



Appeal Decision

Site visit made on 4 January 2023

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2023

Appeal Ref: APP/V1505/W/22/3291664

The Rest, Moores Avenue, Fobbing, Essex SS17 9HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miss Kelly Roberts against the decision of Basildon Borough Council.
 - The application Ref 21/01583/OUT, dated 03 January 2021, was refused by notice dated 10 January 2022.
 - The development proposed is chalet style 3-bedroom bungalow and the removal of two existing buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity, I have used the appellant's description of development as given on the planning application form, but have removed those elements that do not describe acts of development.
3. The appeal seeks outline planning permission with all matters reserved for future consideration. Indicative plans in relation to siting have been provided, and I have had regard to these.
4. The Council refer to emerging Policy GB1 of the Basildon Local Plan (2014-2034), however since the determination of the planning application, this plan has been withdrawn. Accordingly, I have not attached any weight to policies within this document in reaching my decision.

Main Issues

5. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt, including the effect upon the openness of the Green Belt, and;
 - If the proposal is inappropriate development, whether or not there are any other considerations which clearly outweigh the harm by reason of inappropriateness, and any other harm, so as to amount to the very special circumstances required to allow the development.

Reasons

Inappropriate Development

6. The National Planning Policy Framework ('the Framework') states that the construction of new buildings within the Green Belt should be regarded as inappropriate, subject to exceptions. Such exceptions include, at Paragraph 149(e) limited infilling in villages, and at Paragraph 149(g), the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
7. Fobbing is a linear settlement, with a core of development at the southern end of High Road, around the church and public house. Residential development extends along High Road, becoming increasingly sporadic. Moores Avenue forms part of a cluster of residential development that has a self-contained character and is separated from the village core and development on High Road.
8. Although the Framework does not define a village for the purposes of Paragraph 149(e), and the proposed development would be located close to, and amongst other residential dwellings, I consider that it would not be situated within a village. Instead, it is located within its own, distinct cluster of development which does not amount to a village in its own right as it has no discernible centre, or services and facilities. Accordingly, the proposal would not be infilling within a village, and would not meet the exception for development set out at Paragraph 149(e).
9. With regard to Paragraph 149(g) it is necessary to consider the effect on openness that would result from the proposed development in comparison to existing. Openness is both visual and spatial in nature.
10. The application is in outline form, with matters including scale reserved for future consideration. On the basis of the indicative plans, the proposed development would result in the removal of an existing garage, along with a further building towards the rear of the appeal site.
11. The appellant has indicated that any dwelling would reflect the scale and character of those that exist in the local area, and in order to provide an acceptable standard of living accommodation, I consider that any proposed three-bedroom dwelling would be required to be of a similar scale. In this context, and having regard to the indicative plans I consider it likely that any new dwelling would be larger than the existing smaller lightweight garden structures, even when taken together.
12. Furthermore, the proposed development would also result in a more consolidated form of development which would occupy a significant portion of the appeal site, which other than the existing structures, is otherwise currently of an open nature in spatial terms.
13. The appeal site boundary, where it meets Moore Avenue is currently a substantial timber fence and gate. At present, these obscure direct views into the appeal site to a large extent. This fence would be removed as part of the proposed development and a more open front garden would be provided. Whilst layout and landscape are matters reserved for later consideration, this would have the potential to improve the openness of the site in a visual sense. However, any such benefit to openness would be offset and outweighed by the structure that would be located within the site and would itself result in harm to openness.

14. Therefore, on the basis of the evidence before me, it has not been demonstrated that the proposed development would not have a greater impact on the openness of the Green Belt than the existing development for the purposes of Paragraph 149(g).
15. I therefore conclude that the proposal would amount to inappropriate development in the Green Belt for the purposes of the Framework. The Framework advises that inappropriate development is harmful by definition and should only be approved in very special circumstances.

Other Considerations

16. The proposed development would result in a boost to housing supply, however as it would only amount to a single dwelling, this would only be a modest benefit of the proposal.
17. I am sympathetic to the appellant's desire to remain residing within the local area, and that the proposed development may represent a more affordable option for meeting their accommodation needs. However, the proposed development does not appear to meet the definition of affordable housing as defined within Annex 2 of the Framework, and there is no substantive evidence before me that demonstrates that the appellant is otherwise unable to access other housing solutions. Accordingly, I can afford only very modest weight to the benefits of the scheme in this respect.
18. My attention has been drawn to the approval of a development of 168 dwellings in the local area, as well as a further scheme relating to the demolition of existing structures and the erection of three bungalows. However, I have not been provided with the full details of these cases, or the specific circumstances of their approval. In any case, they would both appear to be a materially different form of development, and accordingly are not directly comparable to the proposal that is before me.
19. I have also been made aware of a further scheme in the local area, although again, I have not been provided with full details of this, or the circumstances in which planning permission was granted. Nevertheless, this case appears to have been approved in 2018, prior to the publication of the Framework in 2021, and was therefore considered in a different national planning policy context. It is therefore of only limited relevance to the consideration of the current appeal.
20. The appellant contends that the proposed development would not be overlooked, would not amount to urban sprawl, would be in keeping with the size of existing dwellings, and would not place greater dependency upon utilities, air pollution or result in increased traffic. Even if I were to agree that this would be the case, these would only be neutral factors that would not weigh in favour of the scheme.
21. It is also highlighted that the Council undertook a survey in 2004 with regards to its approach to infill development, however in itself, this does not appear to be amount an adopted policy or form part of the development plan. I therefore afford it very little weight, and I have considered the proposed development in the context of current planning policy.

Other Matters

22. The appeal site lies within the zone of influence for the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. the Conservation of Species and Habitat Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
23. Had I been minded to allow the appeal, it would have been necessary to carry out an appropriate assessment in order to establish whether the proposal on its own or in combination with other projects would be likely to have significant effects on the integrity of the European sites. This would include whether mitigation would be necessary and could be achieved. However, as I have concluded that the proposed development would be otherwise unacceptable, it is not necessary for me to pursue this further.

Conclusion

24. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight could be given to any harm to the Green Belt. Even when taken together, I conclude that the other considerations do not clearly outweigh the harm in this case. Consequently, the very special circumstances necessary to justify the development do not exist.
25. For the reasons set out above, the appeal is dismissed.

C Harding

INSPECTOR