



Appeal Decision

Site visit made on 7 February 2023

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/V1505/D/22/3299085

46A Noak Hill Road, Great Burstead, Billericay CM12 9UG

- 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 McCarthy against the decision of Basildon Borough Council.
 - The application Ref 21/01674/FULL, dated 11 November 2021, was refused by notice dated 25 February 2022.
 - The development proposed is described as a front extension over garage and new outbuilding for gym etc.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area; and
 - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether it is inappropriate development

3. The appeal site, containing a two-storey detached dwelling, is located within a row of residential properties in a rural location. The majority of the rear garden area of the appeal site is located within the Green Belt, whilst the host dwelling is outside of the Green Belt boundaries. The proposed development includes a first floor extension to the appeal property, above the existing garage, and an outbuilding within the rear garden.
4. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. The Council and the appellant agree that the proposed outbuilding, which is located

in the Green Belt, would not fall under any of the exceptions set out in the Framework. I also do not consider that any of the exceptions are relevant to the proposed outbuilding before me.

5. Consequently, as the proposed outbuilding would not fall under any of the exceptions within paragraph 149 of the Framework, it would be inappropriate development within the Green Belt. As the host dwelling is located outside of the Green Belt boundary, this main issue is not relevant to the proposed first floor extension.

Openness

6. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
7. The development would introduce a new building to an open and undeveloped part of the appeal site. Due to this increase in built form and the relatively large scale of the outbuilding, it would have a significant spatial impact on the openness of the Green Belt. In addition, although the proposed outbuilding would be partially screened by the existing fence and trees around the appeal site, it would still be visible from the adjacent public footpath and from neighbouring gardens, thereby eroding the visual openness of the site. Therefore, the proposed outbuilding would have both an adverse spatial and visual impact on the openness of the Green Belt, in that it is reduced, resulting in moderate harm to the Green Belt.
8. The Framework makes it clear in paragraph 148 that substantial weight should be given to any harm to the Green Belt. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, which will be considered below.

Character and Appearance

9. The proposed first floor extension to the host dwelling, would be a significant addition to the front of the property which would be highly visible within the streetscene. However, the surrounding properties are varied in design and scale and, even with the proposed extension, the host dwelling would not look overly large or incongruous in comparison. The appeal property and the proposed extension would also be set well back from the road which would help to limit its overall impact upon the streetscene. It would also be lower in height than the main part of the dwelling with matching materials and would therefore not appear overly dominant when compared to its host.
10. The Council raise no objection in relation to the impact of the proposed outbuilding on the character and appearance of the host dwelling or the surrounding area and I agree with this finding.
11. Therefore, the proposed development would not harm the character and appearance of the host dwelling or the surrounding area and would comply with Policy BAS BE12 of the Basildon District Local Plan Saved Policies (2007). This policy seeks to ensure that the alteration and extension of existing dwellings does not cause harm to the character of the surrounding area. It would also accord with the general design objectives of the Framework.

Other Considerations

12. The appellant has highlighted that, as the housing delivery test indicates that the delivery of housing was substantially below the housing requirement over the previous three years, there is a presumption in favour of sustainable development as set out in paragraph 11 of the Framework. However, footnote 8 specifies that this relates to applications involving the provision of housing and therefore it is not applicable in this instance.
13. There are no relevant development plan policies which the Council have cited conflict with, in relation to the proposed outbuilding. While the framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. The harm to the Green Belt identified is such that the policies in the Framework relating to the Green Belt provide that clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposal.
14. The appellant has stated that the proposed outbuilding would fall under permitted development rights and would therefore not require planning permission. However, planning permission was sought as it could not be established clearly or precisely as to whether permitted development rights have been removed on the appeal site by way of a condition. No evidence has been provided to show that permitted development rights are still intact on the appeal site or that the proposed outbuilding would conclusively fall under these rights and would not require planning permission. As such, I cannot afford this any weight in my consideration of the appeal.
15. The proposed development may provide some economic benefits relating to its construction and occupation along with the environmental benefits in relation to the effective use of the appeal site. However, due to the limited scale of the proposal, this is only given minimal weight.
16. It is noted that there are other outbuildings within the vicinity of the appeal site that are also located in the Green Belt. However, whilst these may contribute to the character of the area and the proposed outbuilding may be in keeping with this, they do not set a precedent for the construction of further new buildings within the Green Belt. Therefore, as development is considered on a case by case basis, the presence of similar development in the surrounding area is given limited weight.
17. The personal circumstances of the appellant and the requirement for the development are noted. However, as this would be a personal benefit only, it is afforded minimal weight in my consideration of the appeal.
18. The appellant claims that the appeal site is located within a sustainable location in relation to the proximity to services and facilities. Furthermore, no objections to the proposed development were received from the Highways Authority or the occupiers of neighbouring dwellings. However, these are all neutral factors which would not weigh in favour of the proposal.

Green Belt Balance and Conclusion

19. Although the proposed development would not harm the character and appearance of the host dwelling or the surrounding area, the proposed outbuilding would be inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt, and the development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
20. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraphs 147, 148 and 149 of the Framework.
21. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR