

Appeal Decision

Site visit made on 7 July 2021

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/B5480/W/20/3264888

Clay Lodge, Clay Tye Road, Upminster, RM14 3PL

- 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 Burke against the decision of the Council of the London Borough of Havering.
 - The application Ref P0934.20, dated 3 July 2020, was refused by notice dated 15 October 2020.
 - The development proposed is described as '*proposed outbuilding for grannie annexe*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal form originally gave the planning application reference as P0834.20. The appellant has subsequently confirmed that this was a typographical error and that the correct reference was P0934.20.
3. The name given for the property on the application form was Clay Lodge. The name given on the appeal form was Dunroaming. I am satisfied that these are one and the same property and have recorded the address as it was given on the original application form.

Main Issues

4. The main issues are: -
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2019 (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of neighbouring occupiers in terms of noise, general disturbance and privacy;

- 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

5. The appeal property is a semi-detached bungalow set along a fairly busy road as part of a loose knit ribbon of development within the Green Belt.

Whether the proposal would be inappropriate development in the Green Belt

6. The Council's officer's report refers to paragraph 79 of the Framework as it relates to Green Belt Policy. This does not reflect the current version of the Framework which was published in 2019 although the contents of the up-to-date Framework's chapter entitled 'Protecting Green Belt Land' are principally the same as the original version.
7. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt but for 7 listed exceptions. Policy DC45 of the Council's Core Strategy and Development Control Policies Development Plan Document 2008 (DPD) deals with appropriate development in the Green Belt. Despite its age this policy is largely consistent with the Framework.
8. The proposal would amount to the construction of a detached, new building. This would be inappropriate development in the Green Belt unless it satisfies any of the exceptions a) – g) listed in Paragraph 145 of the Framework.
9. It would not be a building for agriculture or forestry and neither would it constitute a facility for outdoor sport, outdoor recreation, cemeteries and burial grounds, or allotments. Despite apparent suggestions by the Council within the officer's report, which the appellant has relied upon in considering volume calculations for the proposal relative to the existing house and outbuildings, the proposal would not be an extension or alteration of a building. There is no evidence before me to suggest that the proposal would amount to limited infilling within a village and neither would it provide any affordable housing for local community needs under any policies set out in the development plan. Neither is there evidence to suggest that the proposal would constitute redevelopment of previously developed land.
10. The proposal would involve demolition of some existing outbuildings within the rear garden of the appeal property. Whether the replacement of the existing outbuildings (which appear to be a mix of garages and general storage buildings) with a single building for use as an annexe to support ancillary living accommodation would constitute a replacement building within the same use is moot. Nevertheless, it is clear to me that the new building would be materially larger than any of the buildings it would replace, either individually or cumulatively. Criterion g) of the Framework's paragraph 145 would not be satisfied.
11. In light of the foregoing, it is clear that the appeal proposal would not satisfy any of the exceptions listed within the Framework. Neither would it satisfy the

exceptions listed within DPD Policy DC45 given for the erection of new buildings. As such, the proposal would amount to inappropriate development in the Green Belt for the purposes of the Framework and development plan policy. By definition this would be harmful to the Green Belt and I attach substantial weight to this harm.

The effect of the proposal on the openness of the Green Belt

12. The Framework states that an essential characteristic of Green Belts is their openness and that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land within them permanently open.
13. The proposed outbuilding would sit at the bottom end of the fairly large rear garden to the appeal site. It would span the majority portion of the site's width and would occupy a large central area of space that is currently free from development and open. As such, the erection of the new outbuilding would have a significant impact upon the openness of this part of the Green Belt. This must be regarded as further harm to add to the harm by reason of inappropriateness.

