

Appeal Decision

Site visit made on 17 January 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2024

Appeal Ref: APP/P2365/W/23/3326757

38 Daisy Lane, Lathom, Ormskirk L40 4BS

- 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 J Byrne against the decision of West Lancashire Borough Council.
 - The application Ref 2023/0065/FUL, dated 9 January 2023, was refused by notice dated 23 June 2023.
 - The development proposed is described on the application form as 'the proposed demolition of the existing dwelling and the construction of a new replacement single storey dwelling as an amendment to previous approval 2020/1133/FUL.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. Therefore, I am satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the Framework;
 - the effect of the proposal on the openness of the Green Belt; and
 - if it 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 the development.

Reasons

Whether inappropriate development

4. The appeal site relates to a detached bungalow situated on a rectangular plot on the southern side of Daisy Lane within the Green Belt. It is set towards the front of the site with a large garden to the rear and is bounded by 40 Daisy Lane to the east and by open fields to the south and west. There is some linear development along Daisy Lane, primarily on the northern side, which is

characterised by detached and semi-detached dwellings within large plots surrounded by open countryside.

5. Policy GN1 of the West Lancashire Local Plan 2012-2027 Development Plan Document Adopted October 2013 (LP) states that proposals within the Green Belt will be assessed against national policy and any relevant local policies.
6. Paragraph 154 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to certain exceptions. The appellant contends that the proposal accords with the exception at paragraph 154 d), which relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and with paragraph 154 g), relating to redevelopment of previously developed land, whether redundant or in continuing use, excluding temporary buildings, which would not have a greater impact on the openness of the Green Belt than the existing development.
7. LP Policy GN1 and the Framework do not define the term materially larger. However, Policy GB1 of the Council's Development in the Green Belt Supplementary Planning Document 2015 (SPD) states that the total volume of the replacement dwelling should not be more than 20% greater than the dwelling it would replace.
8. The appeal property is a modest bungalow which features a pitched roof with a flat roof extension to the rear and outbuildings to the eastern side. The proposed dwelling would be a single storey structure and would be sited broadly on the same footprint as the existing. It would feature a flat roof which would be lower in height than the pitched roof of the existing building. There is no dispute that the site falls within the definition of previously developed land.
9. In numerical terms, the evidence indicates that the existing dwelling has a volume of 258m³ and the outbuildings are around 54m³. The volume of the appeal proposal would be 820m³. That would represent a substantial increase in volume and significantly exceed the 20% figure set out in SPD Policy GB1. The footprint of the proposal would also be notably larger than that of the existing dwelling and outbuildings combined. Consequently, the proposal would result in a building that would be materially larger than the existing building. Therefore, it would not meet the exception at paragraph 154 d) of the Framework.
10. Any increased openness as a result of the lower roof height of the proposal would be counterbalanced by the significantly greater depth and width of the new building. The rear projection of the new dwelling in particular would be significant and would extend over land which is currently open. Whilst the proposal would be a relatively lightweight structure, the increased scale and massing of the proposed dwelling would nevertheless lead to a greater impact on the openness of the Green Belt than the existing. Consequently, the exception in paragraph 154 g) of the Framework would not be met in this case.
11. The Council has formally determined that prior approval is not required for two single storey extensions to the existing dwelling¹. In addition, planning permission has recently been granted for a replacement dwelling on the site². The appellant contends that the prior approval extensions should be taken into account and to that effect has provided comparisons between the size of the

¹ Council ref. 2019/0574/PNH and 2019/0791/PNH

² Council ref. 2020/1133/FUL

proposed replacement dwelling and the existing dwelling as it would be with the addition of these two extensions.

12. However, case law³ has established that, taking a common-sense approach, the plain meaning of the policy wording 'the one it replaces' and 'the existing development' must refer to a building as it exists on site now. In my view, the intention of Policy GB3 of the SPD is to allow for consideration of existing or previous buildings on the site in determining whether a redevelopment would have a greater impact on Green Belt openness, rather than buildings that may or may not be constructed in the future. Therefore, whilst the prior approval extensions could be carried out lawfully, the comparison of the proposed replacement dwelling must be with the existing development, as it stands, rather than with the building as it may theoretically exist at some point in the future. I will however return to the matter of the fallback position in the 'other considerations' section of my decision.
13. For the reasons given above, I conclude that the proposal would be inappropriate development in the Green Belt when assessed against the relevant sections of the Framework. Such development is, by definition, harmful and is contrary to the guidance in paragraphs 152 and 154 of the Framework and LP Policy GN1, which seek to protect the Green Belt.

Openness

14. Framework paragraph 142 indicates that openness is an essential characteristic of the Green Belt with a fundamental aim of Green Belt policy being to prevent urban sprawl and keep land permanently open.
15. Whilst the proposed replacement dwelling would be positioned in the same part of the site as the existing building, it would occupy a larger area than the existing property, both in terms of floorspace and volume. Although a significant proportion of the bulk and mass of the new dwelling would be to the rear, this would be visible from Daisy Lane and from within the appeal site itself. It would also be partially visible between gaps in the surrounding vegetation from longer distance views, including Meadow Lane. Overall, the proposal would result in moderate harm to the openness of the Green Belt. This is contrary to one of the main aims of Green Belt policy.

Other considerations

16. The planning history for the property indicates that the appellant is seeking to extend or replace this dwelling, as demonstrated by the two prior approval applications for extensions and the approved replacement dwelling. As the two prior approval extensions are separate to one other, I am satisfied that both could be implemented together. There is a reasonable prospect of the fallback being carried out if this appeal is dismissed. However, for significant weight to be afforded to the fallback position, there needs not only to be a reasonable prospect of it being carried out, but it would also need to be more harmful than the scheme for which permission is sought.
17. The permitted development fallback position of the existing dwelling plus the two prior approval extensions would result in a dwelling with a greater width than the appeal proposal and it would also be taller due to its series of pitched roofs. In addition, the fallback position would have a greater footprint than the

³ *Athlone House Ltd v SCLG* [2015] EWHC 3524 (Admin)

appeal proposal if the courtyard area between the two rear extensions were to be included in the calculation. On the other hand, the appeal proposal would project slightly further to the rear of the site compared to the permitted development fallback. It would have a substantially greater width than the approved replacement dwelling. Importantly, the permitted development position scheme would result in a dwelling with a volume of 722m³. Alternatively, the approved replacement dwelling would have a volume of 720m³. With a volume of 820m³, the appeal scheme would, therefore, have a notably larger volume than both alternative fallback positions. When considering the fallback positions in the round, I consider that these would result in a similar degree of harm to the Green Belt as the appeal proposal. I therefore afford only moderate weight to the fallback positions.

18. Employment opportunities would be created during the construction phase of the development. Given the scale of the proposal, the weight attributable to this matter is limited.
19. Compliance with policies in respect of the effects of the proposal on highway safety and the living conditions of neighbouring occupiers, and the character and appearance of the area, are effectively neutral matters rather than ones that weigh positively in favour of the proposal. I also note that no objections have been received from neighbouring residents. However, this does not reduce the harm the proposal would cause to the Green Belt.

Green Belt balance and conclusion

20. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. I have found that the proposal would be inappropriate development in the Green Belt. In addition, it would result in a loss of openness to the Green Belt. Substantial weight is given to the harm to the Green Belt in accordance with paragraph 153 of the Framework.
22. I have given some weight to the factors in favour of the proposal, and conclude that, taken together, they do not clearly outweigh the harm arising from the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
23. The proposed development would not accord with the development plan or national policy in relation to Green Belt. There are no other considerations which outweigh these findings. For the reasons given above, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR