
Appeal Decision

Site visit made on 21 May 2020

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal Ref: APP/B1550/W/19/3242766

4 Murrels Lane, Hullbridge SS5 6AB

- 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 J McGirr against the decision of Rochford District Council.
 - The application Ref 19/00237/FUL, dated 11 March 2019, was refused by notice dated 11 June 2019.
 - The development proposed is demolition of existing dwelling and erection of replacement dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development falls within the 13 km zone of influence for one or more of the European designated sites. It is my duty, as the competent authority, to consider whether the proposed development would constitute a likely significant effect on the sensitive interest features of the designated site or sites as set out within Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017. I have carried this out under "Other Matters".

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effects of the proposed development on the openness of the Green Belt;
 - Whether any 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

Inappropriate development

4. As set out in the Local Development Framework Allocations Plan (2014) Proposals Map (The Proposals Map), the appeal site is located in a rural area, on the outskirts of Hockley, within the Metropolitan Green Belt.

5. The National Planning Policy Framework (The Framework) identifies that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. The appellant suggests that the present proposal would not constitute inappropriate development as it would fall under one of the exceptions set out in the Framework, namely paragraph 145 d) which allows the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
7. The proposed increase in floorspace is a matter of debate between the parties. The appellant states that the replacement dwelling would result in an overall increase of 23% in floorspace, while the Council states that the proposal would lead to an increase of 64% in relation to the original building.
8. In either case, although the replacement building would remain in the same use as the existing, even an increase in floorspace of 23% as claimed by the appellant, would create a building that is materially larger than the original building and, as such, it would fail to meet the criteria set in paragraph 145 d) of the Framework.
9. Policy DM21 of the DM Plan states that the replacement or rebuild of an existing dwelling in the Green Belt will be permitted, subject to a series of conditions including that the total size of the dwelling should not result in more than a 25% increase in floorspace of the 'original dwelling'.
10. While it may be the case that the proposed development would extend the existing dwelling by only 23%, wider evidence indicates that the floorspace of the 'original building' was some 115m², which is considerably less than as it is now. The evidence suggests that this is due to an extension that was granted planning permission in 1974. DM Plan Policy DM21 is consistent with the Framework, which states that an 'original building' is as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
11. On this basis, the proposed development would be considerably greater than the 25% identified in Policy DM21 of the DM Plan, and therefore be in conflict with that Policy. Moreover, on the basis that the proposed new dwelling would result in a 23% increase in floorspace compared to the one it replaces, it would result in a materially larger building than the one it would replace and as such fail to meet the exception criteria of para 145 d) of the Framework.
12. I have found no other reason why the appeal scheme would meet any of the wider exception criteria in either Paragraphs 145 or 146 of the Framework. On this basis, it would amount to inappropriate development in the Green Belt. The proposal therefore fails to comply with the Framework, and also with the relevant parts of Policy DM21 of the DM Plan. Amongst other things, these policies resist inappropriate development in the Green Belt unless other considerations clearly outweigh any potential harm.

Openness

13. My attention now turns to the issue of openness and the effects of the proposed development on the openness of the Green Belt.

14. For the reasons outlined above, the proposed development would result in a building that would be materially larger than the one it replaces. Although the building would be of a similar height and partially sited on the footprint of the existing dwelling, due to its larger footprint and extended, longer, front elevation, the proposal would result in a substantial increase in the built form within the site.
15. The present dwelling is located in a corner of the existing plot but at a considerable distance from its edge, which reduces its impact on the landscape when approached from Murrells Lane. Although it is noted that the proposed dwelling would be sited deeper in the plot, considering the proposed increase in mass and also the increase in the size of the front elevation, the proposal would have a greater impact on the spatial and visual openness of the Green Belt than the building it replaces, consequently having a negative impact on the openness of the Green Belt.

Other considerations and whether very special circumstances exist

16. The Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances.
17. To assess whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, it is necessary to consider its benefits against the policies in the Framework, as a whole.
18. The principle benefits of the proposed development primarily relate to its contribution to the improvement of the character and appearance of the area by replacing the existing dwelling with one more sympathetically designed, by making a positive contribution to the overall housing supply and by bringing some overall social and economic benefits to the area. Although modest, due to the scale of the development, these would nonetheless be relevant.
19. The existing dwelling does appear dilapidated and poorly maintained, and the plot is overgrown. Judging from the amount of overgrowth, the main access points to the dwelling have not been used in some time, further contributing to the dilapidated appearance of the dwelling, detrimentally affecting the streetscene.
20. The proposed development, particularly considering it would include traditional features and a mix of materials more reflective of its rural and verdant setting, would constitute a modest improvement to the character and appearance of the area. This is a matter which weighs in favour of the appeal.
21. In addition to this, although the proposal would not result in a net increase in housing supply, it would make a positive contribution by making better use of the site which, at the moment, does appear to be unoccupied. It would also provide short-term economic benefits from construction, and potentially long-term economic benefits from the use of local services, if occupied.
22. Nonetheless, considering the level of protection and importance placed by the Framework on the protection of the Green Belt, any such benefits would be relatively modest in the overall planning balance. Therefore, the identified harm to the Green Belt by reason of inappropriateness is not outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Other Matters

23. The appeal site falls within the "Zone of Influence" for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS).
24. It is anticipated that, without mitigation, new residential developments in this area and of this scale could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.
25. Therefore, by virtue of its protected status, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (CHSR) would be required were I minded to allow the appeal. Nevertheless, considering that the appeal is to be dismissed on other issues mentioned in this decision, no further consideration is required on this matter as there is no prospect of planning permission being granted.

Conclusion

26. For the reasons given above, the appeal is dismissed.

Andre Pinto

INSPECTOR