



Appeal Decision

Site Visit made on 21 June 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2021

Appeal Ref: APP/W1525/W/20/3265946

The Old Manor, Broomwood Lane, Stock, Billericay, CM11 1JR

- 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 Steve Mills against the decision of Chelmsford City Council.
 - The application Ref 20/01413/FUL, dated 27 August 2020, was refused by notice dated 6 November 2020.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The site falls within the Green Belt. The main issues are therefore:
 - Whether the development proposed would constitute inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies,
 - The effect on the openness of the Green Belt,
 - The effect on the character and appearance of the area; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. Policy DM6 of the Chelmsford Local Plan 2020 (the LP) states that within the Green Belt planning permission will be granted for the replacement of a building subject to a number of criteria, including that the new building is not materially larger than the one it replaces. This is consistent with the requirements of the National Planning Policy Framework (the Framework).
4. Neither the LP nor the Framework contain a definition of what amounts to 'materially larger', and therefore it is a matter of planning judgment. The proposed house would be wider than the existing, with a substantial increase in volume arising from the creation of a single-storey rear wing the full width of the two-storey front element, albeit with a fully enclosed courtyard at its centre. The proposed two-storey element would be significantly deeper and slightly taller than that of the existing house. Overall, the scale of the proposed

development would amount to a materially larger building than the one it replaces.

5. The appeal proposal would therefore conflict with the criteria of Policy DM6 of the LP and of the Framework and would be inappropriate development in the Green Belt.

Green Belt openness

6. As the proposal would be inappropriate development, it is also necessary to consider whether it would result in a greater impact to the openness of the Green Belt than the existing.
7. The footprint of the building would be substantially increased, as would the depth of the two-storey element compared to the existing. While there would be some benefit from the consolidation of built form within the site, the appeal proposal would overall result in a larger and more bulky building that would cause greater harm to the openness of the Green Belt than the existing house.

Character and appearance

8. Policy DM6 of the LP further requires that a replacement building in the Green Belt not be out of keeping with its context and surroundings. In addition, LP Policy DM23 requires, amongst other criteria, that new buildings be of a high quality design, compatible with the character and appearance of the area, well-proportioned and have visually-coherent elevations.
9. The existing house is a detached property on a large, relatively isolated site in the countryside. No other houses are clearly visible from within the site due to the separation distance and extensive rows of mature trees to the site boundaries. The house can be glimpsed from Broomwood Lane but is a considerable distance from the road with an expanse of mature trees either side of the long driveway significantly limiting its visibility.
10. The proposed house would be substantially different in design to the existing, with a Georgian style to the main front element, and the single-storey rear wing of a more modern design with a short, glazed link between the two. Generally, the two styles are compatible with the front wing being the dominant feature of the proposed house, facing along the driveway approaching the house from the road. The proposed side projection to the kitchen with a roof terrace over would appear somewhat incongruous as a more modern element overlapping an otherwise Georgian-styled elevation. However, it would be modest in size and set well back from the front of the house.
11. The house would be larger and therefore more prominent within its setting. However, the separation distance from any public viewpoint and the secluded nature of the site would prevent it appearing unduly prominent or harmful in this rural location. Overall, the development would not result in harm to the character and appearance of the area and it would therefore accord with the requirements of LP Policies DM6 and DM23, which are set out above.

Other considerations

12. The appeal proposal would be inappropriate development and would also result in harm to the openness of the Green Belt in this location. The Framework requires that substantial weight is given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm is clearly outweighed by other considerations.
13. The appellant has identified considerations that they contend weigh in favour of the proposed development. The property retains substantial unexpended permitted development rights for extensions that would enlarge the footprint of the house. That such works would be lawful has been established through a series of applications to the Council. These would allow the existing house to be more than doubled in volume, including retaining some of the existing outbuildings and converting part of the rear wing into a separate outbuilding. The introduction of large, flat-roofed elements to the side and rear of the house would be harmful to its character and appearance, and the increase in the width of the house would be particularly harmful to the openness of the Green Belt.
14. These works would not provide the accommodation for which the appellant has sought planning permission. However, he has stated a commitment to carry out the works should this appeal not be successful and has submitted an application to the Council's Building Control department as an indication of that intent. These potential works are therefore a material consideration that carries considerable weight given the significant impact they would have on the openness of the Green Belt and the character and appearance of the house.
15. My attention has been drawn to other cases in which fallback positions have been a consideration. In the case at Green Loanings, the Inspector found that the previously approved replacement dwelling was a material consideration as a potential fallback in their decision, given its greater size than the appeal proposal. In the Sweetdrops decision, the Inspector gave weight to the permitted development options available to the appellant, but also to a smaller replacement dwelling for which planning permission had been granted as an alternative option. In the absence of detailed information about the nature of these various proposals the weight accorded to these earlier decisions is limited, but I have considered them as part of the determination of this appeal.
16. The appellant also contends that the house could be enlarged upward under the recently introduced Class AA permitted development rights. However, this has not been confirmed through a formal application and it is not clear how any such extension might interact or conflict with the permitted development works that have been confirmed as lawful. While this is therefore a consideration in this appeal, given the uncertainty it only therefore attracts limited weight.
17. The proposed dwelling would accord with current sustainable development standards, resulting in a more energy efficient dwellinghouse. As no details of the respective energy efficiency performances of the existing and proposed houses have been provided, this also attracts limited additional weight.
18. The appellant proposes to demolish existing outbuildings, resulting in the consolidation of built form within the site to a footprint no deeper and not substantially wider than the maximum depth and width of the existing house. However, I note that since the application was submitted one outbuilding

shown on the plans has been demolished and a new outbuilding for which a Certificate of Lawfulness was granted in August 2020 is under construction within the site. The benefit of removing the outbuilding that has already been demolished does not therefore weigh in favour of the appeal. Furthermore, the building under construction is a large structure the removal of which cannot be secured through a condition on any permission as it is not shown on the submitted plans. In addition to this, even if a condition were imposed on any approval to restrict the permitted development rights of the replacement dwellinghouse with regards to the future construction of outbuildings at the site, this would not prevent additional outbuildings being built before the permission was implemented.

19. Whether or not very special circumstances exist is ultimately a matter of planning judgment. In this case, the fallback position and other considerations advanced by the appellant together weigh heavily in favour of the appeal proposal. However, the appellant's case is weakened by the construction of a new outbuilding of significant size adjacent to the site of the proposed dwellinghouse. The appeal proposal does not address this outbuilding, and the benefits that would have arisen from the consolidation of built form on the site into a single footprint are substantially diminished due to its construction.
20. The considerations advanced by the appellant would not, in this instance, clearly outweigh the substantial weight that must be given to the harm to the Green Belt arising from inappropriateness and loss of openness. Very special circumstances consequently do not exist in this case.

Conclusion

21. There are no material considerations that indicate this appeal should be determined other than in accordance with the development plan. Therefore, for the reasons set out above, the appeal fails.

M Chalk

INSPECTOR