
Appeal Decision

Site Visit made on 3 August 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2021

Appeal Ref: APP/M1595/D/21/3270529

Judds Farm Harrow Lane, Bulphan, UPMINSTER, RM14 3RE

- 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 D Barron against the decision of Thurrock Borough Council.
 - The application Ref 20/01080/HHA, dated 17 August 2020, was refused by notice dated 6 January 2021.
 - The development proposed is extensions and alterations to existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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;
- 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 would be inappropriate development in the Green Belt

3. 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 149. One of the exceptions cited is the extension of a building provided that it does not result in disproportionate additions over and above the size of the 'original building'.
4. Policy PMD6 of the Thurrock Local Development Framework, Core Strategy and Policies for Management of Development, 2015 (CS) states that residential extensions in the Green Belt must not be disproportionate to the original building. This is quantified as no larger than two reasonably sized rooms.

5. Whilst this figure provides a useful guideline the Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement. Therefore, I have given greater weight to the Framework in this regard.
6. The Residential Alterations & Extensions Supplementary Planning Document, 2017 (RAE) also confirms that any extension should be of a scale, size, siting and design and materials of construction, such that it does not harm the appearance of the original dwelling, the immediate locality and the countryside in general.
7. However, assessing proportionality is primarily an objective test based on size. The proposed first floor side extension would be located above the existing garage and extend to the ridge height of the original dwelling with a hipped roof. It would also increase the number of dormers and introduce a gable within the front elevation. In these ways the proposal would not be subservient to the host property.
8. Comparing the original building to the one that would result if the proposal were to go ahead, I consider that the outcome would be disproportionate when considered against the original dwelling. This is further evidenced by its failure to comply with the limits set out within the RAE. It would therefore be inappropriate development which is, by definition, harmful to the Green Belt.
9. In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which paragraph 147 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para 148 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

10. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Openness can be defined as the absence of built form. In the case before me the bulk of the built form would increase significantly as a result of the proposal and would therefore, in spatial terms, have a harmful impact upon the openness of the Green Belt.
11. The effect of the cumulative increased size of the host dwelling would clearly be experienced both visually and spatially, although due to the extension being located near to other residential properties this impact would be localised and limited. However, in this respect even a limited adverse effect on openness would contribute to the overall harm to the Green Belt.
12. For this reason, the proposed development would compromise the openness of the Green Belt, in that it would be reduced. Whilst the loss of openness would be limited, harm to the Green Belt would occur. This matter carries modest weight in this site-specific circumstance.

Other Considerations

13. The appellant has indicated that there are material considerations such as the fallback positions, which comprise the lawful development certificate 16/01392/CLOPUD and prior approvals 16/01391/PHA and 21/00031/PHA.

14. I have had regard to the Court of Appeal decision¹ which concluded that the clear desire of the landowner to develop and maximise the value of the site was sufficient to demonstrate that there was a real prospect to a fallback position. I have also noted that the appellant has sought quotes for the permitted works. As such, I have had regard to the clear desire on the appellants part to extend the existing dwelling in considering the weight to be given to the schemes which have already been given consent.
15. The prior approval proposals permit the extension of the dwelling to the rear with a depth of 8m from the rear wall, with a maximum height of 4m and eaves height of 3m. I have no reason to dispute the appellants evidence which indicates that if the appeal were to fail that the approved prior approval scheme would be implemented, as it would appear a reasonable addition which would provide similar ground floor accommodation to that proposed by the appeal scheme. These potential works are therefore a material consideration that carries considerable weight.
16. The lawful development certificate, 16/01392/CLOPUD, allows for a greater extent of development than the prior approval and includes an element of first floor accommodation. However, I am not persuaded that this provides a realistic fallback as it does not enable the appellant to extend the level of bedroom accommodation to the same extent. Furthermore, due to the length of time that has lapsed, since this consent was granted, it raises doubts as to whether it would be a probable alternative or represent a real prospect for development. Therefore, I have given this consideration limited weight.
17. The appellant has also provided a drawing comparing the permitted development schemes with the proposed dwelling and this demonstrates in particular how the fallback position would increase the coverage of the development across the site. However, there is insufficient evidence before me to be certain that both the prior approval and lawful development scheme could be implemented together as indicated on the drawing. I cannot therefore be sure that it would be a realistic or probable alternative and it only therefore attracts limited weight.
18. 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.

Green Belt Balance and Conclusion

19. Very special circumstances 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.
20. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in limited harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.

¹ Mansell v Tonbridge and Malling Borough Council 2017 EWCA Civ 1314

21. As explained above I give considerable weight to the prior approval scheme for a single storey extension, but limited weight to the other material considerations cited in support of the proposal. However, I conclude these circumstances do not clearly outweigh the harm the scheme would cause.
22. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. The proposal is therefore in conflict with policy PMD6 of the CS and the Framework.
23. The proposal would therefore conflict with the development plan and there are no other considerations that outweigh this conflict. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR