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## Appeal Decisions

Site visit made on 24 May 2022

**by R Satheesan BSc PGCert MSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 June 2022**

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**Appeal Ref: APP/J1535/C/21/3283581 & APP/J1535/C/21/3283582  
Annex at rear of Wynters Cottage, Hastingwood Road, Magdalen Laver,  
Ongar, Essex CM5 0AT**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Danny Michael James and Mrs Lauren James against an enforcement notice issued by Epping Forest District Council.
  - The enforcement notice was issued on 24 August 2021.
  - The breach of planning control as alleged in the notice is without planning permission the erection of a rear dormer.
  - The requirements of the notice are:
    1. Remove the dormer shown hatched black on the attached plan.
    2. Remove all resulting debris from the land.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### Decisions

1. It is directed that the enforcement notice be:
  - Varied by deleting the words "3 months" within section 6 (Time for Compliance) and its replacement with "9 months".
2. Subject to the variation, the appeals are dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Procedural Matters

3. The notice refers to policies DM 4 and DM 9 of the Epping Forest District Local Plan Submission Version 2017 (LPSV). The LPSV has not yet been adopted by the Council as part of their development plan. However, the LPSV has been through the examination process and the Council advise that the emerging Local Plan has reached a very advanced stage. Therefore, I have attached significant weight to these emerging policies but not the full weight of an adopted Local Plan.

## **Appeal on ground (a), the deemed planning application (DPA)**

### **Main Issues**

4. The main issues are:

- Whether or not the development is inappropriate development in the Green Belt;
- The effect on the openness and purposes of the Green Belt;
- The effect on the character and appearance of the host building and area; and
- Whether the harm to the Green Belt 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 development.

### *Whether or not the development is inappropriate development*

5. The site relates to an annexe building to the main two storey detached dwelling at Wynters Cottage, which is located within the Green Belt. Planning permission was previously granted for a single storey annexe over the footprint of the pre-existing former stable building. The annexe provides accommodation for the appellants elderly relatives.
6. National policy on Green Belt development is set out in Part 13 of the Framework. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Of particular relevance to this appeal is Paragraph 149 which states that the construction of new buildings is inappropriate development in the Green Belt subject to a number of exceptions. Reference has also been made to Policy GB2A of the Epping Forest District Local Plans Alterations, 2006 (EPLPA), and policy DM 4 of the emerging LPSV which are broadly consistent with the Framework in that they seek to protect the Green Belt but allow limited extensions to existing dwellings as long as they are not disproportionate additions. Accordingly, I have assessed this appeal based upon the Green Belt policies contained in the EPLPA, LPSV and the Framework.
7. The appellants consider the development falls within the exceptions listed under Paragraph 149 c) of the Framework. Exception c) of paragraph 149 relates to 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.
8. The appellants state that the rear dormer extension adds 39 cu.m. to the volume of the whole building, which represents a 12.8% increase in the volume of the annexe building. In relation to additional floor space, no information has been submitted to demonstrate what the exact increase in floorspace is as a result of dormer extension. Nevertheless, the dormer extension has resulted in an additional floor being constructed over part of the single storey annexe. Furthermore, size is more than a function of floorspace and volume and includes bulk, mass, and height. In this case, it is clear that the overall bulk, width, depth, and height of dormer which covers a large proportion of the catslide roof and is not set in from the eaves, has considerably increased the floorspace and volume of the annexe.

9. Based on this, the current unauthorised development is a disproportionate addition over and above the size of the original building. As such, the development does not fall within the exception c) of paragraph 149, and nothing has been provided to lead me to a different conclusion.
10. I therefore conclude that the development does not satisfy any of the other exceptions in paragraphs 145 and 146 of the Framework, and also conflicts with policy GB2A of the EPLPA and policy DM4 of the LPSV. As such the development amounts to inappropriate development, which by definition, is harmful to the Green Belt.
11. The Council have also referred to Policy SP7 of the LPSV. However, this appears to relate to the natural environment, landscape character and green and blue infrastructure which does not seem to be particularly relevant to the case advanced by the Council. I therefore find no conflict against this policy.

#### *Openness of the Green Belt*

12. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Courts have held that openness includes both visual and spatial dimensions.
13. The additional floorspace provided by the unauthorised development results in additional bulk and mass at first floor level, and hence in spatial terms there is a reduction in openness of the site and hence this part of the Green Belt. Furthermore, the additional bulk and floorspace at first floor level is particularly noticeable and prominent in views from the public right of way (PROW) directly to the rear of the appeal site. Therefore, in both spatial and visual terms, the development affects the openness of the green belt. Overall, I consider that the harm caused to the openness of the Green Belt is a limited one, but nevertheless has an impact.

#### *Character and appearance*

14. The approved plans illustrate that the annexe building was intended to be a subservient single storey addition with a pitched roof within the grounds of the main dwelling of Wynters Cottage, which itself has been extended with a two storey rear extension.
15. Despite the use of matching materials, the rear dormer which extends over a large section of the rear catslide roof, and built up sheer on the rear elevation, with only a minimal set in from the side elevation extends the building considerably. Whilst I appreciate the rear dormer is not visible from the frontage of the site, I observed during my site visit that the dormer is highly prominent in public views from the PROW which lies directly to the rear of the annexe.
16. Whilst the appellants state that views of the dormer are screened by the existing hedgerow and trees and that there is scope to supplement the hedgerows, the dormer rises well above the existing vegetation, and I am not convinced that any additional planting would mitigate this.
17. In this regard, the unauthorised rear dormer introduces an overly dominant and visually discordant feature, which is visible from public vantage points at

the rear of the site. The development diminishes unacceptably the integrity, character and appearance of the original subservient annexe and consequent harm to the character and appearance of the area.

18. Therefore, the development has a harmful impact upon the character and appearance of the host building and area, contrary to Policies CP2, DBE4 and GB7A of the EPLPA. Amongst other things these require that the quality of the rural and built environment is maintained and conserved; that new buildings within the Green Belt respects local character in terms of traditional plan form and detailing, and state that permission will be refused for development conspicuous from within or beyond the Green Belt which would have an excessive adverse impact upon the openness, rural character, or visual amenities of the Green Belt. Whilst the policies referred to above are of some age, their emphasis on good design is broadly consistent with the Framework policies.
19. It also fails to comply with Policy DM 9 of the LPSV which states that all new development must achieve a high specification of design and contribute to the distinctive character and amenity of the local area. Finally, the development does not meet the aims of part 12 of Framework, which requires development to be sympathetic to local character and history.

#### *Other considerations*

20. In support of the current development, the appellants' personal circumstances have been raised which states that the annexe provide accommodation for their elderly relatives who are vulnerable. However, the previous planning permission for the annexe also provides living accommodation for the appellants' family. I therefore give very limited weight to the family circumstances advanced by the appellants.

#### **Green Belt Balance and Conclusion on the appeal on ground (a), the DPA**

21. I have found that the development amounts to inappropriate development in the Green Belt, and that limited harm has been caused to the openness of the Green Belt. These are matters to which I afford substantial weight. In addition, I have found that the development also harms the character and appearance of the area. The adverse impacts need to be weighed against the identified other considerations, noting that there are no significant benefits.
22. In conclusion, the substantial weight to be given to Green Belt harm, and the other identified harm arising from the development, is not clearly outweighed by the other identified considerations. Consequently, the very special circumstances necessary to justify the development do not exist.
23. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

#### **The appeals on Ground (g)**

24. This ground of appeal is that the time given to comply with the notice is too short. The appellants asks that the time for compliance is extended from 3 to 9 months, given that the remedial works cannot take place without the annexe being vacated by the elderly relatives, who cannot be accommodated in the main house. They further state that Covid-19, Brexit, and the shortage of lorry

drivers has all had an impact organising tradesman and materials to carry out the remedial works.

25. I have identified under the ground (a) appeal that the development amounts to inappropriate development in the Green Belt, and that the development is harmful to the openness of the green belt and the character and appearance of the host building and area.
26. However, the time for completing the requirements should be what is reasonably considered necessary to complete the requirements. To provide additional time to find alternative accommodation for the appellants' family and to carry out the necessary works, a 9 month period would strike a more reasonable and proportionate balance to comply with the notice. I shall therefore extend the period from 3 to 9 months for compliance with the notice.
27. The appeals succeed on ground (g), and I shall vary the notice accordingly.

### **Conclusions**

28. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*R. Satheesan*

INSPECTOR