



Appeal Decision

Site visit made on 13 December 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/Z5060/W/22/3295171

Land to side and rear of 1 & 2 Crown Cottages, Collier Row Road, Romford, Essex RM5 2BL

- 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 D Fowler of DSCG Ltd against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 21/01874/FULL, dated 11 October 2021, was refused by notice dated 21 December 2021.
 - The development proposed is the construction of three 3x bedroom detached dwellings. The application site affects the setting of Maypole Cottage (Grade II Listed).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address of the site from the planning appeal form as this accurately represents the location of the proposal. The planning appeal form also confirms that the description of the development has changed, and I have therefore used this wording in the above heading.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, with due regard to openness;
 - The effect of the proposal on the setting of the Grade II Listed Building of Maypole Cottage; 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

Whether Inappropriate Development

4. The appeal site is located within the Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new

buildings in the Green Belt would be inappropriate development, subject to a number of exceptions. It is common ground between the main parties that the site is previously developed land (PDL), and that the proposal should therefore be assessed against the exception of paragraph 149(g) of the Framework which relates to the limited infilling or the partial or complete redevelopment of PDL, which would not have a greater impact on the openness of the Green Belt than the existing development.

5. Although the appeal site is within the curtilage of 1 and 2 Crown Cottages, it is a relatively large area of land with a predominantly open character. As well as in views from nearby properties, the open nature of the site is apparent from the public realm of Collier Row Road and a public footpath which runs through a field to the rear of the site. Although the curtilage of Nos 1 and 2 contains outbuildings and other domestic features, these are of a limited scale and do not detract from the open character of the appeal site.
6. In contrast, the appeal proposal would introduce built development onto part of the site where no such development currently exists. This would include a 2-storey dwelling to the front of the site, and 2 bungalows including rooms in the roof space to the rear. The proposal would also create a new vehicular access and road within the site, which would add to the extent of built development arising from the proposal. The projection of built development into what is currently a predominantly open plot of land would be apparent from the surrounding area. Accordingly, the proposal would have a greater impact on the openness of the Green Belt than the existing development.
7. Although the appeal site represents PDL and is within the curtilage of Nos 1 and 2, it has an open character in an area of transition between a built up street frontage and rural fields. The appeal site therefore makes a positive contribution to the Green Belt purposes of checking the unrestricted sprawl of large built up areas and safeguarding the countryside from encroachment, as set out in paragraph 138 of the Framework.
8. The second bullet point of paragraph 149(g) of the Framework also refers to development on PDL to meet an identified affordable housing need and which would not cause substantial harm to the openness of the Green Belt. However, it has not been demonstrated that the proposal would represent affordable housing within the terms of the Framework, and the second bullet point of paragraph 149(g) is therefore not brought into effect.
9. For the reasons stated, the proposal would have a greater impact on the openness of the Green Belt than the existing development. Therefore, with regard to paragraph 149(g) of the Framework, the proposal would represent inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and the Framework requires that substantial weight should be given to any harm.

Setting of the Listed Building

10. The appeal site is adjacent to the curtilage of Maypole Cottage, which is a Grade II listed building. This is a late C17 or C18 house which is of a timber-framed rendered construction, although there have been later extensions and alterations. The evidence suggests that this was a smallholding occupied by families of agricultural labourers until the First World War.

11. Based on what I have seen and read, including the appellant's Heritage Impact Assessment (HIA), Maypole Cottage is primarily of local archaeological and historical interest due to its timber-framed construction and form, and as a physical reminder of the rural origins of this location. It is these considerations which contribute to the significance of Maypole Cottage as a designated heritage asset.
12. The HIA considers that Crown Cottages are part of the setting of Maypole Cottage, although it goes on to say that the appeal site contributes relatively little to the significance of the listed building. However, Maypole Cottage is set some distance back from the highway, compared to nearby dwellings which are more closely associated with Collier Row Road. Due to this arrangement, the listed building is distinctly separate from the built form of nearby dwellings and is more closely associated with the countryside to the rear of the site and nearby open plots of land. Even allowing for the clearly defined boundary and associated planting, the open character of the appeal site makes a positive contribution to the appreciation of the setting of the listed building. As well as in views from the highway and from within the curtilage of Maypole Cottage, this setting is also apparent from a footpath running through a field to the rear of the site.
13. The proposed dwelling to the front of the site would reflect the design and arrangement of Nos 1 and 2. However, the two dwellings to the rear would bring the extent of built development closer to Maypole Cottage, thereby detracting from its distinctly separate character and relatively open setting. The two dwellings would also be of a suburban design and arrangement set around a cul-de-sac, which would further detract from the relatively rural and open setting of the listed building. Although views of the listed building from Collier Row Road are relatively fleeting, the proposed access into the site would enable views of the dwellings to the rear which would further emphasise the encroachment of built development into the setting of the listed building.
14. Reference has been made to the effect of screening from trees and planting on the site boundaries. However I saw that the open character of the appeal site and its contribution to the siting of the listed building was apparent through this planting in views from within the site and the surrounding area. It may be possible to require further screen planting by condition, but this would add to the visual separation of the appeal site from the listed building to the detriment of its relatively open setting. Given the arrangement of the site, dense screen planting on the southern boundary would also lead to loss of light for the gardens of the proposed dwellings, so that reductions in screen planting would be difficult to resist.
15. There are a number of outbuildings within the appeal site and around Maypole Cottage, and the extensive garden around the listed building is also of a relatively manicured domestic appearance. The elevations to the side and rear of the listed building also have a number of recent additions which detract from the appreciation of its historic interest. However, these factors do not negate the appreciation of the arrangement and setting of the listed building, and the contribution that the appeal site makes to this.
16. Drawing the above together, I conclude that the proposal would lead to moderate harm to the setting of the listed building of Maypole Cottage. Whilst the harm to the significance of the listed building would be less than

substantial, I attach great weight to the conservation of this designated heritage asset in accordance with the Framework, although this is tempered to a degree due to the moderate scale of the harm¹. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the Framework requires that this harm should be weighed against the public benefits of the proposal. I will return to this matter later in my decision.

Other Considerations

17. The proposal would add to the mix and supply of housing in this area. The Framework also encourages making effective use of land for the provision of housing, including under-utilised 'brownfield' land. However, the definition of PDL in the Framework specifies that it should not be assumed that the whole of the curtilage should be developed. Furthermore, development proposals should also be assessed against the policies of the Framework as a whole, including those relating to Green Belt land and the historic environment.
18. The appellant refers to a shortfall in housing land supply within the district, which stands at 66% based on the 2021 Housing Delivery Test results. I have also had regard to the consistent shortfall in housing land supply in the Council's area over a number of years. However, even within the context of the Council's housing land supply and the age of the development plan, the contribution of 3 dwellings to meeting demand in the area would be limited. The contribution to the supply and mix of housing in the area therefore carries only limited weight as a public benefit arising from the proposal, even allowing for the nature of the site as PDL.
19. The appellant emphasises that a shortfall in housing land supply can, as a matter of policy, be a very special circumstance as referred to in *Lee Valley*². However, in the circumstances of this appeal, it is only one of a number of considerations which may represent very special circumstances, including the amount and form of housing proposed. I have had regard to the Appeal Decisions referred to by the appellant, but it has not been demonstrated that they represent a close comparison to the appeal proposal in respect of the form of development, the number of dwellings proposed and the mix of housing, including affordable housing.
20. Despite its semi-rural location, residents of the appeal site would have access to services and facilities by sustainable means of transport. However, this could be said of many sites on the fringe of the urban area, and carries no more than limited weight as a public benefit in favour of the appeal for this particular site.
21. The appellant submits that outbuildings covering up to 50% of the residential curtilage could be built under the properties' permitted development rights. However, it has not been demonstrated that this would reflect the height and massing of the residential development proposed. It has also not been established that there is a greater than theoretical possibility that such permitted development may take place. This potential fallback scheme therefore does not lead me to a different conclusion in respect of the harm arising from the appeal proposal, and carries very limited weight in favour of the appeal.

¹ As considered in Appeal Ref: APP/P1940/W/21/3280443

² R (Lee Valley Regional Park Authority) v Broxbourne BC [2015] EWHC 185 (Admin)

Conclusion

22. In respect of the listed building of Maypole Cottage, I have concluded that the proposal would lead to moderate harm to the setting of this designated heritage asset. Although mindful of the moderate and less than substantial nature of that harm, this carries great weight against the proposal. That harm would not be outweighed by the limited public benefits arising from the proposal. The proposal would therefore be contrary to policies D4 and HC1 of the London Plan 2021, policies CP2 and CP3 of the Core Strategy 2010, and policies BP11 and BP2 of the DPD³ which together seek to ensure that proposals are of a design which protects the historic environment, including the setting of listed buildings. The proposal would also be contrary to the Framework in respect of conserving and enhancing the historic environment.
23. The proposal would also be contrary to the design and heritage requirements of policies SP2, DMD4 and DMD1 of the Emerging Local Plan⁴, although given the stage of preparation of that document these policies carry limited weight.
24. The proposal would represent inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. The Framework requires that substantial weight should be given to any such harm. The harm by reason of inappropriateness, and the other harm I have identified, is not clearly outweighed by other considerations. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to policy G2 of the London Plan, policy CM3 of the Core Strategy, and the policies of the Framework in respect of protecting Green Belt land.
25. The proposal would also conflict with policy SP6 of the Emerging Local Plan in respect of protecting the Green Belt, although this policy carries only limited weight given the stage of preparation of that document.
26. In respect of Green Belt land, I find no conflict with policies D1 and D4 of the London Plan, policy CP3 of the Core Strategy, policy BP11 of the DPD and policies SP2 and DMD1 of the Emerging Local Plan as these policies relate to the preparation of area assessments, development plans and design matters rather than Green Belt considerations. However, this does not negate my conclusions in respect of the Green Belt.
27. The appellant refers to the 'tilted balance' of paragraph 11(d) of the Framework. However, in accordance with paragraph 11(d)(i), this tilted balance is not triggered if the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 of the Framework sets out that this includes policies relating to the Green Belt and designated heritage assets. I have concluded that the proposal conflicts with policies of the Framework regarding protecting Green Belt land as well as conserving and enhancing the historic environment in respect of the designated heritage asset of Maypole Cottage. On that basis, the tilted balance of paragraph 11(d) is not engaged.
28. For the reasons given, the proposal would conflict with the development plan and the Framework, and there are no material considerations that outweigh this conflict.

³ Borough Wide Development Policies, Development Plan Document 2011

⁴ Draft Local Plan, Regulation 19 Consultation Version 2020

29. I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR