
Appeal Decision

Site visit made on 14 November 2017

by R Norman BA (Hons) MA MRTPI

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

Decision date: 13th December 2017

Appeal Ref: APP/W1525/W/17/3180709

Sweetdrops, Lower Stock Road, West Hanningfield, Chelmsford CM4 9RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Holdgate against the decision of Chelmsford City Council.
 - The application Ref 16/02123/FUL, dated 21 November 2016, was refused by notice dated 25 January 2017.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Chelmsford City Council against Mr G Holdgate. This application is the subject of a separate Decision.

Main Issues

3. The site falls within an area of Green Belt. Accordingly the main issues are:
 - Whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the development on the openness of the Green Belt;
 - The fall-back position for similar developments; and
 - If the development is inappropriate, 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 the development.

Reasons

Whether the proposal is inappropriate development within the Green Belt

4. The Framework establishes that a new building within the Green Belt is inappropriate unless, amongst other things, it involves the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy DC1 of the Chelmsford Borough Local Development Framework Core Strategy and Development Control Policies (2008, Reviewed 2013) identifies replacement buildings in the Green Belt as

being not inappropriate providing they comply with Policy DC11. Policy DC11 states that a replacement building should not be materially larger than the one it replaces.

5. The proposal would replace the existing bungalow with a new bungalow which would have a greater frontage width and depth and the appellant advises that this would result in a significant increase in floor space of around 200%. It is not disputed between the parties that this level of increase would constitute a materially larger building and as such the proposed development would constitute inappropriate development which, by definition, would be harmful to the Green Belt.

Openness of the Green Belt

6. Openness is an essential characteristic of the Green Belt and paragraph 79 of the Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The existing bungalow on site has been extended at several points and appears to have been converted from a pair of semi-detached bungalows originally. The bungalow is set within a large site, located in the north-western corner with the remainder of the site being somewhat overgrown with a scattering of small outbuildings. Lower Stock Road runs to the north and the site is elevated from the road. The bungalow is clearly visible from Lower Stock Road with views of the open land beyond. From Downham Road, the bungalow is seen via glimpses and also as you pass the junction of Lower Stock Road due to existing land levels and tree and hedge screening.
7. The frontage width of the bungalow would increase significantly, and whilst the ridge height will remain the same as existing, the rear extensions will add to the overall scale and bulk of the proposed development. Although a large part of the site would remain open and undeveloped, the significant increase in size of the dwelling would result in some loss of Green Belt openness in this location and would therefore be harmful.

The fall back considerations

8. The appellant has identified a number of fall-back options for the site which include implementation of the permitted development rights, which have been formally agreed by the Council under two lawful development certificates and a prior notification application. The appellant has identified that whilst the appeal scheme would result in a floor space of around 314 square metres, should the permitted development scheme be implemented it would achieve a larger floor space of approximately 349 square metres. I have had regard to the findings of High Court decision *Zurich Assurance Limited T/A Threadneedle Property Investments v North Lincolnshire Council and Simons Developments Limited* [2012] EWHC 3708 which declared that the prospect of the fall-back position does not have to be probable or even have a high chance of occurring¹, and given the existing condition of the site and the level of applications submitted I consider that it is the appellant's firm intention to develop the site in one form or another.
9. I note that the permitted development options would result in a larger dwelling than the proposed development which is the subject of this appeal, which the

¹ Paragraph 75 *Zurich Assurance Limited T/A Threadneedle Property Investments v North Lincolnshire Council and Simons Developments Limited* [2012] EWHC 3708

appellant considers would have a similar impact on the characteristics of the Green Belt. The appellant also states that a replacement dwelling would provide a better quality of development and allow for better performance characteristics which would be preferable to extending the existing bungalow given its current condition.

10. I have no reason to disagree that the replacement of the dwelling would be more viable and result in a better quality development. However, the Council have identified that there is a current planning permission on site for a smaller replacement dwelling comprising a 5-bed scheme (17/01378/FUL). I consider that in all probability, the smaller replacement dwelling would be more likely to be implemented than the permitted development extensions as this would still achieve a better quality of development than extending the existing property and would meet the aspirations of the appellant. The smaller replacement dwelling has been deemed acceptable against the relevant policies by the Council and as a result this would therefore have less of an impact on the Green Belt than the appeal proposal.
11. Given the above considerations, the fall-back positions in this instance carry moderate weight in my consideration of the proposal. This however needs to be balanced against the harm caused to the Green Belt, which, according to Paragraph 88 of the Framework, carries substantial weight.

Very Special Circumstances

12. Paragraphs 87 and 88 of the Framework set out the general presumption against inappropriate development within the Green Belt. The former states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
13. I have concluded that the proposal would be inappropriate development and would therefore be harmful to the Green Belt, and also identified that the proposal would be harmful to the openness of the Green Belt. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt.
14. Whilst I have given moderate weight to the fall-back options available to the appellant, the substantial weight given to the harm arising from inappropriate development and the impact on the openness of the Green Belt is not clearly outweighed by the fall-back position. As such, no very special circumstances have been put forward to justify the proposal.

Conclusion

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

R Norman

INSPECTOR