



Appeal Decision

Site visit made on 22 November 2024

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16.01.2025

Appeal Ref: APP/M1520/W/23/3314995

Bowercombe, Great Burches Road, Thundersley, Essex SS7 3NA

- 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 Steve Brown against the decision of Castle Point Borough Council.
 - The application is Ref: 22/0258/FUL.
 - The development proposed is the erection of a single-storey detached dwelling, with rooms in the roof and a basement, layout landscaping and parking.
 - This decision supersedes that issued on 27 November 2023. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised National Planning Policy Framework was published in December 2024. I have given the main parties the opportunity to comment on these revisions and have taken these comments into account.

Main Issues

3. The main issues relevant to this appeal are:
 - whether the proposal represents an inappropriate development in the Green Belt;
 - the effect of the development upon the openness of the Green Belt;
 - whether appropriate living conditions would be secured for the future occupiers of the development, with particular regard to light and outlook; 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

Whether inappropriate development

4. The site is in the Metropolitan Green Belt. Whilst not cited on the Council's Decision Notice, the appellant has identified Policy GB4 of the Castle Point Local Plan (1998) (the Local Plan). This policy is broad in nature and states that homes in the Green Belt may not be inappropriate, subject to the new home being of a similar size to the original. Accordingly, Policy GB4 is relevant to this appeal. The National Planning Policy Framework (the Framework) regards the erection of new buildings in the Green Belt as generally being inappropriate. There are some exceptions to this, which are listed in

Paragraph 154 of the Framework. These include the replacement of a building, provided it is in the same use and not materially larger than the one it replaces.

5. The site featured a home, which the appellant's Statement of Case confirms was demolished following the granting of planning permission in 2003. This means that the site has been free of housing for a notable period and therefore, the proposed development cannot be a replacement dwelling. Nonetheless, the appeal submissions do not detail the volume of the building, although it has been identified as a bungalow. This description, combined with the building's footprint as shown on the plans, is not illustrative of a large home. Therefore, even if the appeal scheme could be construed as being a replacement home, there is insufficient evidence to conclude that it would not be materially larger than the original home.
6. A previously granted planning permission¹ has been implemented but construction work is at an early stage and there are no discernible above ground structures in place. Therefore, the current proposal cannot be a replacement of the extant scheme. Although the site features a two-storey outbuilding, this will be retained post-development and therefore the appeal scheme is not a replacement.
7. The site has previously been used for several activities. In addition to the demolished house, the appellant's Design and Access Statement states that the site was used, in the Victorian period, as a refuse facility; and, more recently, as a brick works. However, the appeal documentation does not detail the volume of any previous buildings or structures. Whilst the Framework offers some support for the reuse of Previously Developed Land in the Green Belt, its definition of Previously Developed Land² excludes areas that were previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
8. On my site visit, I viewed occasional examples of items such as a portion of a retaining wall and some areas of hard surfacing. However, despite some site clearance work, these have become overgrown and are relatively small in scale. Therefore, the built elements have blended into the landscape. Although the site features an outbuilding, the scheme would not be a redevelopment of this structure. In result, the proposal cannot represent the redevelopment of Previously Developed Land, within the meaning of the Framework.
9. Paragraph 155 of the Framework provides support for development in the Green Belt. Amongst other points, to be not inappropriate, development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt. The Council has referred to its Green Belt study³, which identifies that the site's surroundings as playing a strong role in preventing coalescence between South Benfleet and Thundersley. This area enables a link to be formed with other areas of the Green Belt outside of the Council's administrative area. Having viewed the vicinity on my site visit, I have no reason to disagree with the findings of the Council's study. In consequence, the development would result in the Green Belt having a more urbanised and developed form that would undermine the purposes of the remaining Green Belt. Consequently, even if the site were to be grey belt land, or the development would address an unmet demand, this paragraph does not render the development not inappropriate.
10. I therefore conclude that the proposal represents an inappropriate development in the Green Belt, for it does not fulfil the exceptions specified in Policy GB4 and the Framework.

Effect on openness

11. The Local Plan states that the Green Belt has assisted in creating an attractive area of open countryside near to London. Moreover, Paragraph 142 of the Framework places

¹ LPA Reference: 17/0516/FUL

² In Annex 2: Glossary of the Framework

³ Castle Point Borough Green Belt Review (2018)

great importance upon the Green Belt. It is stated that it is a fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

12. In this instance, the proposed home features a single ground floor, with rooms in the roof. The form of the development would be supplemented by dormer windows on the front roof slope. Furthermore, the house would also feature items including a chimney, balcony, and porch. Although the proposed home is described as having a basement, part of this will be utilised as a garage. Therefore, parts of the site would be relevelled to provide access. Furthermore, the proposal features some changes to the land level to the front of the site.
13. By reason of the scale of the proposed home, combined with the releveling works that would take place, the proposal would result in an increase in the overall built form, which would have a significant degree of permanence. In consequence, the development would result in an erosion of the overall level of spatial openness.
14. Although the front boundary of the site would feature landscaping and contouring of the land, views of the house and associated engineering works would take place at the site's entrance. In addition, views of the development would be visible, on a more fleeting basis, from the road through gaps in the landscaping. Such views would be exacerbated by the specific design of the house, including its tall chimney and the inclusion of a covered balcony area to the site. These factors mean the development would be readily viewable by passersby, which can be demonstrated by the submitted street scene drawings that form part of the appeal documentation.
15. The development would be visible from surrounding residential properties, including one in the nearby development of The Brackens. Although such views would be diffused by the presence of nearby mature trees in the area, the current appearance of the site is readily perceptible and, consequently, the presence of a significantly sized home would also be experienced by neighbouring occupiers. Therefore, the development would result in an erosion of the Green Belt's visual sense of openness.
16. Although there have been buildings on the site, there is a lack of submitted evidence regarding their respective sizes and volumes. This means that it is not possible to conclude that the proposed development would not have a lesser effect upon the openness of the Green Belt in spatial or visual terms than the previous buildings that have been on the site.
17. I therefore conclude that the proposal would have an adverse effect upon the visual and spatial sense of openness of the Green Belt. The development, in this regard, would conflict with the requirements of the Framework.

Living conditions

18. The proposed home would encompass three storeys. The submitted plans show that the house would feature a combination of living rooms, bedrooms, and a kitchen. The basement would include three bedrooms, a recreation room (denoted on the plans as being a games room/library), utility room and gym. Most of these rooms would feature windows, however, there are no windows to the gym whilst the games room/library would feature roof lights.
19. The Council has referred to the Residential Design Guidance Supplementary Planning Document (2013) (the SPD), which states, at Paragraph 5.7.12, that the amount of light transmitted into a room by a roof light is much greater than that of a window of similar size. There is no evidence before me that indicates that this would not be the case for the roof lights that would be present in the appeal scheme. Moreover, although the site features several mature trees and an outbuilding, these would be a relatively large

distance away from the rooflights. In result, there would be no physical items to impede the overall level of light available to users of this room.

20. The nature of roof lights is such that outlook would be limited. However, the proposed house would be occupied by a single household. This means that occupiers of the development would have access, as circumstances dictate, to the ground floor dining room and living room, which would have appropriate windows. Therefore, occupiers of the house would have suitable access to living areas with appropriate levels of outlook.
21. The basement includes a gym, utility room and garage which do not have any form of fenestration. However, given the likely activities that would take place in these rooms, which may be for relatively short periods of time, the lack of natural light; and outlook would not be prejudicial to securing suitable living conditions for the future occupiers.
22. The basement's bedrooms feature large windows, which means that occupiers of the rooms would have appropriate levels of outlook. Moreover, the large size of these windows is such that sufficient light would permeate to the rear of these bedrooms. The Council have referred, in their delegated report, to the Building Research Establishment Site Layout Planning for Daylight and Sunlight Guidance. However, the Development Plan does not require that developments be carried out in accordance with this guidance. Furthermore, it has not been demonstrated that this guidance should be applied to all rooms in a house. As the bedrooms form part of a family home, it is likely that these would not typically be used during daytime periods as other rooms elsewhere in the house would be available. In result, residents would have sufficient levels of light to provide appropriate living conditions.
23. The Council has referred to two previous appeal decisions. In the case of the first appeal⁴, windows were proposed in a wall close to a neighbouring home. Screening to protect the privacy of neighbours would have constrained outlook and light for future occupiers of the proposal. The current scheme ensures bedrooms have sufficient light and outlook. The second appeal⁵ found a rooflight would provide inadequate ventilation and outlook, which would be harmful as the room could have been occupied for elongated periods of time. This differs from the current proposal. Consequently, my findings in respect of the preceding matters are not inconsistent with the previous decisions.
24. I therefore conclude that the proposed development would secure appropriate living conditions for the future occupiers of the house. The Development, in this regard, would comply with the requirements of Policy EC2 of the Local Plan and the SPD. Amongst other matters, these seek to ensure that developments secure a high standard of design.

Other Considerations

25. Planning permission was previously granted for a new house on the site, with a comparable siting to the current proposal. It is common agreement between the Council and the appellant that works have commenced on the construction of this house and a Certificate of Lawfulness for an Existing Development⁶ has been granted. This Certificate of Lawfulness did not form part of the previous assessment of this appeal. There is no convincing evidence before me that indicates that should the appeal be unsuccessful the remainder of construction works would not be carried out. This permission represents a 'fall-back' position.
26. The extant home would broadly comprise a two-storey building including a basement. Furthermore, this house would have a shallow mono-pitched roof and a height lower than the current proposal. In contrast, the current scheme, featuring a hipped roof, has a greater height. This would be exacerbated by the inclusion of dormer windows on the front

⁴ APP/M1520/D/19/3242792

⁵ APP/M1520/D/19/3238858

⁶ LPA Reference: 23/0044/CLE

roof slope and a large chimney to one side, which would create a bulkier building. Furthermore, the reduction in footprint between the current and extant proposals would not be readily perceptible owing to the lack of views of the side elevations of the respective buildings due to the presence of landscaping. Therefore, although the previous grant of planning permission is relevant, the appeal scheme would have a greater effect on visual and spatial openness, even though the appellant's Statement of Case indicates that the current proposal and extant scheme have comparable volumes. This means that the 'fall-back' position carries a moderate amount of weight.

27. The current proposal is of a significantly differently design to the extant approval. However, although the site is in the Green Belt, there are several other houses and other buildings in the surrounding area. The appellant has referred to existing developments, including those at The Brackens; Five Acres, Great Burches Road; and Hollywood, Great Burches Road. I was able to view these on my site visit. Whilst these appear to be houses that have been erected relatively recently, they have different designs; masses; and relationships with other buildings and the highway. This creates a varied character, which means that introduction of traditional design features such as the roof shape, chimney, porch, and window details in the current scheme carries a moderate amount of weight.
28. The proposed development would create an additional house, which would add to the local housing supply. Neither the Council nor appellant has provided details regarding the current housing land supply position, although the supply is less than five years. However, given the scale of the development, the boost to the local housing supply would not be large. Therefore, even if the degree of shortfall is acute, the amount of weight that this matter can be given is moderate.
29. The development of a house would also have an economic benefit through the construction process and potential support of local businesses and services. However, benefits arising from the construction process would be time limited in duration. Moreover, given the likely number of occupiers in the proposed building, it is unlikely that such economic support would be of a significant scale and there is no compelling evidence before me that indicates that the existing businesses and facilities are currently unviable. In result, this matter can be given a limited amount of weight.

Other Matter

30. The site is near the Benfleet and South Marshes Ramsar site; the Benfleet and Southend Marshes Special Protection Area; and the Thundersley Great Common Site of Special Scientific Interest. As I am dismissing the appeal for other reasons, I do not need to consider this matter further.

Planning Balance

31. The proposed house would comprise an inappropriate development in the Green Belt. Paragraph 153 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 states 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.
32. There would be harm arising from the inappropriate development and the erosion of the Green Belt's openness. I attach substantial weight to these harms, in accordance with Paragraph 153 of the Framework. The other considerations, either individually or cumulatively, only carry moderate weight and therefore do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.

33. The harm and policy conflict I have identified would be such that the proposal would conflict with the development plan. An important material consideration is the Framework. In this regard, the Council's Delegated Report states that the Council cannot demonstrate a five-year housing supply. Irrespective of the degree of shortfall, the provisions of Paragraph 11(d) of the Framework are relevant. Amongst other matters, this states that planning permission should be granted unless specific criteria apply.
34. Owing to the previous conclusions, the Framework states, in Footnote 7 that if the policies in the Framework relating to the Green Belt provide a clear reason for refusing the development proposed, then the provisions of Paragraph 11(d) are disengaged, irrespective of the shortfall. In this case, I have found that the harm to the Green Belt would not be outweighed by the public benefits, and this provides a strong reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in Paragraph 11(d) of the Framework does not apply to this scheme.

Conclusion

35. The development would provide appropriate living conditions for the future occupiers of the home. However, it would be inappropriate in the Green Belt and would erode its sense of openness. Accordingly, the scheme would conflict with the development plan taken as a whole. There are no material considerations, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR