



Appeal Decision

Site visit made on 20 February 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2023

Appeal Ref: APP/W1525/D/22/3297429

Cockshill Cottage, Swan Lane, Stock, Ingatestone CM4 9QP

- 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 John Nelson against the decision of Chelmsford City Council.
 - The application Ref 22/00186/FUL, dated 27 January 2022, was refused by notice dated 22 March 2022.
 - The development proposed is described as 'retrospective application for two storey front extension, two storey side extension, part single, part two storey rear extension and loft conversion with dormer to rear'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development has already been carried out.

Background and Main Issues

3. Cockshill Cottage is in the Green Belt. It had already been enlarged by a small single storey rear extension. The appellant obtained planning permission, and a notice that prior approval was not required, for certain other extensions to it. Extensions were built in a single composite act of development. Some works were not in accordance with approved plans and further extensions did not have planning permission, a notice stating prior approval was not required (or if it was, is granted) or a Lawful Development Certificate.
4. This appeal is concerned with whether planning permission should be granted for the totality of the development that has been applied for and built. It is agreed that the development is inappropriate development in the Green Belt. Therefore, the main issues are:
 - the effect of the development on the openness of the Green Belt;
 - its effect on the character and appearance of the area, including the design of Cockshill Cottage and its relationship to Hornbeam Cottage; and
 - whether other considerations clearly outweigh the harm to the Green Belt, and any other harm, so as to amount to very special circumstances to justify the development.

Reasons

Openness of the Green Belt (GB)

5. The external envelope of Cockshill Cottage has been significantly altered and enlarged in shape, floor plan, floor area and building volume at ground floor, first floor and roof levels in all three elevations. The appellant does not dispute the Council's figures in these regards. The development has established built form on the site that is substantial in scale and massing where there was none previously and it has a permanent spatial presence. The visual presence of the development in the GB is significant because the dwelling is disproportionate in size to the original building.
6. As a result, and though next to Cockshill Cottage these parts of the site are no longer 'open' in any equivalent or comparative sense to its original condition. Albeit a modest loss, this has reduced the openness of the GB which is one of its essential characteristics.
7. The development does not, therefore, comply with the Council's Local Plan¹ (LP) policies S11 and DM11. These include aims to protect the openness and permanence of the GB and restrict extensions or alterations to existing buildings if these are disproportionate additions over and above the size and scale of the original building.

Character and appearance

8. Cockshill Cottage and Hornbeam Cottage are a pair of semi-detached dwellings in the countryside, originally built for farm workers. Both were modest in size and simple in form with a traditional rural vernacular design, including a small single storey rear extension, red brick elevations and plain hipped roofs. This gave a tangible sense of symmetry and homogeneity with both dwellings relatively unobtrusive in the landscape. Individually, and collectively with Hornbeam Cottage, Cockshill Cottage therefore made a positive contribution to the character and appearance of the area.
9. The scale and massing of the hipped roof two-storey side extension is itself proportionate and in-keeping with the original front elevation of Cockshill Cottage. So is the side (end) elevation across the full depth of the original side elevation. However, while the two-storey front extension is relatively shallow, it is wide and tall with a hipped roof at a high level, so has appreciable bulk. This central projecting bay disrupts the uniform plane of the front elevation and roof slope. The horizontal weatherboarding, large first floor plate glass atrium style window and wide double front entrance doors are discordant features and clash with the appearance of the front elevation of Hornbeam Cottage. This extension has a detracting, jarring presence, which significantly undermines the original integrity of this part of Cockshill Cottage and the unity of these parts of both dwellings taken with Hornbeam Cottage.
10. Most of the two-storey rear extension would not project significantly in-depth behind the original rear elevation of Cockshill Cottage, nor would the single storey rear extension beyond it. However, these extensions stretch across the full width of the extended dwelling, flush with the new side elevation, including raised parapet walls in the single-storey part for a roof terrace. Squaring off this part of the building loses the articulation and spaciousness of the approved

¹ Chelmsford Local Plan May 2020

L-shaped floorplan, appreciably increases the depth and width of the dwelling in this 'corner infill' and adds significant bulk at ground and first-floor level.

11. The double flat crown roofs with narrow hipped slopes over the two-storey rear extension are shallow in height. Nevertheless, this roof form is out of keeping with the prevailing deeper, ridged roof form of Cockshill Cottage and Hornbeam Cottage. Though not projecting as far back, the large rear dormer above defeats much of the alleged 'saving' in built form and building volume at roof level due to the squat crown roofs. The wider two-third and narrower one-third split arrangement of the crown roofs also gives a disjointed and unbalanced appearance to this upper part of the building.
12. The rear dormer is wide and tall. It obscures nearly all the original main roof slope and a large proportion of the extended roof slope, including high up almost at ridge level and low down almost to eaves level. This substantial increase and projection of building volume beyond the plane of the roof slope has fundamentally altered the roof form of Cockshill Cottage. It gives an overly dominant, top-heavy appearance to this part of the building and is at odds with the rear roof form of Hornbeam Cottage.
13. In isolation, the existing dwelling has some innate architectural coherence and includes some high-quality materials. However, it fails to respect important features of Cockshill Cottage or, taken together with Hornbeam Cottage, this pair of rural dwellings. The two-storey front extension, part two-storey and part single-storey rear 'wrap around' extension, double crown roof and the rear dormer have overwhelmed the original size, shape and appearance of Cockshill Cottage. These unsympathetic and incongruous additions do not integrate well and result in a profoundly different building which has largely obliterated any semblance of the original cottage. It is now in stark contrast to Hornbeam Cottage and most of the innate symmetry and homogeneity has been lost, especially in the most important front elevation.
14. Overall, the modern contemporary design gives the impression of a large urban or sub-urban new build house, unexpected in the open countryside. Though set back further from Swan Lane behind Hornbeam Cottage, the development is noticeable in longer downward views from this lane on higher ground to the south and similar distance views from lower ground to the north looking upwards. It can also be seen from the lane closer to Cockshill Cottage and here more obviously next to Hornbeam Cottage, though less so during summer months when intervening hedgerow and trees are in leaf.
15. Consequently, the development has had a substantial negative effect on the design of Cockshill Cottage. This undermines its relationship to Hornbeam Cottage, appreciably diminishing the way in which both are experienced in their immediate surrounding rural context and causes appreciable harm to the character and appearance of the area. It therefore conflicts with LP policies DM11 and DM23. These include objectives to restrict extensions or alterations of buildings in the GB that are out of keeping with its context or surroundings and to ensure that the detailed design of development respects the character and appearance of the area.

Other considerations

Personal circumstances

16. The appellant lives in Cockshill Cottage, ordinarily with his partner and their young child who are both living temporarily elsewhere with family members while planning matters are resolved. There are ambitions to foster children but this is currently in limbo. Enlarging and improving the living accommodation at Cockshill Cottage would be reasonable adjustments to meet these important day-to-day activities and needs in the appellant's private family life and the best interests of the child are a primary consideration.
17. The appellant considers that he did not previously receive reliable professional advice about the development. I also appreciate that there has been protracted discussions with the Council seeking to find a solution. I have not been made aware of any enforcement action taken by the Council or about any specific requirements in this regard. These would be matters for the Council and it has agreed to further dialogue in light of the outcome of this appeal. The actual nature and implications of any enforcement action is therefore not yet known.
18. Nevertheless, I accept that this stressful situation and uncertainty has already had serious effects on this family's health and emotional well-being, and also other family members, including disruption to family or working life and to the child's education and social activities. It could also have potentially significant costs and even if on a continuing temporary basis, be disruptive to future living arrangements. I give significant weight to these personal circumstances.

Original size of Cockshill Cottage

19. Albeit not applicable to this case, I have no reason to doubt that the original living accommodation in Cockshill Cottage would not have met the Nationally Described Space Standards. However, there is no objection in principle to enlarging Cockshill Cottage and the Council had already approved significant extensions to it. There is no evidence that those extensions would not have provided improved living conditions or a family sized home with satisfactory amenities for modern living expectations and meet the appellant's needs. I give little weight to this consideration.

Planning permission, prior approval, permitted and lawful development

20. It has been put to me that demolishing the development and reconstructing some, or most of it, would either benefit from planning permission or prior approval already granted or which could be granted or permitted development rights² (PDR). Additionally, that a condition or a planning obligation could direct which parts of the development might need to be omitted or altered to bring it within any or all the above controls.
21. It has also been suggested that PDR for Class E outbuildings could be removed at Cockshill Cottage to prevent 'lost space' from demolitions being replaced elsewhere within the appeal site. Additionally, that PDR at Hornbeam Cottage (which is also owned by the appellant) could be removed to prevent similar outbuildings or a side extension at this property and redress or mitigate the impact of the development at Cockshill Cottage. Alternatively, or as well, that Cockshill Cottage could, without planning permission, be 'merged' with

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Hornbeam Cottage so that judged against this single dwelling the development would not be inappropriate development in the Green Belt or cause harm to the character and appearance of the area.

22. However, the variances from the approved development at Cockshill Cottage are individually and cumulatively plainly more than 'subtle' or 'limited'. There is also a complicated overlap between the various works that have taken place. There is no objective evidence, such as a Lawful Development Certificate for existing or proposed development, that any of the development at Cockshill Cottage is either lawful, would not require planning permission or prior approval, would be permitted development or could be constructed again by any of these means with or without modification and without any further necessary planning permission or prior approval. Nor about any outbuilding, including with regard to relevant exceptions, limitations and conditions of PDR.
23. The National Planning Policy Framework (Framework) does not advocate PDR restrictions in the GB and Planning Practice Guidance (PPG) cautions that blanket removal of PDR for small-scale domestic alterations and extensions are unlikely to be reasonable. This would anyway only give the Council control over such future development at one or both dwellings; removing PDR would not affect the development that has taken place or therefore overcome or justify the harm already present to the GB and character and appearance of the area. There is no evidence that a planning permission³ for enlargement of Hornbeam Cottage, including by a side extension, is no longer extant. It could therefore be constructed even if PDR were removed or it was occupied as a single dwellinghouse with Cockshill Cottage. In any event, the disparate design and external appearance of Cockshill Cottage and Hornbeam Cottage would remain the same whether these are separate dwellings or a combined single dwelling.
24. Notwithstanding the above, it is not within the scope of this appeal to establish the lawfulness of existing or proposed development and there is no planning obligation before me. There is also no scheme to show what built form might be removed, altered or replaced as part of Cockshill Cottage or provided as an outbuilding. I cannot therefore make a comparison or determine what the relative effect on GB openness might be (same, more or less) or the character and appearance of the area. I also cannot be certain a condition or planning obligation would meet the relevant tests of the Framework and PPG.
25. I am, therefore, not satisfied that the appellant has demonstrated or justified any of these matters beyond speculation or assertion. There is very little substance to these suggestions, as yet no clarity or apparent likelihood about what works or development would be carried out, accordingly no real prospect of a fallback position in these circumstances. Consequently, I give these considerations limited weight.

Design reason for refusal

26. The Council did not cite a 'design' reason for refusal in a previous proposal at the site⁴. The appellant believes it has not been consistent. However, this is not a matter for me. There is a design reason for refusal in the current appeal and the appellant has addressed it. I give no weight to this consideration.

³ 18/00931/FUL

⁴ 20/02007/FUL

Previous appeal

27. Both main parties have referred me to a previous dismissed appeal decision relating to some of the development at Cockshill Cottage⁵. While I have taken this decision into account, it is of limited relevance because it does not relate to the totality of the development that has taken place, so is not directly comparable. I have, in any event, determined the current appeal on its individual planning merits and the evidence before me.

Green Belt Balance

28. The development is inappropriate development which is, by definition, harmful to the GB. The significant harm to the openness of the GB in this case is at odds with local and national policy to protect the GB. Any harm to the GB is a matter that carries substantial weight. Additionally, there is appreciable harm to the character and appearance of the area which I give significant weight.
29. On the other hand, I acknowledge that the development is of importance and value to the appellant's immediate and foreseeable future family life. However, there is no compelling evidence or other convincing justification that the existing size and design of the dwelling is the only alternative to meet these needs. Whereas, the dwelling is otherwise a permanent building in the GB and countryside and harm in both respects would endure.
30. I recognise that dismissing the appeal would interfere with the appellant's private rights to enjoyment of their possessions, to family life and their home and the best interests of the child⁶. I have also had due regard to the age and disability (temporary mental impairment) protected characteristics in this appeal for the purposes of the Public Sector Equality Duty⁷, including the need to eliminate discrimination and advance equal opportunity.
31. Nevertheless, these factors must be weighed against the wider public interest. For the reasons given above, the development harms the GB and has an adverse effect on the character and appearance of the area. I am satisfied that these legitimate aims can only be adequately safeguarded by the refusal of permission for the development that has taken place. I therefore consider that dismissing the appeal for these reasons would be a proportionate outcome. The other considerations outlined above do not, therefore, clearly outweigh the totality of the harm. As a result, very special circumstances to justify the development do not exist.

Planning Balance and Conclusion

32. The development does not accord with the development plan. There are no other considerations, including provisions of the Framework, to indicate that the decision should not be made otherwise than in accordance with the development plan. Consequently, for the reasons given above the development is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁵ APP/W1525/D/21/3275613

⁶ Article 1 of the First Protocol and Article 8(1) of the Human Rights Act 1998 and Article 3(1) of the United Nations Convention of the Rights of the Child

⁷ Section 149 of the Equality Act 2010