



Appeal Decision

Site visit made on 17 October 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2024

Appeal Ref: APP/V1505/W/24/3340048

The Cabin, Windsor Road, Bowers Gifford, Basildon, Essex SS13 2LH

- 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 Colin Morris against the decision of Basildon Borough Council.
 - The application Ref is 23/01262/FULL.
 - The development proposed is 1no. dwelling to be demolished and 1no. dwelling to be constructed in replacement.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within the Green Belt so the main issues are:
 - Whether or not the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2023) (the Framework) and any relevant development plan policies, including the effect on openness;
 - If the development is inappropriate development, is the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Site and proposed development

3. The appeal site is located on the south side of Windsor Road. It is situated at its westernmost extremity where the road ends. The surrounding area is made up of a range of dwelling styles, the majority of which are in spacious plots. The appeal site comprises a detached bungalow with associated amenity space.
4. The proposed development involves the demolition of the existing bungalow and its replacement with a larger detached property. The site benefits from an unimplemented planning permission¹ for a replacement dwelling which is shown in the evidence to be larger than the existing dwelling, but smaller than the dwelling subject to this appeal.

¹ Planning Application Ref: 23/00279/FUL

Whether or not inappropriate development

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 154. The appellant contends that the appeal development falls to be considered against two of the given exceptions, namely 154 d) which is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, and 154 g) limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
6. The Framework does not define what constitutes 'materially larger'. Policy BAS GB3 of the Basildon Local Plan Saved Policies (2007) concerns replacement dwellings in the Green Belt. Although it is generally compliant with the aims of the Framework, unlike the Framework it places specific limits, and these relate to replacement dwellings as opposed to buildings. I therefore have afforded greater weight to the Framework and less weight to the policy.
7. The Council's undisputed evidence outlines how the existing dwelling, which is single storey, has a footprint of approximately 54.8 square metres. It is also outlined that the proposed dwelling has a footprint of approximately 105 square metres and includes roof level accommodation giving a total floor area of approximately 123 square metres. This has resulted in an increase in its overall scale and volume when compared to the existing dwelling. The appellant accepts that the replacement dwelling is larger than the dwelling it replaces.
8. Given the amount of the increase in footprint, scale and volume, the proposed dwelling would be materially larger than the existing dwelling on site and would not constitute an exception under 154 d). Although less weight is given to Policy BAS GB3, the replacement dwelling would exceed the threshold given in the policy, that being an increase of 35 square metres.
9. In considering whether an unimplemented planning permission could, as a material fallback, count as part of the baseline, the Courts have concluded that it could not, but that it would probably be relevant at the stage of considering whether very special circumstances exist.
10. Having regard to the exception outlined in paragraph 154 g) for such development not to be inappropriate, it must not have a greater impact on the openness of the Green Belt than the existing development.
11. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect. The proposal to construct a dwelling, which would be significantly greater in footprint and volume than the existing building, would have a greater impact on the openness of the Green Belt in spatial terms, and thus cause harm. Given there is a dwelling currently on site, the harm to the openness of the Green Belt from a spatial aspect that would be caused by a new dwelling, would be moderate.

12. The development would be greater in size and scale than the existing dwelling and would be visible from the street-scene. However given there is currently an albeit smaller dwelling on site, the harm to the openness of the Green Belt from a visual aspect that would be caused by a dwelling of the size, scale and mass proposed, would be moderate.
13. I therefore consider that in both spatial and visual terms the proposal would cause moderate harm to the openness of the Green Belt and thus would have a greater impact than the existing situation.
14. For these reasons, the proposal would not constitute one of the exceptions outlined in the Framework and would therefore be inappropriate development in the Green Belt.

Other considerations

15. The evidence outlines that the Council are unable to demonstrate a five-year supply of deliverable housing sites and can currently demonstrate a housing land supply of around 2.32 years. It is further outlined that the latest Housing Delivery Test was 46% of the target.
16. The proposed development would involve the construction of a dwelling. Because an existing dwelling would be demolished, it would not however result in a net increase in the number of dwellings overall. Therefore, whilst it would no doubt provide a larger and arguably more desirable property, I give this limited weight in favour of the appeal.
17. Similarly, it is outlined how the proposed dwelling would achieve an energy efficiency rating of A and there would be opportunities to harvest rainwater, introduce an air or ground source heat pump and a mechanical ventilation with heat recovery (MVHR) system. There is limited detail on these features or how they would exceed statutory requirements. I am also not convinced that the appeal development is the sole means of achieving these benefits. Nevertheless, I give them moderate weight in favour of the appeal.
18. I acknowledge that the site benefits from an extant planning consent to demolish the existing dwelling and replace with a larger dwelling. This would represent a fallback and is a material consideration of moderate weight. The appeal development would however be larger in both volumetric and area terms than the consented dwelling. Given this fundamental difference, this reduces the weight to be given to the fallback in the appeal. I also note that Policy BAS GB3 outlines how a replacement dwelling under that policy, is a once and for all increase in floor area and that successive replacements will not attract successive enlargements.
19. Compliance with other policies, and the absence of objections are neutral factors in the balance. Similarly, bio-diversity enhancements are a requirement of the Framework and are therefore of limited weight in favour of the proposal.
20. I have been referred to several appeal decisions². In the Mascot and Patricia appeals, the proposed developments constituted affordable housing, and as such were considered under the second strand of paragraph 154 g). The

² APP/V1505/W/23/3323463; APP/V1505/W/21/3278853; APP/V1505/W/21/3286455; APP/V1505/W/21/3266538; APP/V1505/W/21/3278587

proposed development in this case is not affordable housing and therefore those appeals are not directly comparable and are of limited weight.

21. In the Branksome Avenue appeal, the Inspector found that the proposed development represented an exception under paragraph 154 e), this being the limited infilling in villages. This is not the case with the proposed development in this case and therefore that appeal is not directly comparable and is of limited weight. The Windsor Lodge appeal concerns Gypsy and Traveller accommodation and it is therefore not directly comparable and also of limited weight. Similarly, the Land West of Windsor Lodge appeal, which was found to be inappropriate development in the Green Belt, does not alter my findings.

Planning Balance

22. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 continues by stating that 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 proposal, is clearly outweighed by other considerations.
23. The development in this case amounts to inappropriate development in the Green Belt and the Framework requires that substantial weight is attached to the harm in that regard. It would also cause moderate harm to the openness of the Green Belt.
24. Having considered the matters raised in support of the proposal, including in relation to the creation of a more sustainable dwelling and the fallback, I conclude that they do not clearly outweigh the harm that I have identified, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist.
25. Therefore, the proposal would be contrary to the Framework which seeks to restrict inappropriate development in the Green Belt except in very special circumstances. It would also be contrary to Policy BAS GB3 of the Basildon Local Plan Saved Policies (2007).

Other Matters

26. As the application of policies in the Framework that protect the Green Belt provides a clear reason for refusing the proposed development, it does not benefit from the presumption in favour of sustainable development.

Conclusion

27. The proposed development would therefore conflict with the Framework and the development plan, and there are no other considerations, that outweigh this conflict.
28. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR