

## Appeal Decision

Site visit made on 29 November 2016

**by Nick Palmer BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 09 December 2016**

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**Appeal Ref: APP/W1525/W/16/3148607**

**Hippodrome Farm, Goatsmoor Lane, Stock, Essex CM4 9RS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mrs Wendy Tiffin against the decision of Chelmsford City Council.
  - The application Ref 15/01023/OUT, dated 12 June 2015, was refused by notice dated 24 December 2015.
  - The development proposed is demolition of existing buildings and construction of a replacement dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application is for outline permission with all detailed matters reserved. An indicative site plan and front elevation was submitted to the Council and I shall consider that plan as being indicative of a possible scheme.
3. The appellant has indicated that the description of the proposed development was changed and I have used the amended description in the heading to this decision.

### Main Issues

4. The main issues in the appeal are:
    - i) whether or not the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
    - ii) the effect of the proposal on the Green Belt;
    - iii) the effect of the proposal on the character and appearance of the area;
    - iv) whether or not protected species would be affected;
    - v) whether or not there are other considerations weighing in favour of the proposal; and
    - vi) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.
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## Reasons

### *Whether Inappropriate Development*

5. The appeal site comprises a dwelling and garage and a separate range of agricultural outbuildings. The site is in the open countryside and outside any settlement boundary as defined in the development plan. It is also within the Metropolitan Green Belt. One of the outbuildings has planning permission for change of use to a dwelling, granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) and the Council has granted prior approval. The proposal is to demolish the existing dwelling and outbuildings and to replace these with a single dwelling.
6. Full details of the scale of the development have not been submitted for consideration but the application states that the floor space of the proposed dwelling would be 650 sq m. The configuration of this floor space is not fixed but the supporting statement and the indicative plan envisage that it would be provided over two storeys each of 325 sq m. The indicative plan shows the proposed dwelling sited on the existing residential part of the site.
7. The floor spaces of the existing dwelling and garage are given as about 205 sq m. The appellant says that the floor space of the approved dwelling would be 450 sq m. The floor space of the proposal would thus be about the same as that of the existing dwelling and garage plus the approved accommodation. This would be significantly less than the floor space of the existing buildings considered in total which is about 894 sq m.
8. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate in Green Belt. That paragraph goes on to list exceptions to this which include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The proposal would be materially larger than the existing dwelling in terms of its floor space so it is necessary to consider whether the approved change of use should also be included in this assessment.
9. The approved proposal relates to a barn and part of an adjoining stable building. I understand that no details of the building works necessary to convert the building have been submitted to the Council although from what I saw on my visit it is evident that significant works would be necessary. The building did not appear to be in active use. Because the building has not been converted to residential use it remains agricultural and cannot therefore be included in an assessment of the size of the existing residential accommodation for the purpose of national policy.
10. Paragraph 89 of the Framework also allows for the redevelopment of previously developed sites to form an exception to inappropriate development provided that the new development has no greater impact on openness and the purpose of including land in the Green Belt than the existing development. The existing dwelling and its garden are fenced and clearly separated from the agricultural buildings by intervening open land. Whereas the residential part of the site is previously-developed land in accordance with the definition in the Framework, the agricultural buildings are not. Considered in relation to the previously-developed area of the site the proposal would clearly be materially larger than the existing dwelling and so would have a greater impact on openness.

11. The first bullet of paragraph 89 states that agricultural buildings are not inappropriate in Green Belt. Thus, although the agricultural buildings would be removed, the status of those buildings in national planning policy indicates that they have less effect on the Green Belt than the proposal would.
12. The floor space of the existing buildings is about 244 sq m greater than that of the proposal. However the volumes of the existing and proposed buildings would also affect openness. The heights of the existing agricultural buildings vary between approximately 2.5m and 4.2m. Most of those buildings have flat or gently sloping roofs. The existing dwelling is of single storey form albeit that it has accommodation within its roof space. It is likely that any pitched roof over the proposed dwelling would add extra volume in comparison with the agricultural buildings. It has not been demonstrated that the volume of the proposal would be less than that of the existing buildings. Thus although the total floor space of the buildings would be reduced the volume of the proposal would not necessarily be significantly different from that of the existing buildings. It does not follow that there would necessarily be any appreciable benefit in terms of reducing the impact on openness.
13. The footprint of the proposal if built at two storeys may be significantly less than the footprint of the existing dwelling combined with that of the approved change of use but its height would be considerably more. For these reasons I find that the proposal would be inappropriate development in the Green Belt. This is by definition harmful and substantial weight should be given to that harm<sup>1</sup>. The proposal would not accord with policy DC11 of the Core Strategy and Development Control Policies (CSDCP)<sup>2</sup> because it would be materially larger than the existing dwelling. Policy DC1 of the CSDCP has similar requirements to Framework policy on Green Belt and the proposal would not accord with that policy.

#### *Effect on the Green Belt*

14. The floor space of the proposal would be over three times that of the existing dwelling and garage. The indicative proposal would be of considerable mass and bulk and its height would affect openness to a much greater extent than the existing dwelling. The existing agricultural buildings are individually of small scale, arranged in a close group and clearly separated from the dwelling. The provision of a single large building would have a greater massing than those buildings and this would contribute to a greater degree of impact on openness.
15. The approved change of use may represent a 'fall-back' position but full details of the conversion have not been approved. In any event there is no evidence that the volume or height of the building would be increased in that scheme however the appeal proposal would have a much greater impact in these respects. For these reasons the proposal would significantly reduce openness which is one of the essential characteristics of the Green Belt. In accordance with the Framework I give substantial weight to that harm.
16. The appellant has drawn attention to a number of appeals concerning replacement buildings in Green Belt. Consideration of the aggregate size of a number of buildings has been accepted as a valid approach when considering

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<sup>1</sup> NPPF paragraphs 87 and 88

<sup>2</sup> Chelmsford City Council Core Strategy and Development Control Policies Focused Review (2013)

the size of a replacement. However the cases referred to<sup>3</sup> differ from the proposal in that the other buildings were in the same use. The other appeals illustrate that volume, scale and massing as well as floor space are relevant factors to take into account in considering effects on openness.

### *Character and Appearance*

17. Goatsmoor Lane is a narrow lane with trees along both sides. Beyond the trees the landscape is predominantly open with fields bounded by hedges and tree belts. There are some dwellings along the lane but they are sporadic and do not alter the open rural character.
18. For the reasons given above the proposal would be likely to be of significantly greater scale and massing than the existing buildings. The existing dwelling is of modest scale. The agricultural buildings are set back from the road and have an appearance typical of a rural area. They are not particularly prominent or obtrusive in their setting. By contrast the proposal would introduce a larger scale of residential development which would have a dominant effect on the open rural setting.
19. If the approved change of use were to be carried out there would be an intensification of residential activity on the site but the size of the residential curtilage that can be used in association with a change of use is limited by the GPDO<sup>4</sup>. The proposal would result in a lesser number of dwellings but its floor space would nonetheless be the same as the existing and potential dwellings. For these reasons the overall level of associated residential activity and its effect on the character and appearance of the area would be unlikely to be materially less than that which would arise from the approved change of use and the existing dwelling.
20. The proposal would result in the site having a more urban appearance which would be out of character with the area. For these reasons the proposal would unacceptably harm the character and appearance of the area and would not accord with policy DC11 of the CSDCP in this respect.

### *Protected Species*

21. The appellant provided a biodiversity checklist with the application which indicates potential for bats, newts and other species to be present on site. The Council has referred to an Ecological Scoping Survey but no document other than the biodiversity checklist is before me. Paragraph 99 of Circular 06/2005<sup>5</sup> states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. This is to ensure that all relevant material considerations are taken into account.
22. No evidence of the presence or absence of protected species has been provided. Nonetheless there is indicated potential for such species. The approved change of use could incorporate suitable mitigation measures for species such as bats or barn owls but the removal of the buildings may be harmful if they are present. There is therefore some uncertainty as to any effect on protected species and if so whether appropriate mitigation measures

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<sup>3</sup> APP/M3645/A/14/2220087 and APP/M3645/A/14/2226829

<sup>4</sup> GPDO Schedule 2 Part 3 paragraph X

<sup>5</sup> Biodiversity and geological conservation – statutory obligations and their impact within the planning system

could be used. Given the potential for protected species to be present, it has not been demonstrated that the proposal would have no harmful effect on those species. For these reasons the proposal would not accord with the requirements of policy DC13 of the 2008 version of the CSDCP which remains extant and which requires the maintenance and enhancement of biodiversity.

*Other Considerations and whether there are Very Special Circumstances*

23. For the reasons given there would be harm to the Green Belt and to the character and appearance of the area as well as uncertainty regarding potential effects on protected species. I have found that there would be no overall benefit to the openness of the Green Belt through the removal of the existing buildings. I have taken into account the dilapidated nature of the agricultural buildings and the repairs identified as being necessary to the dwelling but these matters do alter my conclusions on the main issues.
24. In accordance with the Framework I give substantial weights to the harms to the Green Belt that I have identified. I give further significant weight to the harm to the character and appearance of the area. My findings in respect of protected species are neutral in the overall balance.
25. Against those substantial and significant weights I have found no other considerations in favour of the proposal to which I can give any weight. Therefore I conclude that there are no very special circumstances that would justify the proposed development.

**Conclusion**

26. For the reasons given I conclude that the appeal should be dismissed.

*Nick Palmer*

INSPECTOR