



Appeal Decision

Site visit made on 30 October 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2024

Appeal Ref: APP/M1520/W/24/3337464

Glen Lodge, Glen Road, South Benfleet, SS7 1AN

- 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 Saunders against the decision of Castle Point Borough Council.
 - The application Ref is 23/0175/FUL.
 - The development proposed is alterations and extensions to convert existing storage outbuildings into 1No. self-contained dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of development from the Council's decision notice and appellant's appeal form as it more succinctly describes that for which permission is sought.

Main Issues

3. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - b) the effect of the proposal on the openness and the purpose of the Green Belt;
 - c) the effect of the proposed development on the character and appearance of the area;
 - d) the effect of the proposed development on the Benfleet and Southend Marshes and the Blackwater estuary; and
 - e) 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

Whether Inappropriate Development

4. The National Planning Policy Framework (the Framework) advises that in the Green Belt, development should be regarded as inappropriate. Paragraphs 154

and 155 of the Framework do however set out exceptions where development in the Green Belt might not be considered as inappropriate.

5. The proposal involves both the reuse of the buildings and by virtue of connecting the two buildings together, extensions to them. The appellant does not indicate that the proposal accords with any of the exceptions in the Framework. However, the Council considered the proposal under two of the exceptions.
6. The scheme was considered firstly under Paragraph 154(c) which allows for 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. Secondly, in relation to the re-use of the buildings the proposal was considered under Paragraph 155(d). Reuse is permitted provided that the buildings are of permanent and substantial construction. This exemption is also subject to the proviso that such development also preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. No other exceptions to inappropriate development set out in Paragraphs 154 and 155 were identified as relevant to the proposal.
7. The extensions are relatively contained and although there would be an overall increase in footprint and volume, the Council has concluded that they would not constitute disproportionate additions over and above the size of the original buildings. Based on the evidence before me and my own observations I agree that the proposal would comply with Paragraph 154(c).
8. With regard to Paragraph 155(d), while there is no dispute about the permanency of the buildings, the Council contend that they are not of substantial construction. Substantial construction is not defined in the Framework and is inevitably a matter of planning judgement.
9. The existing buildings are sat on a concrete base. A brick plinth supports a wooden frame which is infilled with wooden panels and external timber cladding. Both buildings have tiled roofs. However, there is no information to explain how such buildings could be reused without a need for major building work. For example, there is no structural survey submitted in support of the proposal, no information on matters such as the depth of the existing foundations, damp proofing or what additional works would be required to facilitate the reuse.
10. Based on my observations and the submitted drawings, it seems to me that a significant amount of building work would be required to ensure the buildings were able to function as a dwelling. This leads me to conclude that they are not of substantial construction and that the proposal would not meet the exception in Paragraph 155(d). The proposal would therefore constitute inappropriate development in the Green Belt.
11. Framework Paragraph 152 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 advises that any harm to the Green Belt attracts substantial weight.

Openness and Purpose

12. Paragraph 142 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. The preservation of

openness isn't absolute, and it can be maintained whilst allowing change to occur although any assessment of openness includes consideration of both visual and spatial aspects.

13. The proposed change would inevitably result in a more residential and domestic appearance of the buildings, with associated domestic paraphernalia and residential movements. However, this would not likely be significantly over and above what could already take place within the site given its current garden use and the scale of the proposal.
14. The increased size of the building would be limited to the area between the two buildings and would be set below the height of the existing ridges. This would be difficult to appreciate in visual or spatial terms from most vantage points within the existing garden.
15. The Council also considers the proposal would conflict with two of the five purposes of the Green Belt, namely, to prevent neighbouring towns merging into one another and encroachment of the countryside. As noted above, the site forms part of an existing residential curtilage and the works would not extend the building footprint any closer to the site's boundaries. Therefore, it is difficult to see how in reality the proposal would undermine these particular purposes of the Green Belt.
16. In conclusion, I find that the proposal would preserve the openness of the Green Belt and would not conflict with any of its purposes, including to prevent neighbouring towns merging into one another and to assist in safeguarding the countryside from encroachment.
17. This lack of conflict with the openness and purpose of the Green Belt would amount to a lack of harm and would therefore be a neutral factor in my overall balance.

Character and Appearance

18. Glen Road is a relatively short unmade road that contains a limited number of large detached, two storey houses within sizable plots. The proposed dwelling would be a small, one bedroom, single storey dwelling. Whilst its plot in relation to the size of the building could be considered generous, it would be small when compared to the established character of Glen Road.
19. The alteration to the site entrance itself would be relatively minor but the resulting limited frontage of the new dwelling onto Glen Road would be a further expression of the differences between the proposal and the prevailing environment. That the building would have some windows and a door on the elevation facing towards London Road, does not mean that the property should be considered separately from the properties in Glen Road or would not be seen within the Glen Road context.
20. Whilst the adverse effect of the development on the character and appearance of the area would be limited and localised, the proposal would not comply with Policy EC2 of the Castle Point Local Plan 1998, which requires development, amongst other things to not harm the character of its surroundings. Whilst I do not find the wording of RDG1 of the Council's Residential Design Guidance to fully reflect the appeal situation, this does not detract from my findings in relation to the development plan.

21. The proposal would also be contrary to the Framework's objectives for development being sympathetic to local character and maintaining a strong sense of place.

The Benfleet and Southend Marshes and the Blackwater estuary

22. The appeal site falls within the zone of influence of the Benfleet and Southend Marshes and the Blackwater estuary. In brief, these areas are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) in order to safeguard the habitats and the ecology they support.
23. These 'Habitats Sites' are easily disturbed by recreational activity arising from residents of new housing development within the zone of influence. There is a reasonable likelihood that they would be accessed for recreational purposes by future occupiers of the development. While the effects of the development alone would be limited, additional recreational visitors to the protected areas would be likely to have significant effects when considered in combination with other proposals.
24. The Habitats Regulations therefore require me to consider any avoidance or mitigation measures that would be capable of addressing the adverse effects and to be certain that they would be effective. I have been provided with information on the matter and it appears that the impact could be monitored and managed to a satisfactory level through a tariff-based system that would fund measures such as awareness raising, on-site wardens, provision of signage and access infrastructure. Natural England, who are the statutory conservation body, agree that such payments can avoid an adverse effect on the integrity of the protected areas.
25. The appellant indicates a willingness to make the necessary contribution. However, the matter has not been progressed and there is currently no planning obligation or other mechanism submitted to secure that contribution. Consequently, I cannot be sufficiently certain that the mitigation measures would be forthcoming or implemented in an effective and timely manner. Without the necessary evidence of mitigation at the decision stage, I am unable to complete an Appropriate Assessment. Therefore, given my duties under the Habitats Regulations, I am unable to grant permission for the development.
26. The appellant's appeal statement suggests that the Council did not raise this as an issue prior to making a decision. However, this is a matter to be addressed between the two main parties and does not affect my decision.
27. I therefore find that the proposal would not accord with the Habitats Regulations which seek to protect the natural environment and in particular that sites of international nature conservation importance must receive the highest levels of protection. Nor would the proposal comply with Paragraph 186 of the Framework which requires that significant harm to biodiversity is avoided and that where significant harm to biodiversity cannot be adequately mitigated, permission should be refused.

Other Considerations

28. The proposed development would contribute to the housing supply in the area with a new dwelling. There would be some economic benefits during the

construction phase and upon occupation. There would also be opportunities for future occupiers of the proposed dwelling to have social interaction with existing residents in the area. However, due to the scale of the development, this would only be a small contribution and therefore can only be given limited weight.

29. The proposal is not said to affect neighbours and I note from the submissions that there were other matters which were not contentious in this appeal. Whilst important, these are all features expected from new development and so compliance with them represents an absence of harm. As such, they would not weigh positively in favour of the development.
30. The appellant notes that there would be no need for an additional access point onto London Road. However, I cannot give weight to something which the development is not proposing.

Green Belt Balance

31. I have found the scheme to represent inappropriate development in the Green Belt. Notwithstanding the lack of harm to openness or the absence of conflict with the purposes of including the land within the Green Belt, the Framework requires me to give this harm substantial weight.
32. On the other hand, the benefits outlined in support of the scheme carry limited weight. These other considerations do not clearly outweigh the substantial harm I have identified to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Planning Balance

33. The Council acknowledges that Paragraph 11 d) of the Framework would apply to this case. However, the application of policies in the Framework that protect the Green Belt and the Habitats sites provide clear reasons for refusing the development proposed. Consequently, the presumption in favour of sustainable development does not apply in this appeal.

Conclusion

34. There is nothing before me to indicate that the harm I have identified, or the resulting conflict with the Habitat Regulations, the Framework and the development plan, would be outweighed by other material considerations. Therefore, the decision should be made in accordance with the development plan.
35. As such, having regard to all matters raised, the appeal is dismissed.

Stewart Glassar

INSPECTOR