exists on the appeal site.
 12. I therefore conclude that the proposal would be inappropriate development, which, according to paragraph 143 of the Framework, is by definition harmful to the Green Belt.

¹ Athlone House Ltd v SSCLG & London Borough of Camden [2015] EWHC 3524 (Admin)

² APP/H1515/C/15/3137696 & 3137697

Openness

13. Paragraph 133 of the Framework states that openness and permanence are essential characteristics of the Green Belt. I have already found that what currently exists on the site is very little. In comparison, the proposed new dwelling, incidental outbuildings and the substantial earth mound with retaining wall, which is in itself development requiring planning permission, due to their spread, volume and massing, would have a significantly greater impact on the openness of the Green Belt. Paragraph 144 of the Framework requires that substantial weight is given to any harm to the Green Belt.

Character and appearance

14. The site comprises a large plot of land with a wide frontage onto Brook Lane. The properties to either side of the site and the property at the end of Brook Lane are all detached bungalows or dormer bungalows, set within similar large spacious plots. Materials are predominantly painted render, with some elements of brick and cladding, under a tiled roof. The dwellings are varied in terms of appearance having clearly been extended, altered and modernised over their lifetime. With the exception of Evelyn Cottage to the south, which has an open fronted garden, the dwellings in this area and the appeal site are landscaped and relatively well screened from the rural country lane from which they are accessed. Given the spacious grounds that each of the dwellings sit within and the separation distances between them, they are not viewed collectively in the street scene.
15. Given the above, I see no reason why a dwelling of modern or contemporary design and materials could not be successfully integrated into the area on this site. I also see no reason why the siting of any future dwelling could not be located more centrally within the site.
16. Whilst, I agree with the council that the appearance and proportions of the proposed dwelling, particularly the substantial width, would be different to that of adjacent properties, I do not agree it would be harmful to the character and appearance of the rural area, subject to a more sensitive scheme of landscaping, comprising native trees and hedgerows as opposed to a very unnatural large earth mound.
17. The extent of the driveway and the additional access are also somewhat unnecessary given the very limited amount of traffic using the unmade lane. This reduces the landscape screening that can be achieved along the site frontage and would detract from the rural character and appearance of the area.
18. I also find that the substantial earth mound and retaining wall, which is in itself development requiring planning permission, would significantly detract from the character and appearance of this otherwise relatively flat landscape.
19. I therefore conclude that the design of the proposed dwelling itself would not be harmful to the character and appearance of the area, although this would not override the Green Belt harm caused by its scale. However, the extensive area of unnecessary hardstanding and the substantial earth mound, would detract from the character and appearance of the area, contrary to policy CP1 of the local plan, which is broadly consistent with the Framework, and seeks to

ensure that new development is compatible with its location and surrounding development.

Other considerations

20. Very special circumstances to justify inappropriate development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. The site has extant planning permission for a new dwelling. I have not been provided with a copy of the approved plans. It would not in any event be appropriate for me to assess the proposal against this as a replacement dwelling. To do so would undermine Green Belt policy by potentially allowing numerous applications to be submitted with incremental additions over and above the previous permission on the theoretical basis that the previously approved scheme could be built and then replaced. In reality, it would not be practical or viable to keep constructing new dwellings on the site only to then demolish and replace them with slightly larger new dwellings.
22. Despite the appellant's claim that the approved dwelling is too small, I am advised it is approximately 18% larger in terms of floorspace than the previous dwelling that existed on the site. An email from the appellant's estate agent confirms that the site was on the market from April 2017 until September 2019. That is only until 3 months after the latest permission was granted in June 2019. No details have been provided of how, where or at what price the site was advertised for sale. The estate agent suggests a number of reasons for the lack of interest in the site, which include the size of the approved bungalow, the unfinished nature of the base, the condition of works already done and the lack of information about the drainage work undertaken. It is unclear whether or not these issues were reflected in the asking price.
23. There is nothing before me to suggest that the approved dwelling would not be constructed in the absence of a larger dwelling being approved, the alternative being the residential use of the site is abandoned and further devaluation of the site and financial losses occur. The approved dwelling is therefore a realistic fallback position, which I accord significant weight. However, based upon the figures quoted by both parties, it is evident that the proposed dwelling would be significantly larger in terms of floorspace, volume and spread across the site than the approved dwelling. Consequently the proposal would have a greater impact on the openness of the Green Belt than the fallback position.
24. I note that permitted development rights have not been removed from the approved dwelling and therefore, upon completion, it could be extended further in the future. However, I can give very little weight to what hypothetically could be added at a later date.
25. The appellant relies heavily upon the combined floorspace of the approved dwelling, a caravan and a workshop. However, as the approved dwelling does not yet exist, the caravan is not a building (buildings and caravans have separate definitions in law) and neither the caravan nor the workshop are incidental buildings within the residential curtilage, I can give these factors very limited weight. Had I been dealing with the replacement of an existing dwelling and incidental outbuildings within the same red line site, I would most likely have taken a different view on this matter.

26. My attention has been drawn to an appeal decision in which a building and storage container was granted planning permission to be replaced with a bungalow. Whilst I do not have the full details of that case, it is evident from the decision letter that the storage container fell within the definition of a building not a caravan, the buildings to be replaced were all located within the appeal site boundary and the replacement building would not have had a greater impact on the openness of the Green Belt than those it would replace. Accordingly the case referred to is not comparable to that which is currently before me.
27. I acknowledge that neighbours are keen to see the site developed and its appearance improved. I attach moderate weight to this support.
28. The council does not have a 5 year supply of housing land. However, that is somewhat irrelevant in this case. The site already benefits from planning permission for a single dwelling and it is the scale of the dwelling as opposed to the principle of constructing a dwelling on the site that is in dispute. Granting planning permission for a different single dwelling would not alter the housing land supply. Moreover, given that I have found that the proposal would be inappropriate development in the Green Belt, the presumption in favour of development does not apply.
29. I therefore find that the other considerations in this case do not, either individually or cumulatively, clearly outweigh the Green Belt and other harms that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Bartlett

INSPECTOR