



Appeal Decision

Site visit made on 16 January 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/H1515/W/23/3320371

Stonywood, Mill Lane, Fryerning, Essex CM4 0HU

- 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 Francis Murphy against the decision of Brentwood Borough Council.
 - The application Ref 23/00102/FUL, dated 25 January 2023, was refused by notice dated 17 March 2023
 - The development proposed is described on the application form as 'erection of a new dwelling. Amended scheme to include a basement.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised version of the National Planning Policy Framework was published (December 2023). This does not materially change the planning policy context in respect of the main issues.
3. At the time of my site visit, some construction work was underway. Regardless of what has been constructed to date, my assessment is based on the plans before me.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the impact on openness; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Whether inappropriate development

5. National Green Belt policy in the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved 'except in very special circumstances.' There are, however, certain exceptions.
6. One of those, at paragraph 154(c), is the extension or alteration of a building, provided it does not result in disproportionate additions over and above the size of the original building. It is this exception that the appellant makes reference to within their statement, using the term 'disproportionate'.
7. Although the proposal before me is for a dwelling, it essentially forms an amendment to a previous permission¹. The only change between the schemes relates to the addition of a basement. Accordingly, the proposal could be considered tantamount to an extension to that scheme. Policy MG02 of the Brentwood Local Plan 2016-2033 (LP, 2022) broadly conforms to the general thrust of national Green Belt policy, which in summary seeks to preserve the Green Belt from inappropriate development, unless very special circumstances are demonstrated or where exceptions in line with the Framework apply.
8. The Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement.
9. Limited information is provided in respect of the footprint or volume of the property as originally existed (prior to demolition), as previously approved or as now proposed. Nevertheless, the proposed basement would add approximately 177.5sqm of floor area, occupying the full footprint of the dwelling. A rear sunken courtyard with step access is also proposed. This would, in part, form a lightwell to the basement rooms.
10. The extent of physical built development is a question of fact. Whichever baseline is used, whether that be the original (now demolished dwelling) or a recently approved scheme, the proposed development would result in a significant uplift in floorspace.
11. I have also had regard to Framework paragraph 154(d), which allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Whilst the proposed development would be of the same use as the previous development on the site, it would, based on the evidence before me and as set out above, result in an uplift in floorspace. Given that the proposed building, as a matter of fact, would be materially larger than that which it replaced, it would fail to meet this exception.
12. Overall, the development is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt. Substantial weight should be given to this harm. The proposed development is therefore contrary to the relevant provisions of LP Policy MG02, which in summary seeks to protect the Green

¹ Ref 22/01487/FUL

Belt from inappropriate development. This is in a similar vein to the provisions of the Framework which seek to protect the Green Belt.

Openness

13. The Framework indicates that openness is an essential characteristic of the Green Belt and a fundamental aim of Green Belt policy is to keep land permanently open. The openness of the Green Belt has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
14. I saw during my site visit how intervening features in the landscape, including mature vegetation, mean there is fairly limited visibility of the site from the surrounding area. Nevertheless, some glimpsed views of the site are visible from Mill Lane and from private vantage points and the openness of the Green Belt is readily apparent within the immediate area through the existence of mature trees and surrounding open fields.
15. The proposed development would be discreet in its position. The basement itself would not be visible, with the sunken courtyard positioned to the rear of the dwelling. No lightwells are proposed to the front or side of the dwelling. Nevertheless, the proposal would result in additional built volume where this does not presently exist. The rear courtyard and staircase, although discreetly located, would inevitably lead to a physical loss of openness.
16. Consequently, the proposed development would cause harm to the openness of the Green Belt, albeit this would be to a limited extent by reason of the mitigating factors set out above. This weighs somewhat against the proposal.

Other considerations

17. The Framework is clear that substantial weight should be given to any harm to the Green Belt. '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 development, is clearly outweighed by other considerations.
18. The appellant sets out that the addition of a basement and courtyard would not have a harmful impact on the openness of the Green Belt, or have any visual impact on the surroundings. This matter has been considered above and does not form a separate consideration under very special circumstances.
19. I accept that the scheme would meet some other planning policy requirements, including in respect of highway safety. I also note that no objections were received from consultees, including the Parish Council, and that officers did not object on the basis of character and appearance. However, as these matters are not in dispute between the Council and appellant, they are neutral in my determination of the appeal. I therefore afford them very limited weight.
20. The appellant sets out that the proposed development would result in a reduction in the need for additional ancillary and curtilage buildings going forward. However, this is based on a hypothetical eventuality, and I am assessing only the proposal that is before me. I afford this consideration only limited weight.

21. The appellant also argues that many garden features (like the sunken courtyard) could be described as engineered, including a rockery, pond, patio, or a swimming pool. However, as those features are not before me, I afford this consideration only limited weight.

Fallback

22. My attention is drawn to a previous planning permission on the site under Ref 18/00477/FUL. I have very limited information before me as to the extent of this scheme. However, it is understood to have been implemented (not completed). On this basis, I consider the 18/00477/FUL scheme to form a viable fallback position. However, the degree of weight to be given to that fallback position depends on whether it would be equally or more harmful than the scheme proposed.
23. Based on the information before me, the fallback scheme differs from the appeal scheme in that it did not appear to feature a basement or associated lightwells/sunken courtyard. Moreover, there is no evidence before me to substantiate claims that the fallback scheme achieved a scale or volume equally or more harmful as that now before me, irrespective of any hypothetical use of permitted development rights which have been put forward. I afford this consideration limited weight.
24. The Council also previously granted planning permission on the site for a replacement dwelling, under Ref 22/01487/FUL. I have been provided with some details of this case. However, as above, that fallback scheme did not include a basement level or courtyard and I have no evidence before me to demonstrate that that fallback scheme would be equally or more harmful as that now before me. I afford this consideration limited weight.

Other examples

25. My attention is also drawn to previous appeal and planning decisions at Ivy Cottage² and Hardings Farm³, allowing development in the Green Belt. I have had regard to these cases and note that those sites are positioned relatively close to the appeal site.
26. Although I have limited information of the cases before me, it is apparent that the Ivy Cottage scheme was considered to constitute inappropriate development, weighed against very special circumstances. The very special circumstances that applied in that case do not automatically apply at the appeal site as each individual case is site and context specific. The Hardings Farm case was found to be 'not inappropriate' development in the Green Belt. In a similar vein to the above, the individual circumstances and the planning balance that applied in that case are not directly comparable to the scheme before me. I have considered the proposed development based on the evidence before me and my observations on site. The existence of those nearby sites does not alter my consideration of the appeal or the conclusions which I have made. I attach only limited weight to these considerations.

² APP/H1515/D/20/3248999

³ 22/00747/FUL

Heritage

27. The appeal property is located within the Fryerning Conservation Area (the CA). In line with section 72(1) of the Act, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
28. Bearing in mind the position, nature and extent of the proposals, I consider that they would have a neutral effect on, and would therefore preserve, the character and appearance of the CA as a whole.
29. As such, the proposal would not harm the significance of this designated heritage asset. I note that the Council had no concerns in these respects either. Nevertheless, this lack of harm does not weigh for or against the appeal.

Green Belt Balance

30. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be allowed except in very special circumstances. In addition, there are impacts on openness here. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
31. Cumulatively, I attach no more than limited weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt.
32. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. The proposed development would therefore not accord with the Green Belt aims of LP Policy MG02, or the Framework, as set out above.

Conclusion

33. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

A Price

INSPECTOR