



Appeal Decision

Site visit made on 9 April 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal Ref: APP/J1535/W/23/3328272

Lochalsh, Hamlet Hill, Roydon, Harlow, Essex CM19 5JU

- 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 and Mrs Ayres against the decision of Epping Forest District Council.
 - The application Ref is EPF/2496/22.
 - The development proposed is the demolition of existing dwelling and development of a replacement and additional dwellinghouse and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - whether the development provides suitable mitigation for impacts on the integrity of the Epping Forest Special Area for Conservation (SAC) with particular regard to air pollution; and
 - whether any 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

3. The appeal site comprises a single storey, detached bungalow with outbuildings and extensive front and rear gardens. The site is broadly flat and irregular in shape. To the front of the existing bungalow is a long driveway and parking for multiple vehicles.
4. The appeal site lies between Highlands, a two-storey detached dwelling and Bryher, a single storey bungalow. It is within a ribbon development, which contains a mix of two-storey and single storey dwellings. There is a high degree of variety in architectural style, design, and massing of the surrounding dwellings. The surrounding area has a rural character, albeit with large development of glasshouses visible within the surrounding landscape, including to the rear of the site.

5. The proposed development would involve the demolition of the existing bungalow and erection of a replacement dwelling and an additional dwelling.

Whether Inappropriate Development

6. The appeal site is located within the Metropolitan Green Belt. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
7. Paragraph 154 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate subject to a number of identified exceptions. One such exception, at paragraph 154(g), allows for the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
8. Policy DM4 of the Epping Forest District Local Plan 2023 (EFDLP), amongst other things, reiterates the provisions of Paragraph 154 of the Framework and therefore is entirely consistent with it.
9. The terms "limited" and "infilling" are not defined in the Framework. However, the supporting text to Policy DM4 of the EFDLP defines limited infilling as "*the development of a small gap in an otherwise continuous built-up frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development*". I consider this is a reasonable definition and therefore I have determined the proposal on this basis.
10. It is not disputed between the parties that the proposed development comprises the redevelopment of previously developed land and would be limited infilling. It therefore follows that the proposal meets the first part of Paragraph 154(g). However, the second part of Paragraph 154(g) also requires an assessment as to whether the proposed development would have a greater impact on the openness of the Green Belt than the existing development.
11. The existing dwelling is a large bungalow, which sits centrally within a large plot. The proposed development would involve the redevelopment of the site to provide two dwellings of different sizes but with a total volume of approximately 1357m³. This would represent a substantial increase in volume and footprint in relation to the existing property. The proposed dwellinghouses would also be sited forward of the existing dwellinghouse.
12. The larger of the two properties would be located closer to the boundary with Highlands than the existing dwelling, which both visually and spatially would lead to a reduction in the openness of the Green Belt. There would also be an increased amount of hardstanding to the front of the proposed dwellings, providing access and parking for two dwellings and a requirement for boundary treatments to create individual curtilages. Both of these features would have a greater impact on openness than the existing development.
13. The appellant's evidence indicates that existing dwelling could be extended in a number of ways to achieve a total volume of 1361m³ and I will return to this later. However, a comparison of volumetric calculations for the development is only one means by which the effect on openness can be assessed. The

proposed dwellings would have a larger footprint than the existing dwelling, even if extended in the manner suggested and as a result would occupy a great proportion of the overall site. This would inevitably lead to harm to the openness of the Green Belt.

14. Furthermore, the formation of an additional residential curtilage is also likely to lead to increased requirements for features such as parked vehicles, garden furniture, washing lines etc. Therefore, notwithstanding the site's historic use as a garden, the proposal would increase both the scale of built development and likely level of domestic paraphernalia present on the site. This would adversely affect the openness of the Green Belt in both spatial and visual terms.
15. Whilst I accept that the development has been designed to be high-quality, that the height of the proposed buildings has been stepped to reflect the rooftop hierarchy of neighbouring properties and would be viewed as a continuation of the ribbon development pattern, this would not overcome the harm to the openness of the Green Belt which would be caused.
16. Consequently, I find that the proposed development would reduce the openness of the Green Belt within the site and its immediate surroundings, to a degree that would be materially harmful. As such, the proposed development would fall outside of the scope of Paragraph 154(g) of the Framework, as it would have a greater impact on the openness of the Green Belt than the existing development. None of the other exceptions set out in Paragraph 154 are applicable. Therefore, proposal would be inappropriate development in the Green Belt, as defined in the Framework and Policy DM4 of the EFDLP.

Epping Forest SAC

17. The Epping Forest Special Area of Conservation (SAC) is a European Site designated under the Conservation of Habitats and Species Regulations 2017. The SAC has been designated primarily for its value in respect of beech trees and wet and dry heaths and for its population of stag beetle.
18. Policy DM2 of the EFDLP expects all relevant development proposals to ensure that there is no adverse effect on the site integrity of the SAC. The Council states that development proposals (regardless of their type, size, and location within the District) which would result in even an increase in just one additional vehicle has the potential to contribute to increases in atmospheric pollution within the Epping Forest.
19. In terms of mitigation, the Council is satisfied that the proposal would not have an adverse impact on the integrity of the SAC subject to the satisfactory completion of a Section 106 planning obligation requiring a financial contribution and the imposition of relevant planning conditions.
20. The appellant indicates that they have no objection to making the necessary payment and a draft planning obligation has been provided. However, it is not signed and dated and thus, I cannot take it into account.
21. Nonetheless, as I intend to dismiss the appeal for other reasons, there is no reason for me to conclude on whether or not an obligation is necessary since, even if I was satisfied that an obligation was necessary to make the development acceptable and a suitable obligation had been provided, the obligation would weigh neutrally in the balance.

Other Considerations

22. The appellant has drawn my attention to various proposals for extensions to the existing property which could be constructed as development permitted by the Town and Country Planning (General Permitted development) Order 2015, as amended. These include an upwards extension, single storey extensions to both sides and a large single storey rear extension. The appellant has obtained a certificate of lawfulness¹ and prior approval² for some of these works. As such, I accept that there is a reasonable prospect of extensions, with a generous floor area and volume, being carried out if this appeal is dismissed.
23. 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.
24. Whilst I accept that the proposed development has been designed so that it would sit below the potential future ridge height of the existing dwelling and its potential extended floorspace and volume, it would nevertheless have a harmful effect on openness. The fallback position and the proposed development are materially different and would have different effects on the openness of the appeal site. Therefore, I find that it has not been demonstrated that these extensions would result in a more harmful effect on openness of the Green Belt than the appeal proposal. Consequently, I afford this less than substantial weight.
25. The proposal would involve the provision of an additional dwelling which would make a small contribution to housing supply and support the Government's objective to significantly boost housing supply. The appellant also indicates that the proposed development would deliver a self-build or custom build housing plot.
26. The redevelopment of the site to provide two bungalows dwelling would result in some additional economic and social benefits during the construction and occupation phases. There would also be some environmental benefits including, the provision of solar PV panels, EV charging and energy efficiency measures within the design. However, these benefits are limited by virtue of the small-scale nature of the proposed development and therefore I attach limited weight to these benefits.
27. I also note that the Council found that there would be no harm to character and appearance of the area or to the living conditions of the occupiers of neighbouring properties. However, the lack of harm in those respects falls neutrally in the balance.
28. My attention has been drawn to a recently approved³ development for the part demolition, change of use and conversion is a number of vacant glasshouses to provide 14 light industrial units, located to the rear of the appeal site. I have not been presented with the full details of this scheme. However, it does not appear directly comparable to the appeal proposal. In any event each case must be determined on its own merits.

¹ Application Ref: EPF/1543/23 and EPF/3216/21

² Application Ref: EPF/1544/23 and EPF/3221/21

³ Application Ref: EPF/1322/20

Green Belt Balance

29. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt and 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.
30. In summary, the proposed development would have a greater effect on openness than the existing development, and therefore would be inappropriate development in the terms set out by the Framework. The Framework requires that substantial weight should be given to any harm to the Green Belt. The other considerations advanced in support of the appeal carry do not clearly outweigh the harm I have identified.
31. Consequently, the very special circumstances necessary to justify the proposal do not exist thus it would fail to accord with the Green Belt aims set out in Policy DM4 of the EFDLP and the Framework.

Other Matters

32. The appeal site is partly within the Nazeing and South Roydon Conservation Area (CA). Therefore, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
33. The significance of the CA is derived from the open landscape and historic pattern of development. The Council's Conservation Officer confirmed that the proposed development would preserve the special character and appearance of the setting of the conservation area. Based on the evidence before me and my own observations, I see no reason to disagree.
34. I have had regard to a previous appeal decision⁴ on the site. However, this sought planning permission for a detached garage and is not therefore directly comparable to the appeal proposal.

Conclusion

35. For the reasons set out above, the proposal conflicts with Policy DM4 of the EFDLP and that leads to conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR

⁴ Appeal Ref: APP/J1535/D/22/3308131