



Appeal Decision

Site visit made on 5 May 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/B5480/W/22/3300145

4 Damyns Hall Cottages, Aveley Road, Upminster RM14 2TQ

- 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 Bard against the decision of London Borough of Havering.
 - The application Ref P0081.22, dated 18 January 2022, was refused by notice dated 29 March 2022.
 - The development proposed is the erection of a 2-bedroom dwellinghouse to the side land of the property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the appeal development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (2021) (the Framework) and the development plan, including the effect on the openness of the Green Belt;
 - The effect of the proposal on highway safety; and
 - If the appeal development is inappropriate development, 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 it.

Reasons

Site and proposal

3. The appeal site comprises a two-storey end of terrace dwelling and its front, side and rear garden space. It is located on an isolated terrace of four residential properties and the surrounding area has a distinct rural character. It is located within the Green Belt.
4. The proposed development is for the erection of a two-bedroom dwelling to the side of the existing property that would be attached to the existing terrace. The plot would be subdivided accordingly to create two distinct and separate curtilages. The proposed dwelling would be accessed directly from Aveley Road.

Whether or not inappropriate development in the Green Belt including the effect upon openness

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 149. One of the exceptions cited is g) the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. For this exception, the development must not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. Policy G2 of The London Plan (2021) reflects the requirements of the Framework and outlines that the Green Belt should be protected from inappropriate development, and that development proposals that would harm the Green Belt should be refused except where very special circumstances exist.
6. Both main parties consider that the proposed development would be located on previously developed land. I have no reason to form a different view. In light of this, the proposed development would trigger an assessment against exception g) of paragraph 149. Although the proposed development would satisfy the element of the exception as it relates to previously developed land, it is not proposed to meet an identified affordable housing need and is therefore required not to have a greater impact on the openness of the Green Belt in order not to be considered inappropriate development.
7. The Framework outlines that one of the essential characteristics of Green Belts is their openness. The Courts have held that openness has a spatial aspect as well as a visual aspect. The Supreme Court in *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3* has also endorsed this approach to the effect that the word openness is open textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. The case also highlighted that openness is the counterpart of urban sprawl and that it does not imply freedom from any form of development. The case also confirmed that the matters relevant to openness in any particular case are a matter of planning judgement, not law.
8. The proposed dwelling would be positioned on part of the appeal site where there is currently no built development. It would add an additional dwelling to the existing four dwelling terrace, creating a terrace of five dwellings. Therefore, the proposal to construct a dwelling, where there is currently none, cannot fail but to have a greater impact on the openness of the Green Belt in spatial terms, and thus cause harm. I consider that although there is no development currently on this part of the site, given its proposed attachment to the existing terrace, the harm to the openness of the Green Belt from a spatial aspect would be moderate.
9. From a visual aspect, the dwelling would notably extend the existing terrace. Due to its overall scale and mass, it would be significantly more visually prominent than the current on-site arrangement. Although it would be viewed

in conjunction with the existing terrace, and be of a similar design, it would elongate the terrace into an area that is currently open. For these reasons, it would unquestionably have a greater impact on the openness of the Green Belt than the existing arrangement in visual terms. I find that given the visual relationship with the existing terrace that would ensue, the harm to the openness of the Green Belt in visual terms would be moderate.

10. I therefore consider that in both spatial and visual terms the proposal would cause moderate harm to the openness of the Green Belt and thus have a greater impact than the existing situation. Furthermore, in doing so the scheme also fails to assist in safeguarding the countryside from encroachment, one of the 5 purposes of the Green Belt, and would therefore not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. Collectively, I give this harm significant weight.
11. The appellant refers to the development as 'infill'. Whether or not this is the case, the pertinent exception in paragraph 149 e) relates to 'limited infilling in villages' which does not apply in this case. This is therefore of limited weight in the appeal.
12. For these reasons, as a matter of planning judgement, the proposed development would have a greater impact on the openness of the Green Belt and would not constitute one of the exceptions outlined in the Framework and would therefore be inappropriate development in the Green Belt.

Highway safety

13. The proposed dwelling would be accessed directly from Aveley Road which is a single carriageway road with a 40mph speed limit. I observed on my site visit that due to a combination of existing landscaping to the south of the site and a slight curvature of the road, the visibility of traffic travelling northwards on Aveley Road is very poor.
14. The appeal property currently has sufficient space to allow for vehicles to manoeuvre within the site in order that vehicles can access and egress in a forward direction. The proposed development would subsume some of the existing frontage to serve the parking arrangements for the proposed dwelling.
15. The appellant has submitted a vehicle turning radius to show how a vehicle could manoeuvre within the site following the development. The plan is however incomplete insofar as it does not show the vehicle fully turned to exit the site nor does it apply to both properties. Such a manoeuvre may be cumbersome and may dissuade drivers from undertaking it. I also share the Council's concern and the impracticality of one dwelling relying on utilising the curtilage of another in which to undertake the manoeuvre and there is not an appropriate mechanism before me that would bind either property to the arrangement.
16. Having regard to the lack of visibility described above, when combined with the speed limit of the road, I consider that vehicles reversing from either the proposed or retained dwelling would be at risk of collision and create conditions that would be detrimental to highway safety. The risk would be lessened were vehicles to reverse onto the drive and leave in a forward direction, however the visibility, curvature and speed limit mean vehicles undertaking this manoeuvre

would also be at risk of collision, and this weighs against the proposal in highway safety terms.

17. The proposed development would therefore be harmful to highway safety. It would be contrary to Policy 23 of the Havering Local Plan (2021) which requires, amongst other things, that development ensures safe and efficient use of the highway. It would also be contrary to the requirement of the Framework that development must not have an unacceptable impact on highway safety.

Other considerations

18. The appellant has referred to the improvement to the appearance of the site in terms of tidying the site as a factor to weigh in favour of the appeal. I acknowledge that this is a benefit of sort, however I am not convinced that the proposed development is the sole means of achieving this benefit. I also observed on my site visit that in comparison with the photographs supplied with the appeal, some clearance had already taken place. Accordingly, it is of limited weight.
19. The fact that the proposed development would result in the creation of an additional dwelling is of moderate weight in favour of the appeal.

Planning Balance

20. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 continues by stating that 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.
21. The development in this case amounts to inappropriate development in the Green Belt and the Framework requires that substantial weight is attached to the harm in that regard. It would also cause moderate harm to the openness of the Green Belt and would cause harm to highway safety.
22. Having considered the matters raised in support of the proposal, including in relation to the creation of an additional dwelling, I conclude that they do not clearly outweigh the harm that I have identified, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist.
23. Therefore, the proposal would be contrary to Policy G2 of The London Plan (2021) which requires that the Green Belt should be protected from inappropriate development, and that development proposals that would harm the Green Belt should be refused except where very special circumstances exist.

Other Matters

24. As the application of policies in the Framework that protect the Green Belt provides a clear reason for refusing the proposed development, it does not benefit from the presumption in favour of sustainable development as outlined in paragraph 11 of the Framework.

Conclusion

25. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
26. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR