



Appeal Decision

Site visit made on 29 February 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/V1505/D/23/3333235

Tany Ralt, Southbourne Grove, Wickford, Essex SS12 0JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr L Bullock against the decision of Basildon Borough Council.
 - The application Ref is 23/00988/FULL.
 - The development proposed is a rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published a recently revised National Planning Policy Framework ("the Framework"). However, there are no material changes relevant to the substance of this appeal. Therefore, I am satisfied that no one would be prejudiced by the changes to the national policy context. All references to the Framework in this decision relate to the revised document.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the proposed development on the openness of the Green Belt.
 - If the proposal is inappropriate development, 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 proposal.

Reasons

Whether inappropriate development

4. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, subject to specific exceptions. The exception relevant to this appeal, as set out in Paragraph 154.c) of the Framework, is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not define a disproportionate addition, however the glossary defines the original building as

a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.

5. Policy BAS GB4 of the Basildon District Local Plan Saved Policies, September 2007 ("the BDLP"), states that dwellings in the Green Belt will be allowed to extend to 90 square metres or by 35 square metres over and above the original floor area of the dwelling (or the area as at 1 July 1948), whichever is the greater.
6. The Council's numerical calculations, which have not been disputed, indicate that the appeal site was occupied by a dwelling with a floor area of approximately 59 square metres. The original dwelling was subsequently replaced, followed by a loft conversion and the later addition of a conservatory. The current dwellinghouse has a floor area of approximately 165 square metres, consisting of around 124 square metres on the ground floor and around 41 square metres on the first floor.
7. The proposed extension would add around 36 square metres, following removal of the existing conservatory, equating to a total floor area of approximately 179 square metres. As such, the proposal would represent a significant increase in the floor area of the original dwelling above the thresholds set out in BDLP Policy BAS GB4.
8. The Framework does not give a floor space threshold above which proposed extensions would be considered disproportionate. However, in the circumstances of this case and taking account of the local policy context, I find that the size of the proposed extension would amount to a disproportionate addition over and above the size of the original building. As such it would constitute inappropriate development in the Green Belt for the purposes of the Framework and BDLP Policy BAS GB4.

Openness

9. In spatial terms, the proposed extension would represent a modest loss of openness in the Green Belt and would be larger than the conservatory it would replace. Visually, the bulk of the proposed extension would mostly be screened in public views by the existing dwelling, nearby buildings and boundary treatments. However, glimpse views of parts of the flank walls and roof slopes of the proposed extension would be possible above the boundary treatments of nearby properties, including across the side garden of Oakmead, which sits at a lower level. In these views the depth and massing of the flank walls would be apparent and would result in a noticeable loss of openness in the visual dimension, albeit to a relatively modest and localised extent. For these reasons, I conclude on this issue that the proposed extension would result in a harmful loss of openness in the Green Belt in both spatial and visual terms.

Other considerations

10. The appeal proposal would improve the amount and quality of the accommodation within the dwelling and thus the occupiers' living conditions. However, the planning system is mainly concerned with the use of land in the public interest. In this context, I afford only limited weight to the private benefits of the appeal proposal to the appellant and future occupiers.

11. A Lawful Development Certificate ("the LDC scheme") was granted in June 2023 for the erection of a proposed outbuilding¹ in the rear garden of the appeal property. This is described as a fallback position. Furthermore, it is suggested that additional outbuildings could be erected under existing permitted development rights. The weight to be afforded to a fallback scheme depends on whether there is a reasonable prospect of it being carried out, and whether or not it would be more harmful than the appeal scheme, and if so the degree of any harm.
12. The appeal proposal would provide a larger open plan kitchen as an integral part of the dwellinghouse. The LDC scheme, or an alternative outbuildings scheme, would provide building set in the garden and detached from the dwelling. As such, the purpose and functionality of the outbuildings would be very different to the appeal proposal and would be highly unlikely to meet the requirements for improving the internal floor space, layout and functionality of the appeal dwelling. Given the significant physical and functional differences between them, I am not convinced that there would be a greater than theoretical possibility that the LDC scheme, or alternative schemes for outbuildings, would be implemented as a direct consequence of this appeal being unsuccessful.
13. The LDC scheme, either alone or in combination with a more extensive outbuilding scheme, would be likely to have a modestly greater effect on Green Belt openness than the appeal proposal. This is because the LDC scheme outbuilding, or alternative outbuildings, would be set in the rear garden where a comparatively greater amount of built form would be likely to be visible above the boundary fence and across the side garden of Oakmead in views from the road. Nonetheless, it would not alter my conclusions on the prospect of those schemes being implemented were this appeal to fail.
14. Furthermore, the removal of permitted development rights for outbuildings by a condition of a planning permission would only come into effect once that permission was implemented. Therefore, outbuildings could be erected prior to implementation, resulting in a potentially greater level of cumulative harm to Green Belt openness than the appeal proposal alone. A legal agreement prohibiting the LDC scheme from being implemented is not before me in any case.
15. Consequently, for the reasons given above, the potential fallback schemes hold no more than limited weight in favour of the appeal proposal.
16. The proposed extension would be larger than the existing conservatory and would therefore represent an uplift in volumetric terms. It follows that any benefit to the openness of the Green Belt through removal of the Conservatory would be outweighed by the proposal's harm to openness.
17. The developments at the nearby properties of Jasmin and St Arthurs appear to have exceeded the floor areas of both original buildings beyond the thresholds in BDLP Policy BAS GB4. There are broad similarities between those nearby developments and the appeal proposal before me, including being determined under the same saved policies. However, I am not bound by previous decisions of the Council, and I have necessarily determined the appeal proposal on its individual merits and the evidence before me, taking account of the specific

¹ 23/00765/LDCP

characteristics of the development and its context. As such, the cases brought to my attention are of limited relevance and weight to my considerations in this appeal.

Other Matters

18. The Council considers that the proposal would cause no harm in respect of the appeal proposal's design, effect on highway safety or the living conditions of nearby occupiers. I have no reasons to find differently. Nevertheless, an absence of harm in these respects does not weigh positively in favour of the appeal development.

Green Belt Balance

19. The proposal would be inappropriate development and would harm the openness of the Green Belt. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that 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 is clearly outweighed by other considerations.
20. The other considerations do not clearly outweigh the totality of the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

21. For the reasons given above and having considered all other matters raised, I conclude that the appeal proposal conflicts with the Framework and BDLP Policy BAS GB4 in relation to the Green Belt. It therefore conflicts with the development plan as a whole and there are no material considerations of sufficient weight to outweigh this finding. Accordingly, the appeal should be dismissed.

G Sylvester

INSPECTOR