The effect of the proposal on the character and appearance of the area

14. The Council asserts that the building would not constitute a 'residential annexe' by virtue of its size and that it would function as a separate unit of living accommodation. I accept that the building could be occupied as an independent and separate dwelling. However, it is also the case that the building would be capable of being occupied as an annexe with shared facilities including, for example, access, parking and garden amenity land. The proposal as applied for is for an annexe to the main dwelling. There is no proposal for a separate dwelling before me as part of this appeal. Had I been minded to allow the appeal, if the structure was not built or used as proposed, or if there was a subsequent material change of use to create a separate dwelling, then a separate grant of planning permission would have been required, and the building would be at risk of enforcement action if such permission were not granted. I therefore cannot agree with the Council's conclusion that the proposal would amount to a new dwelling.
15. The appeal site comprises a residential curtilage and it is adjoined by similar uses to either side. Outbuildings are regularly seen as features within the gardens of properties along Clay Tye Road, as evidenced by those existing within the appeal property. Although large, the proposed outbuilding would not appear alien in the context of its surroundings. It would be well separated from the rear of the existing dwelling, with ample garden within the intervening space. The building would be out of sight from Clay Tye Road and would therefore have no impact upon the street scene.
16. Overall, notwithstanding my findings as they relate to the first two main issues, I am satisfied that the proposed building would not be out of keeping with the residential character and appearance of the immediate area. I therefore find no conflict with DPD Policy DC61 insofar as it seeks to ensure that development maintains the character and appearance of the local area, or with the aims and objectives of the Council's *Residential Extensions and Alterations Supplementary Planning Document 2011* (SPD) as it relates to outbuildings.

The effect of the proposal on the living conditions of neighbouring occupiers

17. Given the nature of the proposal that is before me, I am not persuaded that the use of the outbuilding as ancillary living accommodation would result in any serious levels of comings and goings that would create increased levels of disturbance beyond that normally associated with a residential curtilage. The proposal does not include any changes to the existing vehicle access to the site, which is contained to the front and side of the existing dwelling and an apparent suggestion by the Council of access to the site from the rear is not supported by any information that is before me.
18. Any cooking smells that may emanate from the building would not be uncharacteristic from a domestic building within a residential curtilage. At single-storey height and given the depth of the gardens and separation distances involved, I am satisfied that there would be no prospect of any overlooking adjoining land that could lead to an erosion of neighbours' privacy.
19. Overall, I find that there would be no harm to the living conditions of any adjoining occupiers and therefore no conflict with either DPD Policy DC61 or the SPD insofar as they seek to protect the amenities enjoyed by the occupants of existing properties.

Other Matters

20. I am mindful that both main parties to the appeal have concentrated on size calculations for the proposed outbuilding relative to the existing dwelling, and that the appellant has been critical of some of the Council's figures. However, given that the proposal amounts to the erection of a new building, and not an extension to an existing building, these calculations are not relevant. The appellant has suggested that the size of the proposed building could be modified but the appeal falls to be considered on the basis of the application that was determined by the Council.
21. I have noted the past planning history to the existing dwelling at the appeal site, including the issue of a Certificate of Lawfulness for a hip to gable loft conversion and rear dormer in 2018 and prior approval for a single-storey rear extension in 2017. However, neither of those developments are relevant to the planning merits of the case that is before me.
22. I am aware that the proposal is to provide accommodation for an elderly relative and I have no reason to doubt that the building would be occupied for this purpose. These personal circumstances carry some weight in favour of the proposal.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations

23. I have found the proposal to be inappropriate development in the Green Belt for the reasons identified. This, together with the harm I have identified to the openness of the Green Belt amounts to substantial weight against the proposal. The absence of any harm to the character and appearance of the area and to the living conditions of neighbouring occupiers is neutral in the overall planning balance. The past planning history of the property carries no weight in favour of the appeal proposal.

24. I attach some moderate weight to the appellant's personal circumstances but this is not sufficient to clearly outweigh the harms that I have identified. The very special circumstances necessary to justify the development do not therefore exist.

Conclusion

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

John D Allan

INSPECTOR