



Appeal Decision

Site visit made on 17 May 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/V1505/W/22/3290950

Westview, The Chase, Little Burstead, Billericay CM12 9TT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs A Driscoll against the decision of Basildon Borough Council.
 - The application Ref 21/01481/VAR, dated 28 September 2021, was refused by notice dated 4 January 2022.
 - The application sought planning permission for replacement bungalow without complying with condition 3 attached to planning permission Ref BAS/1365/90, dated 8 March 1991.
 - The condition in dispute is No 3 which states that: *Notwithstanding the provisions of Article 3 of the Town and Country Planning General Development Order 1988, or any Order revoking and re-enacting that Order, no development within Part One, Classes A, B and C of Schedule 2 to the Order shall be carried out within the site of this application except with express permission granted under Part III of the Town and Country Planning Act 1990 or any re-enactment thereof.*
 - The reason given for the condition is: *To ensure proper control is maintained over the construction of extensions within this Green Belt area.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal follows a recent appeal decision¹ made under section 78 of the Town and Country Planning Act 1990 at the same site against a refusal of planning permission for the erection of a ground floor rear extension. The appeal was dismissed as the Inspector determined that the proposed extension would be a disproportionate addition to the existing building and would be inappropriate development in the Green Belt.

Background and Main Issue

3. Planning permission BAS/1365/90 granted planning permission for a larger dwelling than that which it replaced. The Council sets out in its reasons for refusal of 21/01481/VAR that the condition was originally imposed to restrict the construction of extensions to the dwelling under permitted development rights to allow a larger dwelling than would otherwise have been permitted in the Green Belt. The Council consider that implementation of permitted development rights here could cause material harm to the Green Belt.

¹ APP/V1505/D/21/3282711

4. The main issue is therefore whether the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt.

Reasons

5. The appeal site comprises of a detached chalet style bungalow and a substantial detached garage occupying a reasonably sized plot. The site lies within a rural area with sporadically positioned dwellings interspersed by green space. The property has an open frontage used for the parking of vehicles which is visible from the road outside the site.
6. Classes A, B and C of the Town and Country Planning General Development Order 1988 have been replaced by Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). These relate to the enlargement, improvement or other alteration of a dwellinghouse, additions to the roof of a dwellinghouse and other alterations to the roof of a dwellinghouse.
7. The GPDO does not withdraw these permitted development rights in the Green Belt. Nonetheless the limitations within these Classes restrict the size and bulk of alterations to dwellings that can be carried out by exercising these rights.
8. The Planning Practice Guidance (PPG) sets out that, amongst other things, it is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls, and that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Nevertheless, planning law allows these rights to be withdrawn, where justified by the circumstances.
9. The existing dwelling was a replacement dwelling constructed following approval in 1991 and the subsequent demolition of the original bungalow. The Council state that the original bungalow had a gross floor area of up to 72.8 square metres and the approved replacement bungalow occupied 110.6 square metres (an increase of around 34%, a sizeable addition). As such, the openness of the Green Belt has been materially reduced by the erection of the replacement bungalow, albeit to a degree previously found acceptable by the Council, subject to the disputed condition.
10. Since this time, the building has been extended through the conversion of the loft space involving the installation of dormer windows and erection of a substantial front porch, which have further reduced openness to an extent. A substantial garage with sheds alongside it has also been constructed, presumably through permitted development.
11. I accept that there is no provision at a national level to restrict the ability to carry out alterations and extensions to dwellings in the Green Belt. However, in this case, the appeal site, as detailed above has already seen the construction of a building that has reduced the openness of the Green Belt in a reasonably substantial manner in a visible location within an open and rural area. Further additions such as those which could be permitted through Class A, B and C would potentially reduce openness further still. Indeed, the Council states the gross floor area of the dwelling could be increased by a further 130 square

metres through permitted development extensions resulting in a dwelling over four times the size of the original bungalow.

12. In this regard, although I have not been provided with any details, I am mindful of the previous appeal dismissal of a single storey extension with a width consistent with that of the host dwelling. This was found to be disproportionate. This reinforces my reasoning above.
13. My attention has been drawn to several appeal decisions at other Green Belt locations. However, although I have not been provided with full details of these cases, I am satisfied that none of these represent a direct parallel with the case before me. This is because APP/Z4718/W/21/3268030 and APP/K3415/W/18/3208240 involve converted buildings and not replacement dwellings. Furthermore, whilst APP/P3420/W/18/3201127 does relate to a replacement dwelling, its construction led to a 'net gain' in terms of openness rather than a loss of openness as in the case before me. Accordingly, none of these examples change my findings.
14. For the above reasons, I therefore find that the disputed condition is reasonable and necessary in the interests of protecting the openness of the Green Belt. Consequently, the removal of condition 3 is contrary to the provisions of the Framework, which seeks to protect the Green Belt against inappropriate development and to maintain its openness.

Conclusion

15. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Paul Martinson

INSPECTOR