



Appeal Decision

Site visit made on 3 May 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/W4325/W/22/3291676

Seafield, 25 Castlefields, Leasowe, Merseyside CH46 3RL

- 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 & Mrs Dawn Ralph against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/21/01946, dated 30 September 2021, was refused by notice dated 19 January 2022.
 - The development proposed is 'It is proposed that the existing three buildings (as shown on the existing site plan provided) be taken down and a new detached dwelling be erected for use by a single family'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the relevant development plan policy
 - 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

Green Belt

3. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt subject to a limited number of exceptions. Of those exceptions the appellants draw my attention to Paragraphs 149 d) and 149 g) in relation to replacement buildings and the partial or complete redevelopment of previously developed land respectively.
4. Saved Policies GB2 and GB4 of the Wirral Unitary Development Plan [2000] (the UDP) reflect the Framework's presumption against inappropriate development in the Green Belt. Whilst the guideline Policy GB2 is consistent with the Framework's broad approach to the protection of the Green Belt, it differs in relation to the redevelopment of existing developed sites by

- restricting it to major development sites only. In those circumstances, the wider provisions of the more recent Framework prevail.
5. Policy GB4 of the UDP relates to the replacement of existing dwellings in the Green Belt. For assessment purposes, it restricts replacement dwellings to those 'not more than 15% larger than the dwelling it replaces or larger than the existing dwelling plus any remaining permitted development allowance for extension'.
 6. According to the appellants, the existing building could currently be extended under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) without recourse to a formal planning application. Although little detail has been provided, they indicate that extensions could lead to a footprint of some 116m² and a total volume of about 250m³. These figures are not contested by the Council. Allowing for an additional 15%, the proposal would have a smaller footprint but a significantly greater volume.
 7. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. In *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466, it is recognised that openness can have both spatial and visual aspects. The assessment of whether or not a proposal is materially larger can be made on the basis of floorspace and/or volume, in addition to considering the visual increase in the size of the building. It is made on a case-by-case basis, taking account of the specific nature of the site and the precise nature of the proposal.
 8. The existing dwelling is small scale and has a limited overall height. For the most part, only the upper section of the main roof can be seen from outside of the fenced site. From here, the rear projection and outbuildings are barely discernible due to their low heights. Even allowing for the removal of the existing outbuildings as a redevelopment of the site, or the degree and admissible height of potential extensions under the GPDO - including to the roof of the dwelling, the proposal would introduce a building of significantly greater height and massing in comparison to the existing dwelling and outbuildings.
 9. Although the proposal could result in a more compact arrangement with a reduced spread of development across the site, the substantial proportionate increases in volume and height would markedly outweigh any corresponding reduction in the footprint. It would cause the building to be more prominent in its setting. This is a view acknowledged by the appellant.
 10. Whilst it would not necessarily have an adverse impact on the established residential character of the site, it would result a development with significantly greater visibility from the surrounding areas. Although the effect could be moderated by screen planting, this is unlikely to be successful in veiling the presence of the building and therefore the greater sense of development from existing vantage points. Accordingly, I find the proposal would cause harm to both the spatial and visual openness of the Green Belt.
 11. For the reasons set out above, I conclude that the proposal would constitute inappropriate development within the Green Belt that would erode its spatial and visual openness. As such it would be contrary to Policies GB2 and GB4 of

the UDP which seeks the aforesaid aims. For similar reasons, the development does not fall within the exceptions outlined in the Framework.

Other Considerations

12. In support of the proposal, aside from potential GDPO extensions to the existing dwelling, the appellants assert that a fallback position would be to provide incidental outbuildings on the site under Class E, and additional hard surfacing under Class F of the GDPO. I acknowledge that the provision of detached buildings could be used incidental to the primary residential function of the dwelling and increase the volume of buildings beyond the existing situation. Furthermore, hard surfacing would increase the area of development.
13. In this regard, the appellants refer me to an appeal decision¹ elsewhere. In that instance the Inspector gave weight to a fallback position whereupon extensions and outbuildings might have been added to a dwelling if a proposed replacement dwelling was found to be in conflict with the relevant policies. A fallback is an established consideration in planning decisions.
14. Although described as broadly similar cases, there is little information provided to enable me to draw comparisons, or otherwise, to the case before me. However, notwithstanding that some element of the effect on spatial openness might be reduced, the limitations imposed on curtilage buildings and hardstandings – particularly in relation to their height, would ensure their visual effects on openness would be significantly less when compared to a building shown to be over 7m high. Such curtilage buildings and works would largely benefit from the containment of the existing site boundary treatments to limit their effect on visual openness.
15. In the substantial absence of evidence to demonstrate otherwise, I find the fallback would therefore have a cumulatively less effect on openness than the proposed development. Furthermore, any consequential removal of development rights under the terms of the GPDO would not therefore outweigh the harm arising from the proposal in the particular circumstances of the case.
16. I am also referred to an appeal decision² that gave weight to the fact that an existing dwelling was unsuitable for occupation and would be replaced with one providing a contemporary construction better suited to modern living standards and with improved energy performance. However, there is little evidence before me to demonstrate that similar circumstances apply to the existing dwelling in this case.
17. Whilst I acknowledge that the building might be difficult to heat during the winter or to renovate without significant extension or remodelling, those benefits, or the achievement of modern environmental standards and living conditions, are not necessarily dependent on the specific scale of the proposal before me. Accordingly, I find these are matters of limited weight.
18. The fact that the dwelling pre-dates Green Belt policy is not a reason to depart from the requirement under Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004 which obliges me to consider the proposal against the development plan and with regard to relevant material considerations. As a requirement of policies in the UDP and the Framework, the lack of objection on

¹ APP/U1240/D/18/3216544

² APP/J4423/W/18/3208670

the basis of the architectural design and the proposed external finishing of the building is not a benefit in favour of the development. The necessity for securing biodiversity enhancements on the site is also a fundamental aim and requirement of the Framework.

Conclusion

19. The erection of a materially larger replacement dwelling on the site with a greater impact on openness than the existing development would be inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The proposal would also cause harm to the openness of the Green Belt.
20. The considerations presented by the appellants with regard to potential fall-back positions, the effect on the building performance and the standard of accommodation do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist.
21. For the reasons set out above, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR