



Appeal Decision

Site visit made on 27 January 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2021

Appeal Ref: APP/W1525/W/20/3258695

Highview, Nathans Lane, Writtle, Chelmsford, CM1 3RF

- 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 Mark Evans against the decision of Chelmsford City Council.
 - The application Ref 20/00891/FUL, dated 8 June 2020, was refused by notice dated 7 August 2020.
 - The development proposed is demolition of existing dwelling and construction of 1 No. replacement dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of 1 No. replacement dwelling at Highview, Nathans Lane, Writtle, Chelmsford, CM1 3RF in accordance with the terms of the application, Ref 20/00891/FUL, dated 8 June 2020, subject to the conditions set out in the schedule appended to this decision.

Main Issue

2. The main issue in this case is whether the proposed dwelling would be harmful to the Green Belt, as a result of being inappropriate development, due to its size, and its effect on the openness of the Green Belt.

Reasons

3. The site is located within the Green Belt where new development is strictly controlled. The most relevant development plan policy, contained in the Chelmsford Local Plan 2013-2036, which was adopted on 27 May 2020, is Policy DM6, relating to 'New Buildings in the Green Belt'. Part C of this policy identifies that planning permission will be granted for replacement buildings provided that four criteria are met. These are that:
 - i. The existing building being replaced is of permanent and substantial construction; and
 - ii. The new building is in the same use as the existing; and
 - iii. The new building is not materially larger than the one it replaces; and
 - iv. The new building would not be out of keeping with its context and surroundings, and does not result in any other harm.There is agreement that items i) and ii) are met. The main issues that I identified require an assessment of the appeal proposal against items iii. and iv.

4. Local Plan Policy DM6 is in accord with paragraph 145 of the National Planning Policy Framework (the Framework), which states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt: inappropriate development is by definition harmful to the Green Belt. It also provides a list of the types of development which are exceptions to this. The relevant exception here is d) *"the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;"*.
5. In respect of this proposal the dwelling on the site has been substantially demolished, with only part of the front elevation still standing. However, the site has an extant planning permission for the demolition of that property and construction of a replacement dwelling (17/01471/FUL refers). The council accepts that the demolition of the previous dwelling implemented the 2017 planning permission. It is understood that the dwelling was demolished in July 2020 in order to ensure the 2017 planning permission was implemented before it expired in October 2020.
6. Whilst I have no details, it is clear that the now largely demolished dwelling was 'very small'. Quite clearly the appeal proposal is materially larger than the original building on the site. The 2017 permission represents a 'fall-back' development that clearly could be carried through to completion. I have nothing to cause me to doubt that it would be likely to be developed in the event of the dismissal of this appeal. It is therefore a material consideration in this case, and one that I regard as being of considerable importance. I therefore take the volume allowed in the 2017 permission as the starting point, recognising that the council must have taken the view that it met its policies: there is nothing to indicate that there were any very special circumstances that it took into account.
7. The council reports that the original dwelling on the site had a floor area of 56m² and a total volume of approximately 198m³. The replacement approved in 2017 would have a total floor area of approximately 173m² and a minimum volume of 529m³. It states that the dwelling now proposed would have a total floor area of approximately 205m² and a minimum volume of 650m³. The council also explains that minimum volumes have been calculated for both the 2017 and current applications excluding the dormers, the roof to the single storey front element and the section of roof joining the front and rear roofs. The council identifies that the features that lead to this increase include that the ridge is 1m higher, the rear gable is longer and taller adding more floor area at first-floor level, and the eaves are higher.
8. The appellant's case counters this by stating that the appeal proposal shows a replacement dwelling on the exact footprint of that previously approved, and therefore could not be considered inappropriate development. Examining the footprint, and the dimensions provided on the plans, the 2017 permitted scheme has a footprint measuring 16m x 10.05m¹. The stated dimensions on the plans for the current appeal scheme show a footprint of some 16m x 9.8m². Since it is on the basis of the application drawings that any completed dwelling will be judged for conformity with a planning permission, it is reasonable for me to place reliance the dimensions shown on them. From these

¹ There is very minor rounding in these dimensions.

² Making assumptions about the width of walls that are not dimensioned.

measurements, it would appear that the appeal proposal has a footprint slightly smaller than the 2017 approved scheme.

9. Insofar as measurements assist in concluding on this issue, the footprint proposed and the greatest height of roof ridge seem to me to best represent the visual effect of the scheme, in terms of the extent to which it is materially larger than the approved scheme. I therefore prefer this approach to that of the council using measurements of cube. Openness is primarily a subjective matter that is largely determined by visual effect. Both schemes have a variety of gabled roofs and dormer windows, but I consider that the measurement that is most useful in terms of largeness, is the maximum ridge line for each scheme. As the council points out, the appeal scheme has a ridge 1m higher than the extant permission.
10. I therefore come to consider how the increase in ridge height impacts on the openness of the Green Belt. The view from the road in this case is the main, if not the only way, in which the development would be appreciated from a public viewpoint. The ground level of the proposed dwelling is somewhat higher than road level, and the highest ridge is atop the roof plane that runs away from the viewer on the road. This elevation is broken into a number of features, of dormer and subsidiary forward projecting gable, and is on the narrow dimension of the footprint, and includes a lower roof on the east side. These factors affect the apparent scale of the building, and the extent to which it is seen as materially larger, and thus its impact on openness.
11. The effect on the openness of the Green Belt of this development is a matter of visual appreciation when viewed in its context. On this basis, I consider that the appeal scheme would not appear materially larger, or have any greater impact on the openness of the Green Belt, than the approved and fall-back scheme that has extant planning permission. Policy DM6, item iii. is met and it is therefore not inappropriate development.
12. I therefore turn to item iv of Policy DM6 – that the new building would not be out of keeping with its context and surroundings, and does not result in any other harm. In this regard, there are a number of dwellings in the vicinity of the appeal site; the neighbouring properties are single storey or one and a half storey with rooms in the roof. To this extent the proposed dwelling, particularly as it presents itself to the street, would be in keeping with its surroundings. The higher ridge line of the roof provides a greater separation between the roofs of the dormer windows and the ridge, which achieves a more pleasing appearance. Additionally, there is no harm arising from the access to the site from the highway or in terms of impact on the living conditions of the neighbouring occupiers. Policy DM6 item iv. is also met.

Conclusion

13. I therefore conclude that the appeal proposal meets the terms of Policy DM6 of the Chelmsford Local Plan 2013-2036, and the relevant policies set out in the Framework. The development would not amount to harm to the Green Belt by reason of inappropriateness, nor has any other harm, resulting from the proposal, been demonstrated. The appeal is allowed.

Conditions

14. The council has suggested conditions that should be imposed on any permission. I am imposing these, amending the wording where necessary to accord with good practice and national guidance, for the following reasons: condition 1 is the standard time limit; condition 2 is for the sake of clarity and certainty; conditions 3, 4 and 5 in combination are to ensure a satisfactory appearance, integrate the development into the area and to enhance biodiversity; conditions 6 and 7 are to provide for the charging of electric vehicles and limit the use of water, both to enhance sustainability; condition 8 is to ensure construction at levels that are suitable to the surroundings; condition 9 is to control any additional development within the Green Belt which might otherwise affect openness; and condition 10 is to safeguard the privacy of neighbouring occupiers.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans Nos. A101, A102, A 104 and the Location Map.
- 3) Before any development takes place above ground slab level, details of the materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) Details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently these works shall be carried out as approved prior to the first occupation of any part of the development or in the first available planting season following such occupation. The landscaping details to be submitted shall include:
 - a) hard surfacing including pathways and driveways, other hard landscape features and materials;
 - b) existing trees, hedges or other soft features to be retained;
 - c) planting plans including specifications of species, sizes, planting centres, number and percentage mix;
 - d) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;
 - e) Management details and a five year maintenance plan
- 5) Prior to the first occupation of the dwelling hereby approved:
 - a) Details of the proposed treatment of all boundaries, including drawings of any gates, fences, walls, railings or piers, shall be submitted to and approved in writing by the local planning authority.

- b) The development shall not be occupied until the boundary treatments have been provided in accordance with the approved details.
- 6) Prior to the first occupation of the dwelling hereby permitted, a charging point for electric vehicles shall be installed.
- 7) The new dwelling hereby approved shall be constructed to achieve increased water efficiency to a standard of no more than 110 litres of water per person per day in accordance with Building Regulations Approved Document Part G (2015 - as amended).
- 8) No development shall commence, save for the completion of the demolition of the existing dwelling on site, prior to the submission and approval in writing of the local planning authority, of detailed drawings and sections showing the finished levels of all parts of the development in relation to the levels of the surrounding area and neighbouring buildings. The development shall be carried out in accordance with the approved details.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), the dwelling hereby permitted shall not be enlarged or extended without the grant of specific planning permission by the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no windows or other openings other than those expressly authorised by this permission shall be constructed or inserted within the western wall or roof of the development hereby permitted.