



Appeal Decision

Site visit made on 14 December 2021

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/B1550/W/21/3275372

Property Adjacent to Dunrovin, Ellesmere Road, Ashingdon SS4 3JP

- 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 Tom Lowe against the decision of Rochford District Council.
 - The application Ref 20/01132/FUL, dated 14 November 2020, was refused by notice dated 9 April 2021.
 - The development proposed is to demolish existing dwelling and replace with new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted to demolish the existing dwelling and replace with new dwelling at the property adjacent to Dunrovin, Ashingdon SS4 3JP in accordance with the terms of the application, Ref 20/01132/FUL, dated 14 November 2020, subject to the conditions listed in the schedule below.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2021 version of the Framework.
3. There is a discrepancy in the site address among a number of the appeal documents, where the site is sometimes referred to as 'The Meadows'. For the benefit of this appeal I have used the site address as referred to by the appellant and as used on the Council's decision notice.

Main Issue

4. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - (ii) the effect on the openness of the Green Belt, and;
 - (iii) if the proposal is inappropriate development, 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 required to justify the proposal.

Whether the development proposed is inappropriate in the Green Belt

5. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, it states the construction of new buildings should be regarded as inappropriate in the Green Belt. Exceptions to this include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149).
6. Policy DM21 of the Rochford District Council Development Management Plan 2014 (the DMP) sets out criteria under which replacement or rebuilding of existing dwellings in the Green Belt will be permitted. This includes the requirement that the total size of the dwelling should result in no more than a 25% increase in floorspace of the original dwelling.
7. Both parties agree that the proposed replacement dwelling would be materially larger than the one that it would replace. The development would therefore be inappropriate by definition under the NPPF and would be in conflict with policy DM21 of the DMP.

Openness

8. In addition to the harm through being inappropriate by definition, the effect of the development proposed on openness would be harmful by reason of its larger footprint and massing and also the extent of the proposed pitched roof including the overall increase in the height of the building. This results in a building which would be significantly larger than the existing and which conflicts with other parts of policy DM21. However I consider that the harm to openness is limited to moderate harm due to the siting of the development proposed on the plot and its alignment with other built forms on the neighbouring plots, in particular Dunrovin to the south and The Willows to the north.

Any other considerations

9. The Framework makes clear that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
10. As inappropriate development the appeal scheme would constitute definitional harm, to which I give substantial weight. The development proposed would also incur moderate harm to the openness of the Green Belt. No other considerations have been identified in this case.
11. The appellant has put forward a fall-back position in the form of various extensions which could take place to the existing building without the need for planning permission. The lawfulness of these additions has been confirmed by a lawful development certificate issued by the Council in 2019 (ref 19/00680/LDC- the LDC).
12. There is some difference between the parties regarding the floorspace of the fall-back and appeal schemes, primarily because the appellant appears to have relied on an external measurement, in contrast with the Council who have used

an internal floorspace figure. Using the Council's internal floorspace figures, where the greater difference applies, the difference between the two developments is just over 1m². The fall-back scheme would have a variety of roof forms attached to the existing roofs, while the appeal scheme would involve a traditional pitched roof above the entirety of the property. In terms of massing and layout, the fall-back scheme involves a number of more disjointed additions extending from all but the front elevation of the building, while the appeal scheme would comprise a more confined rectangular built form.

13. I appreciate the Council's concerns that the appeal scheme would entail more volume and bulk at the roof level. However, the proposed roof form is low level with shallow pitches. In reality, given the position of the proposed dwelling on the plot and its relationship to the existing buildings on either side of the site which have varying sized roof forms, I consider the additional impact to openness of the roof form would be minimal in both spatial and visual terms and that the benefits of a more confined built form with a substantially more comprehensive design approach, would result in the appeal scheme comprising significant benefits above the fall-back scheme, which would appear disjointed and lacking in a coherent design, resulting in harm to the character and appearance of the area.
14. I note the Council's concerns that the compromised design of the fall-back scheme may mean it is less likely to be implemented. However I see no reason why this would necessarily be the case here; there appears to be no technical or logistical reason why the fall-back scheme could not or would not be constructed. The Council also note that the appellant could have reduced the scale of the development by reducing the footprint to compensate for the increased roof volume. While this may be the case I have assessed the appeal on the basis of the proposals before me. Based on the evidence available and the findings of my site visit I have no reason to believe that there is not a real prospect of the fall-back scheme being implemented and as such I consider this to be a consideration of significant weight.
15. I also acknowledge the Council's concerns that the appeal building was previously an outbuilding used in association with the adjoining property, and that it was not intended for its current purpose. However, be that as it may, the property is acknowledged to have a lawful use as a single dwelling and I have dealt with the appeal on this basis.
16. In conclusion, I have afforded substantial weight to the proposal being inappropriate development in the Green Belt. Further, I give moderate weight to the harm caused by the proposal to the openness of the Green Belt. However, I am of the view that the existence and the specifics of the fall-back position is of considerable importance in this case, such that, for the reasons discussed above, this would amount to a consideration which clearly outweighs the harm identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conclusion

17. The proposals would not comply with policy DM21 of the DMP. However, I have found that there are other considerations in this case which amount to very special circumstances which ensures that the proposal would comply with the Framework and leads me to conclude that there are sufficient material

considerations to outweigh the requirements of policy DM21 in this instance. It therefore follows that the appeal should be allowed.

Conditions

18. I have considered the conditions put forward by the Council and I have had regard to the advice in Planning Practice Guidance and the Framework in respect of conditions. I have imposed a condition requiring the development to adhere to the submitted drawing to provide certainty, and also that the materials used in the construction of the development match those described within the application form unless otherwise agreed by the Council, to ensure the development sits comfortably within its context. On this condition I have made a minor amendment to the wording without altering the spirit or intention of the condition and have removed reference in the plans condition to the approved LDC plan.
19. I have not imposed a condition requiring that Part G (water efficiency) of Building Regulations are met. I have not been provided with details of the planning requirement for this condition and it would appear to be a matter which would be addressed under a separate regulatory regime. In line with advice under the Planning Practice Guidance, such a condition would therefore not meet the test of necessity.

C Shearing

INSPECTOR

Conditions Schedule

- 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 approved plan 3629-04 RevB Sheet 1.
- 3) The external surfaces of the development hereby approved shall be constructed of materials and finishes as detailed in the application form completed 14 November 2020, unless otherwise agreed in writing by the local planning authority.