



Appeal Decision

Site visit made on 12 April 2022 by Thomas Courtney BA(Hons) MA

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

Appeal Ref: APP/W1525/D/21/3288710

Newney Cottage, Newney Green, Writtle, CM1 3SE

- 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 N. Jones (GN & GT Jones t/a Newney Hall Farm) against the decision of Chelmsford City Council.
 - The application Ref 21/01843/FUL, dated 9 September 2021, was refused by notice dated 2021.
 - The development is a proposed single storey cartlodge garage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Whether the development would be inappropriate development

4. The appeal site lies within the Green Belt and comprises a detached dwelling and several large agricultural buildings located on the southern side of Newney Green.
 5. Paragraph 149 of the NPPF states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. These exceptions include, for example, the extension or alteration of a building provided that it
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does not result in disproportionate additions over and above the size of the original building or the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

6. Although the proposed building would fall within the same use as the dwelling, in the absence of any evidence to the contrary I find that the proposed development does not meet any of the exceptions outlined in paragraph 149. I therefore find the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph 149 of the NPPF and Policies DM6 and S11 of the Chelmsford Local Plan (LP), which together seek to resist inappropriate development in the Green Belt.

Openness

7. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The additional built form and volume as a result of the erection of the cart-lodge garage would materially impact on openness in a spatial aspect. Furthermore, the height of the roof at 5.15m would mean the proposal would also have a greater visual impact on the openness of the Green Belt when seen from Newney Green and the open countryside to the north of the appeal site. However, I acknowledge that the site's northern boundary is well-screened with mature vegetation so the visual impact in this regard would be more limited. I therefore find that the spatial and visual impact on openness would result in limited harm to the Green Belt.

Other considerations

8. The NPPF states that inappropriate development should not be approved except in very special circumstances, and that 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.
9. In this regard, the appellant has drawn attention to a fallback position having been established through the Permitted Development (PD) process emphasising that a less suitable building could be erected. I have been provided with details of the grant of a Lawful Development Certificate (*LPA ref: 21/01162/CLOPUD*) for the erection of an outbuilding in roughly the same location as the proposal. Indeed, the plans indicate the PD garage would be located a few metres to the south of where the cart-lodge garage is proposed.
10. The Courts have held that in considering the concept of a fall-back development as a material consideration, there should be a "real prospect" of it being implemented, and not just a theoretical possibility that the development might take place. It is also held that it is for the decision-maker to exercise their planning judgement on this matter and to ascribe the appropriate weight.
11. I accept that the fallback scheme would be lower in height than the appeal proposal but based on the details and evidence provided would have a greater footprint than the appeal proposal. The volume of the proposed outbuildings would be broadly the same and consequently any impact on visual and spatial openness would quantifiably be similar.
12. The submitted appeal documents indicate the fallback scheme would feature poorer quality materials such as raw blockwork and cement sheeting, which would appear incongruous and inconsistent with the appearance of the main

dwelling. The appeal proposal would undoubtedly represent a higher quality and more desirable form of development when considered in respect of its character and architectural form, and against that of its context and the adjacent dwelling. However, whilst this may be the case, I find that the appellant's own concession that the PD scheme is of a significantly poorer quality of design and appearance, lessens the likelihood that this scheme would be delivered in any event, and therefore that it would be anything more than a theoretical possibility. Furthermore, I concur with the Council's view that the PD garage would be erected in an impractical part of the appeal site as compared to the proposal and that it would undoubtedly provide a more convoluted access to the main dwelling. For these reasons, I have attached only limited weight to the fallback position.

13. Newney Hall, a Grade II listed building, is located to the southeast of the host dwelling. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a listed building. In this respect national policy on heritage assets, is set out in the NPPF. At paragraph 197, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
14. The nearby building was listed in 1967 (Ref: 1237228) and dates from the late sixteenth century. It is a timber framed and plastered house with arms wings on the east and west ends and a small gable in-between. The listing description states that it features later additions and alterations such as a gabled wing to the western elevation. It has a tiled roof, mullioned casements, two original diagonally shafted chimney stacks, a gabled dormer window and exposed timber-framing in the interior.
15. Its significance is principally derived from its age and materials. As defined in the NPPF, the setting of a heritage asset is the surroundings in which the heritage asset is experienced. In this case, the building can be most readily appreciated from the land surrounding it to the southeast as well as from the adjacent properties to the west. Glimpses of the building are also visible from Newney Green.
16. Due to the separation distance between the proposed location of the development and Newney Hall, I do not find that the proposed garage would adversely impact the listed asset. Nevertheless, the agreeable traditional design of the cart-lodge garage would complement the wider setting of the listed building. Limited weight is therefore attached to this consideration.

Planning Balance and Overall Conclusion

17. I consider that the development would cause harm to the Green Belt by way of its inappropriateness and to its openness, and substantial weight should be given to these harms. On balance, I find that the limited weight given to the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Recommendation

18. The proposed development conflicts with the development plan taken as a whole and having had regard to all other considerations, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Martin Seaton

INSPECTOR