



Appeal Decision

Site visit made on 29 March 2022 by Thomas Courtney BA(Hons) MA

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2022

Appeal Ref: APP/M1595/W/21/3280702

Wick Place Cottage, Brentwood Road, Bulphan, RM14 3TJ

- 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 G. Pinkerton against the decision of Thurrock Borough Council.
 - The application Ref 21/00243/FUL, dated 10 February 2021, was refused by notice dated 11 June 2021.
 - The development proposed is the demolition of existing outbuildings, replacement of former smithy to create new dwelling and erection of new dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by Mr G. Pinkerton against Thurrock Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy;
 - Whether the proposal would be contrary to the purposes of including land within the Green Belt;
 - If the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Whether the development would be inappropriate development

4. The appeal site comprises a large two-storey dwelling, a former smithy workshop building, and several outbuildings set within a large plot in the Green Belt. The former smithy is a rectangular single storey structure with a pitched roof sited to the north of the host property. I also observed a relatively large outbuilding located to the north of the smithy. The side and rear boundaries of the site are well-screened with thick vegetation and mature trees.
5. Paragraph 149 of the National Planning Policy Framework (the NPPF) states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. One exception (g) is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. Policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (2015) (the 'Local Plan') is consistent with the NPPF in that it allows for infilling and the partial or complete redevelopment of a previously developed site in the Green Belt which would have no greater impact on openness.
6. The Council highlights that the proposed development would not meet exception (g) as much of the land within the curtilage situated to the north of the smithy is undeveloped and therefore falls beyond the definition of previously developed land. The NPPF defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).
7. Whilst the land in question could be considered previously developed land, it is clear to me that the figures provided by the parties indicate that the resultant built form within the appeal site would be considerably greater than that which currently exists. The overall increase in footprint and volume of development at the site would quite clearly result in greater visual bulk. Indeed, the erection of a new dwelling to the north of the smithy will introduce substantial new built form in a mostly undeveloped part of the garden.
8. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The additional built form and volume as a result of the erection of the replacement smithy dwelling and a new dwelling would materially impact on openness in a spatial aspect. Furthermore, the introduction of built form in an undeveloped part of the garden would mean the proposal would also have a greater visual impact on the openness of the Green Belt. However, I acknowledge that the site's boundaries are well-screened with mature vegetation so the visual impact would be limited in extent. Nonetheless, having regard to the spatial and visual impact the development would undoubtedly have a greater impact on the openness of the Green Belt than the existing development, I therefore find the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph 149 of the NPPF, as detailed above, and Policies CSSP4 and PMD6 of the Local Plan and which together seek to resist inappropriate development in the Green Belt.

Purposes of Including Land Within the Green Belt

9. Paragraph 138 of the NPPF sets out five purposes of including land within the Green Belt. The Council's decision notice alleges that the proposal would contravene sub-paragraph (c) and (e) with regard to encroachment into the

countryside and the aim of assisting urban regeneration and the recycling of derelict land. Little information has been provided to indicate that a development of the scale proposed would have any meaningful negative impact on the latter, with regard to paragraph 138(e).

10. However, the present dwelling sits within the countryside to the east of Brentwood Lane surrounded by agricultural land to the north and east. Although the land is in residential use it is located within the countryside, outside any built settlements, in planning policy terms. The low-density character of the site including the dwelling, its associated outbuildings, and sizeable garden, sits comfortably within the rural character to the east of the road. In contrast to the more built-up area to the west, buildings to the east of the road are sporadic in nature which helps to maintain the predominantly agricultural feel of the countryside.
11. The proposal would see a run of three dwellings, side by side, facing the road in a somewhat regimented form. The new building in place of the old smithy would be noticeably taller and the most northerly dwelling would occupy space that is presently garden land. When viewed as a whole, the development would undoubtedly result in a sense of urbanisation, in contrast to the comparatively low-density nature of the present development. In my view, the continuous run of dwellings would represent encroachment of built development into the countryside to the east of the road, contrary to a key purpose of including land within the Green Belt, as identified at paragraph 138(c) of the Framework.

Other considerations

12. The NPPF highlights that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, with substantial weight given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
13. In this regard, the appellant has drawn attention to a fallback position through the Permitted Development process emphasising that extensions to the main dwelling and a larger swimming pool outbuilding could be erected. I have been provided with details of the grant of two Lawful Development Certificates (LDCs) for the erection of a two-storey rear extension (ref: 17/00032/CLOPUD) and the erection of an outbuilding in the north-eastern corner of the appeal site (ref: 17/00030/CLOPUD) and I also note the appellant has provided plans and calculations demonstrating accurate comparisons of the schemes.
14. The fallback scheme would include a swimming facility building with a considerably larger footprint and volume than any of the buildings proposed as part of the current appeal proposal. The fallback scheme, together with the granted two-storey rear extension to the host property and the existing outbuildings, would result in a more extensive coverage of built form within the site and a larger proportion of built form in an area of garden which is currently open.
15. Given the existence of the LDCs, the potential fall-back is clearly a material consideration in the determination of the appeal. However, the weight to be attributed to a fall-back scenario will be dependent on the specific circumstances of any given case. In this instance, the LDCs were granted over

five years ago. If the homeowner intended to erect the extension and/or the swimming pool it is not clear why the development has not been undertaken in the intervening period.

16. Moreover, the nature of the development covered by the LDCs is quite different to that proposed in the appeal scheme. In other words, if the appellant genuinely intended to build a swimming pool and an extension to the existing dwelling it is not clear why he is now applying to construct two separate dwellinghouses on the land. Thus, I have some reservations as to whether the fall-back would be constructed and that tempers the weight I attach to those arguments.
17. In addition, if the appeal was allowed, no mechanism has been presented that would prevent at least some of the suggested fall-back development being constructed in addition to the current proposal. For example, the rear extension to the existing dwelling could still be constructed in addition to the two new dwellings covered by this appeal. Whilst a condition has been put forward that would remove permitted development rights, such a condition would only become 'active' once any planning permission in relation to the appeal scheme had been implemented through the commencement of the scheme. Thus, it would not prevent the rear extension being constructed first, followed by the approved appeal scheme. The only satisfactory way of achieving that would be through a planning obligation/ unilateral undertaking.
18. Similarly, it may be possible that the pool could be constructed first, prior to the implementation of aspects of the appeal scheme, particularly the rebuilt/ extended smithy which occupies a different part of the site to the proposed swimming pool. Consequently, the suggested benefit to the openness of the Green Belt, as put forward by the appellant when comparing the proposed scheme against the fall-back scenario, is not necessarily an accurate picture of the potential impact, given that certain elements of the LDC schemes and parts of the appeal scheme could co-exist.
19. Therefore, whilst the potential fall-back scenario is clearly a material consideration, the weight I attach to it is only limited to moderate given the factors identified above.
20. With regards to housing supply, I note that Thurrock Council has a shortfall in the five-year supply of housing, and this is not disputed in the officer report. Whilst the Council states that the shortfall should not lead to the openness of the Green Belt being eroded by releasing land to meet demand, the provision of two new dwellings in this location would make a small but not insignificant contribution to housing supply and would indeed tie in with paragraph 69 of the NPPF which states that that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. Notwithstanding that general thrust of national planning policy, the contribution that the site would make to the local housing supply is small and I attach no more than limited to moderate weight to those benefits.
21. Finally, the appellant raises the point that the proposal would allow for the removal of existing poor quality outbuildings and the reinstatement of the smithy building. The outbuildings are fairly typical of the kind found in many domestic gardens. Although they are of no particular design merit, they do not look out of place in their context and have a limited visual impact. Consequently, their removal would not have any significant benefit in design

terms and that matter attracts very limited weight in favour of the scheme. Although reference is made to the 'reinstatement' of the smithy, what is proposed is essentially a new dwelling incorporating features reminiscent of the former building. Although the design would not cause harm to the character and appearance of the area, that would be expected of any new building, having regard to local and national design policy. In addition, the fabric of the building would be new and not of any historic significance. Thus, although well-designed the appearance of the scheme does not carry weight in favour of the proposal.

22. It is also considered that the positive efforts to deliver energy efficiency and sustainable design as part of the scheme go beyond what would be required by standard building regulations and I have attached limited weight to these considerations, having regard to the small nature of the scheme.
23. The appellant has also put forward the case that the proposal would secure ecological enhancements. In this regard, I note that the Council's ecological consultant states that the permitted development swimming pool would have more significant adverse effects on the trees and hedges than the proposed scheme and that the removal of the outbuilding close to the front boundary will benefit the retained trees. I have attached limited weight to this consideration, particularly in light of my reservations as to the likelihood of the fall-back scenario being brought forward and the lack of detailed information as to the ecological value of existing garden vegetation.

Planning Balance and Overall Conclusion

24. I consider that the development causes harm to the Green Belt by way of its inappropriateness, in addition to the reduction in openness and encroachment of built development into the countryside. Substantial weight must be given cumulatively to this harm.
25. For the reasons given, I attach only moderate weight to the permitted development fallback scenario. I have also attached weight to the proposal's contribution to housing supply as well as the positive benefit associated with the proposed carbon neutral design. However, the benefits in those respects are limited to moderate on account of the small nature of the scheme. When combined, the weight attributed to the other considerations does not clearly outweigh the substantial weight that I must attach to the harm to the Green Belt. It follows that the very special circumstances needed to justify the development do not exist.

Recommendation

26. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR