



Appeal Decision

Site visit made on 15 August 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2023

Appeal Ref: APP/W1525/W/22/3307304

**Bumpsteads Cottage, Margaretting Road, Writtle, Chelmsford, Essex
CM1 3PJ**

- 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 & Mrs G & J Shuck against the decision of Chelmsford City Council.
 - The application Ref 22/00923/FUL, dated 9 May 2022, was refused by notice dated 17 August 2022.
 - The development proposed is demolition and rebuild of existing dwelling and garage in new location.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The red line for the appeal consists of two separate areas. For the avoidance of doubt, I have referred to the land on which it is proposed to erect the new dwelling as 'the site'. References to Bumpsteads Cottage refer to the part of the site where it is proposed to demolish the existing building.
3. During the course of the appeal, I sought the views of parties as to whether the proposed development was in the same use as the existing. I have had regard to these comments in reaching my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness and purposes of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

5. Chelmsford Local Plan 2013-2036 (May 2020) (LP) Policies S11A and DM6 set out that inappropriate development in the Green Belt will not be approved except in very special circumstances. This is consistent with Paragraph 147 of

the National Planning Policy Framework (the Framework) which also states that inappropriate development is, by definition, harmful to the Green Belt. LP Policy DM6C) sets criteria, all of which must be met, for replacement dwellings to be allowed in the Green Belt. While these go beyond the criteria set out in Paragraph 149d) of the Framework, the Local Plan is up-to-date.

6. The appellant's evidence is clear that Bumpsteads Cottage is a large house in multiple occupation and as such is a sui generis use, and that the proposed dwelling would fall within Use Class C3. A change between these uses would constitute a material change of use which would require planning permission. Furthermore, the existing use of the property does not fall within Class C. I therefore cannot conclude that the proposed dwelling would fall within the same use as the one it would be replacing.
7. Even if I were to find that the proposed dwelling was in the same use as the existing, it would be incumbent on me to consider if the proposed dwelling met the other criteria set out in LP Policy DM6C). The judgement as to whether a proposed replacement building is materially larger than the structure it would replace is primarily an objective one by reference to size. Floor space, footprint, built volume, height and width can all be relevant factors.
8. The proposed dwelling would be 'L' shaped and longer, wider and higher than the existing at its maximum dimensions. I consider the proximity of the garage to the dwelling means it would be reasonable to include it within the floorspace calculations, meaning the overall increase in floorspace would be limited. However, the increase in the scale and spread of the dwelling would result in the proposed dwelling appearing materially larger than the existing.
9. I will return to LP Policy DM6C) throughout this decision. However, it is a policy that requires all criteria to be met. While it is not in dispute that the existing building is of a permanent and substantial construction, I have found against the proposed development with respect to LP Policy DM6C) ii. and iii.
10. The appeal proposal would therefore constitute inappropriate development in the Green Belt as it would not meet all of the exceptions set out in LP Policy DM6C) or paragraph 149 of the Framework. The proposed development would therefore be harmful to the Green Belt and should not be approved except in very special circumstances.

Openness and Purposes

11. 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. Openness is the absence of development and can have spatial as well as visual aspects.
12. Paragraph 138 of the Framework sets out the five purposes of the Green Belt, namely to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
13. The existing Bumpsteads Cottage sits within a small enclave of development with the adjacent employment site, the farm opposite and dwellings beyond. This cluster of development is predominantly set in proximity to the road.

Where is it not in proximity to the road, there is a close physical relationship to the surrounding dwellings. As such, while the existing dwelling occupies a prominent position, it is viewed in the context of this enclave.

14. The proposed dwelling, clearly set away from the existing development and with no substantive relationship to the road or close physical relationship to existing buildings, would represent a marked departure from this existing pattern of development.
15. The parties are in dispute to the current use of the site, and I make no comment on that. However, the construction of a substantial, permanent dwelling on the site would extend the permanent built form into an area where none exists at present.
16. The proposed development would therefore have a greater impact on the openness of the Green Belt than the existing development and would represent encroachment into the countryside and so would be contrary to the purposes of the Green Belt. In accordance with paragraph 148 of the Framework, I attach substantial weight to this harm.

Character and Appearance

17. At my visit, the site was a well maintained, predominantly grassed area, with landscaped boundaries to the surrounding open fields. Irrespective of the caravans and play structures on the site, it had a clearly rural character. It also provides an attractive transition from the built form of Bumpsteads Cottage, the commercial units and their parking area to the surrounding countryside.
18. As set out above, the proposed dwelling would be sited away from the existing cluster of the development. It would introduce a permanent urbanising feature and would extend the built form into an area which is currently more rural in character. The effects of this would not be mitigated by measures such as the proposed orchard and replacement of some of the areas of hardstanding with grass.
19. The proposal would therefore have an adverse effect on the character and appearance of the area. It would be contrary to LP Policy DM6C) as it would be out of keeping with its context and surroundings.

Other Considerations

20. At my site visit, I noted that the access to Bumpsteads Cottage was situated in proximity to the sharp bend in the road and visibility from this access was restricted. The local highways authority has not expressed in their responses that they consider there would be a benefit to highway safety from the proposal. However, it seems apparent to me that increasing the distance between the vehicular access and the bend would be a benefit to highway safety, albeit one to which I attach limited weight given the small amount of development it serves.
21. Road noise was also clearly audible during my site visit and, despite it only representing a brief time, the noise of motorbikes accelerating out of the corner was distinguishable. However, there is no substantive evidence before me of the difference in noise levels between that at Bumpsteads Cottage and at the proposed dwelling. It is also likely that the acoustic performance of Bumpsteads Cottage could also be improved through mitigation measures that

would not require its demolition. Similarly, there is no evidence before me that Bumpsteads Cottage is beyond any economic repair or would not be capable of providing acceptable living conditions. Any benefits in the quality of the accommodation, insofar as they would be public benefits, would only be of limited weight.

22. The design and access statement refers to the need to provide disabled access and multi-generational living, however no further detail is provided. I have had regard to this, however, I am mindful of the advice contained in the Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. It is probable that the appeal proposal would remain long after the appellant's personal circumstances cease to be material. Future use of the proposed dwelling would also not necessarily entail a similar situation.
23. There is no substantive evidence before me as to the demand for self build properties in the area as demonstrated through the Council's registers, nor of the numbers of permissions granted for self build dwellings. Furthermore, there is no mechanism before me to secure that the dwelling would meet the requirements of self build in that the future occupier would be the person involved in its design. I therefore attach limited weight to this.
24. The Council has not raised any concerns with regard to the design of the proposed dwelling or the living conditions of surrounding and future occupiers. Appropriate parking provision could be provided within the site. I have no reason to disagree. Appropriate archaeological mitigation could be secured by condition. However, these would be expected of any well-designed development and as such are neutral.
25. I have been directed to a case summary and commentary on *Vision Engineering Ltd v. Secretary of State for the Environment and Guildford Borough Council* from the Journal of Planning Law. However, this dates from 1991. I do not have full details of the development plan and national policy in that case. However, paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and it must be clearly outweighed by other considerations and it is on this basis the appeal before me should be considered.

Conclusion

26. I have found the proposal would constitute inappropriate development in the Green Belt and would be harmful to its openness and purposes. I afford these matters substantial weight. The other considerations in this case do not carry sufficient weight to clearly outweigh this harm. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
27. The proposed development would conflict with the development plan taken as a whole and there are no material considerations before me, including the Framework and of sufficient weight, to suggest the decision should be made other than in accordance therewith. Therefore, the appeal should be dismissed.

J Downs

INSPECTOR

¹ Determining a planning application Paragraph: 008 Reference ID: 21b-008-20140306 Revision date: 06 03 2014