

Appeal Decision

Site Visit made on 22 June 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2021

Appeal Ref: APP/B1550/W/20/3254794

3 Hooley Drive, RAYLEIGH, SS6 9RA

- 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 Martin Blackwell against the decision of Rochford District Council.
 - The application Ref 20/00081/FUL, dated 23 January 2020, was refused by notice dated 7 April 2020.
 - The development proposed is Demolition of existing bungalow and replacement with new 3 bedroom bungalow and attached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have also dealt with another appeal (APP/B1550/W/20/3251390) on this site. That appeal is the subject of a separate decision.
3. The National Planning Policy Framework was revised on 20 July 2021 and the Council and appellant have had an opportunity to comment on the implications of this.

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 (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

5. The appeal site is situated in the Metropolitan Green Belt. The National Planning Policy Framework ('the Framework') indicates (para 149) that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.

6. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, is one of the listed exceptions at paragraph 149(d). Policy DM21(i) of the Rochford District Council, Local Development Framework Development Management Plan 2014 (LP) states that the replacement or rebuild of existing dwellings in the Green Belt will be permitted provided that the total size of the dwelling would result in no more than a 25% increase in floorspace of the original dwelling.
7. The site is currently occupied by a single storey dwelling, within a large plot. The parties agree that the existing dwelling measures approximately 108 sqm and that taking the appellants best case that the original dwelling had a floor area of 77 sqm. The proposed replacement dwelling has a floor area of between 124.82-130 sqm depending on whether I accept the appellants or Councils figures. If I were to accept the appellants figures this would represent an increase of 47.82 sqm from the original dwelling and would represent an increase greater than 25%, contrary to policy DM21(i) of the LP.
8. Policy DM21(iii) sets out that the visual mass and bulk should not be significantly larger than that of the existing dwelling. Whilst the proposed dwelling is of a similar height to the existing dwelling, the footprint of the dwelling would extend across a greater width and depth and which increases its overall massing. All these factors indicate that the proposed dwelling cannot reasonably be considered to be anything other than materially larger.
9. In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which para 147 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para 148 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt. The proposal would not comply with Policy DM21 of the LP which seeks to restrict inappropriate forms of development in the Green Belt, which is consistent with the Framework.

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

10. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. Openness can be defined as the absence of built form. In the case before me the development would extend over a greater extent of the site, including being sited closer to the road. The built form and footprint of development would increase significantly above that which currently exists on site. The proposed dwelling would be positioned closer to the frontage of the site and in close proximity to No 4 Hooley Drive, leading to a cramped form of development.
11. Furthermore, the development results in a greater coverage of the site than currently exists. The development would in both spatial and visual terms have a greater and harmful impact upon the openness of the Green Belt. Therefore, it would result in significant harm to the openness of the Green Belt.

12. In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which paragraph 147 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.
13. The proposal would therefore fail to comply with policies GB1 of the Rochford District Council, Local Development Framework Core Strategy 2011 (CS) which directs development away from the Green Belt as far as practicable and prioritises the protection of it.

Other considerations

14. The appellant has indicated that there are material considerations such as the fallback position which comprises the lawful development certificate 09/00463/LDC. This permits the extension of the dwelling by 16.52 sqm and I have been provided with the proposed plans of these extensions. They comprise a modest side extension and a rear extension. In comparison with the proposed development these extensions are compact and do not result in the development projecting beyond the existing front elevation. I consider that the fallback position would not be significantly more harmful than the appeal scheme and therefore I have given it limited weight.
15. I note that the appellant considers that despite the poor state of repair of the existing bungalow and its current unoccupied state, that it is considered habitable. However, I have taken into account that its replacement would result in an improvement on that which currently exists in terms of an improved standard of living for future occupiers as a result of current building standards. I have given limited weight to this benefit, recognising that similar improvements could be achieved if the existing property were refurbished.

Other Matters

16. Reference has been made to informal advice given before the application was submitted. However, pre-application advice is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors.

Conclusion

17. In conclusion I have identified that the scheme would be inappropriate development in the Green Belt as defined by the Framework and result in harm to the openness of the area. It would, by definition, be harmful to the Green Belt, harm which the Framework indicates should be given substantial weight.
18. As explained above I have given limited weight to the other considerations cited in support of the proposal. However, I conclude these circumstances do not clearly outweigh the substantial weight I must give to the overall harm the scheme would cause.

19. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR