



Appeal Decision

Site visit made on 28 September 2021

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2021

Appeal Ref: APP/M4320/W/21/3271324

Greenloons Farm, Kirklake Road, Formby L37 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Noel Davis against Sefton Metropolitan Borough Council.
 - The application Ref DC/2019/01421, is dated 30 July 2019.
 - The development proposed is redevelopment of house and domestic/commercial outbuildings with detached house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The National Planning Policy Framework (the Framework) was revised in July 2021, after the appeal had been submitted. The parties have been given the opportunity to comment on the revised Framework and I have had regard to it in reaching my decision.

Background and Main Issues

3. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.
4. A statement has been submitted by the Council in response to the appeal and this concludes that had the Council determined the application, it would have refused permission due to concerns relating to the impact of the proposal on the Green Belt.
5. Having regard to the evidence submitted by all parties, including local residents, I consider that the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal is inappropriate development, 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 proposal.

Reasons

6. The appeal site comprises a bungalow and a small outbuilding positioned centrally within the site. It appears from the evidence that the site previously contained more extensive outbuildings but at the time of my visit, these had been removed. Vehicular access to the site is via a track off Kirklake Road that runs adjacent to the rear garden boundaries of properties on Edenhurst Drive and Spruce Way to the east. Land to the north, south and west of the site is undeveloped with an access track positioned adjacent to the southern boundary and a public bridleway positioned close to the western and northern site boundaries. The appeal site boundaries are marked by a close boarded timber fence, with the boundary with residential properties to the east being marked by a laurel hedge.
7. The appeal site is in the Green Belt and it is also adjacent to land the subject of various environmental designations including European Sites at the Sefton Coast Special Area of Conservation (SAC) and the Ribble and Alt Estuaries Ramsar.

Whether the proposal is inappropriate development

8. Policy MN7 of the Sefton Local Plan (LP)¹ relates to the Green Belt with part 2 of the policy stating that the construction of new buildings is generally regarded as inappropriate development in the Green Belt, subject to the exceptions set out in national planning policy. Part 3b of the policy states that national Green Belt policy requirements relating to replacement buildings will be interpreted as replacement buildings that are more than 15% larger (by volume) of the existing building(s) being considered to be inappropriate.
9. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt should generally be regarded as inappropriate and sets out a number of exceptions to this that include the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not define the term “materially larger” though as noted above, the LP defines this as being 15% larger in terms of volume. Paragraph 149 also permits the partial or complete re-development of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. I understand from the evidence that the Council has previously considered that the site is previously developed land.
10. Notwithstanding the Council’s view as to the status of the appeal site, the site now appears to be in residential use with any previous non-residential buildings on the site having been removed. The proposal is for a replacement building and the proposed dwelling is clearly materially larger than the existing buildings on site. Even if I were to take the view that the proposal involves the re-development of previously developed land, the proposal would clearly have a greater impact on openness than the existing development. The proposal is therefore inappropriate development in the Green Belt and it is contrary to Policy MN7 of the LP and to relevant paragraphs of the Framework.

¹ A Local Plan for Sefton Adopted April 2017

The effect on openness

11. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to keep land permanently open.
12. The appeal site comprises the existing bungalow and small outbuilding positioned centrally within the site. Although the existing buildings are located on a more elevated part of the site, their central position, modest scale and height together with existing boundary treatments means that they are not prominent when viewed from public vantage points around the site. However, the upper part of the roof of the bungalow is visible from some parts of the bridleway to the west of the site.
13. Notwithstanding that land levels would be reduced, the proposed dwelling is significantly larger in scale than the existing buildings. It has a larger footprint, floorspace, volume and height and in relative terms would be 1.5 metres higher than the ridge height of the bungalow. This increase in scale and height would make the proposed dwelling more prominent and visible than the existing buildings, particularly when viewed from the south and west. As a consequence, the proposal would have a moderate impact on the visual aspect on openness and would lead to a significant loss of openness having regard to its spatial dimension. I therefore conclude that the proposal would lead to significant harm to the openness of the Green Belt.

Other considerations

14. My attention has been drawn by the appellant to the existence of planning permission for a new dwelling on the site (Refs DC/2017/00543, later amended by DC/2017/01318) (extant permission) and to a certificate of lawfulness for the implementation of planning permission DC/2017/00543 by virtue of demolition (Ref DC/2019/02043). I have been provided with details of the approved dwelling and have had regard to these in reaching my decision.
15. The extant permission is for a dwelling that is much larger than the existing buildings on site. However, at the time of determining the previous permission (Ref DC/2017/00543), the Council considered that the harm to the Green Belt identified was clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal. These considerations included the cessation of industrial activities and the removal of decrepit buildings and associated anti-social behaviour, neither of which apply to the proposal given that any non-residential use of the site appears to have ceased and that the decrepit buildings have already been removed.
16. Other considerations in relation to the extant permission such as improvements to the structure of the buildings on site, the effect on the Coastal Change Management Area and the creation of a dune heathland are not dependent on the proposal as all are required as part of the previously approved scheme. I therefore attach limited weight to these considerations.
17. Moreover, the approved dwelling is a flat roofed, contemporary dwelling with what appears to be the same relative ridge height as the existing bungalow. By contrast, the relative ridge height of the proposed hipped roofed dwelling is higher than both the existing bungalow and the approved dwelling. This increase in ridge height means that it would be more prominent and visible, notwithstanding its more traditional design and it would consequently have a

greater impact on the visual aspect of openness than the approved dwelling. This is despite there being a modest reduction in both floorspace and volume when compared to the approved dwelling.

18. The lawfulness of the extant permission has been confirmed by the Council and although the appellant is seeking to vary the design and scale of the approved dwelling, I do not consider that this in itself means that there isn't a realistic prospect that the extant permission would be implemented. However, whilst I attach significant weight to the fallback position as a material consideration, for the reasons stated, it would be less harmful than the proposal.
19. The proposed dwelling is of a traditional design and would incorporate traditional building materials as opposed to the approved contemporary dwelling. However, having regard to the position of the site and proposed dwelling, on the edge of relatively modern residential development at Spruce Way, I do not consider that there is a requirement for development on the site to reflect any particular building style. I do not therefore consider that the construction of a more traditionally designed dwelling is a benefit of the proposal that should be afforded any weight in my decision.

Green Belt balance

20. Paragraph 147 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 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
21. The proposal is inappropriate development and it would lead to significant harm to the openness of the Green Belt.
22. I attach significant weight to the fallback position of the approved dwelling. However, I consider that it would be less harmful to the Green Belt than the proposal. I therefore find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, I do not consider that very special circumstances exist which justify the proposal.

Other Matters

23. The Council's putative reason for refusal refers to conflict with Policy GP1 of the Formby and Little Altcar Neighbourhood Plan (NP) as the proposal is stated to be outside of the Formby settlement boundary as defined in the NP. However, as the proposal is for a replacement dwelling rather than an additional dwelling, Policy GP1 of the NP does not appear to be directly relevant to the proposal.
24. As stated, the appeal site is adjacent to land the subject of various environmental designations including European Sites. However, as I am dismissing the appeal due to the effect of the proposal on the Green Belt, there is no need for me to consider its effect on these environmental designations or to consider any other matters raised by interested parties.

Conclusion

25. The proposal is contrary to the development plan when taken as a whole and there are no material considerations that justify a decision not in accordance with the development plan.
26. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed and planning permission refused.

Beverley Wilders

INSPECTOR