



Appeal Decision

Site Visit made on 13 October 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2020

Appeal Ref: APP/W1525/D/20/3254341

Newnham House Ingatestone Road, Stock, INGATESTONE, CM4 9PE

- 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 and Mrs Wilkins against the decision of Chelmsford City Council.
 - The application Ref 20/00083/FUL, dated 30 January 2020, was refused by notice dated 26 March 2020.
 - The development proposed is detached pool house and open pool area and paving. Height of building 2.700m.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's notice of decision cited two reasons for refusal, the second of which related to harm to protected trees. The Council have confirmed that the trees adjacent to the proposed development are not protected and that as a consequence the Council no longer wished to defend the second of the two refusal reasons. Therefore, the main issues are framed in the context of the Council's first reason for refusal.
3. Since the time of the original decision, the Council has adopted a new Local Plan – the Chelmsford Local Plan 2020 (LP). The Council has confirmed which new policies correspond with and replace the policies which the application was determined against. In accordance with planning law, I have determined the appeal on the basis of the current development plan.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt; 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

Inappropriate development

5. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, 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 145.
6. The exception that has been brought to my attention is that the proposed development would represent the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. The proposed development is defined as a 'detached pool house' in the planning officers report and this is not disputed. This is neither an extension or an alteration to an original building as set out within the Framework and therefore this exception would not apply.
8. However, the Courts found in *Sevenoaks District Council v SSE and Dawe* [1997] that an existing detached domestic outbuilding could be regarded as part of the dwelling, and, therefore an extension to the outbuilding could be regarded as an extension to the house. Having regard to this case, a proposed new outbuilding could, potentially, be regarded as an extension to a dwelling, in some circumstances.
9. However, the proposed outbuilding would be located approximately 7.5m from the existing dwelling. Its siting would be beyond the existing developed part of the site which comprises the normal domestic adjuncts associated with the residential occupation of the dwelling, including a patio, hot tub and washing line. Therefore, the degree of separation between the pool house and dwelling and the lack of other development within this part of the site lead me to conclude that the pool house could not be considered as an extension to a dwelling.
10. I have considered the appeal decision cited by the appellant, APP/H1515/D/17/3183809, however the circumstances in this case are different as they relate to an appeal within Brentwood Borough Council where, from the evidence before me, the Local Plan has a policy for domestic outbuildings within the Green Belt and therefore the circumstances are not the same as the case before me.
11. In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which paragraph 145 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.

The effect of the proposal on the openness of the Green Belt

12. Paragraph 133 of the Framework states that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. The proposed outbuilding would be seen within the context of the existing buildings and would be screened from the road by landscaping. However, it would result in the introduction of a structure where currently no building exists and in combination with the proposed swimming pool and paving would result in an increase in built form within the site. Furthermore, it results in a degree of visual intrusion into what is otherwise a relatively undeveloped area. Therefore, it would result in moderate harm to the openness of the Green Belt.
13. The proposal would not comply with Policy DM6 of the LP which restricts development to that which is compatible with the countryside setting and purposes of the Green Belt.

Other considerations

14. I note the appellants' comments in relation to permitted development rights and I accept these are not generally restricted within the Green Belt. However, the site does not benefit from permitted development rights for outbuildings as it is restricted by a condition attached to the original dwelling. As such this consideration carries little weight in my deliberations.

Other Matters

15. As part of my assessment of the appeal development, in order to discharge my statutory responsibilities, I have also made an assessment of the proposals' effect on the setting of Lilystone Hall, as a Grade II Listed Building. I have also had regard to the wider estate, which is included on the Essex Gardens Trust inventory of Design Landscapes and is considered to be a non-designated heritage asset. I consider that the location of the proposed pool building, having regard to the existing level of screening within the site, means that the proposed development would be concealed from view and would not affect the setting of Lilystone Hall or that of its wider estate.
16. I note the appellant's reference to a neighbouring property where planning permission was granted for a swimming pool and outbuildings. However, this decision predates the Framework and the outbuilding and swimming pool did not intrude into the undeveloped area which extends beyond the rear of both Newnham House and 21 Hereward Mount and as such it does not represent a direct parallel to the appeal proposal. In any event, I am not bound by other decisions of the Council and I give this minimal weight.

Green Belt Balance and Conclusion

17. In conclusion I have identified that the scheme would be inappropriate development in the Green Belt as defined by the Framework and result in harm to openness. It would, by definition, be harmful to the Green Belt, to which I must give substantial weight.
18. The other considerations would not cumulatively, outweigh the totality of harm the scheme would cause to the Green Belt.

19. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G. Pannell

INSPECTOR