



Appeal Decision

Site visit made on 15 November 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2024

Appeal Ref: APP/J1535/D/23/3321743

Thomasines, Epping Road, Roydon, Harlow, Essex CM19 5DA

- 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 Jamie Thompson against the decision of Epping Forest District Council.
 - The application Ref EPF/2485/22, dated 28 October 2022, was refused by notice dated 15 February 2023.
 - The development proposed is alterations and extensions to dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Epping Forest District Local Plan 2011-2033 Part One (the Local Plan) was adopted in March 2023. The policies the Council refer to from the Epping Forest Local Plan (1998) and Alterations (2006) are now superseded. Copies of relevant policies from the new Local Plan have been provided. I am required to consider the appeal in the context of the plan currently in place and so have disregarded the superseded policies. Both parties have had an opportunity to comment on this matter and so have not been prejudiced by this change.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. There have been no substantive changes to the objectives of the Framework referred to by either party. Both parties have nevertheless had an opportunity to comment on the revised Framework and so have not been prejudiced by this change. I have thus utilised the latest version of the Framework in determining this appeal.
4. I observed during my site visit that work had commenced on site albeit was unfinished. The development is therefore part-retrospective.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and
 - 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 the proposal would be inappropriate development

6. The site is located within the Metropolitan Green Belt. Policy DM4 of the Local Plan states that, within the Green Belt, planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national planning policy. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Paragraph 154 of the Framework indicates that, other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. These exceptions include (c) 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. The original building is defined in Annex 2 of the Framework as a building as it existed on 1 July 1948 or, if constructed after, as it was built originally.
8. The Framework does not however provide a definition of “disproportionate additions” and the evidence indicates that the development plan does not contain specific limits. Whether the proposal would be a disproportionate addition relative to the original building is therefore a matter of planning judgement. There are different ways of assessing the proportionality of an extension, and it is reasonable to consider measures such as volume, floorspace and footprint. This assessment must however account for previous extensions. To do otherwise would allow incremental increases in size that combined would be disproportionate and would therefore conflict with the purposes of the policy.
9. The appellant highlights that the supporting text to Policy DM4 of the Local Plan indicates that whether an extension is “disproportionate” would depend on the characteristics of the site locality, and existing buildings themselves in relation to the specific proposals. While this suggests that what is considered to be disproportionate may differ depending on context, it does not indicate that the requirement to consider an extension relative to the size of the original building can be dispensed with, or that the baseline should be the existing building.
10. Such an approach would conflict with the wording of Policy DM4 itself and would also be inconsistent with the Framework. Paragraph 154(c) is clear that the proportionality of an extension or alteration must be assessed relative to the size of the original building. This is reinforced in the caselaw¹ referred to by the appellant in their Statement of Case. Annex 1 of the Framework indicates that the weight afforded to development plan policies should accord with their degree of consistency with the Framework and so any such inconsistency in the supporting text of DM4 would carry little weight in any event.
11. The evidence implies that the dwelling has been extended in the past. The appellant estimates that the original floorspace was 212m² and that the existing building has a floorspace of over 700m², indicating there have been previous extensions amounting to at least 488m². The proposal would result in

¹ Guildford BC v SSLUHC & Mr C Weeks [2023] EWHC 575 (Admin)

a further 95m² increase. In combination, these additions would result in a building with more than 3½ times the floorspace of the original dwelling.

12. There is limited substantiated evidence before me regarding the uplift in volume or footprint compared to the original dwelling. However, given the increase in floor space, the volume increase over and above that of the original dwelling is also likely to be substantial. In terms of footprint, the Council's Officer Report provides an aerial image dated 2001 showing an appreciably smaller proportion of the land occupied by buildings. It therefore appears that the combined increase in the footprint of the dwelling would also be significant.
13. In view of the above and having had regard to the site context, the appeal proposal, in combination with previous additions, would result in considerable increases in floorspace, volume and footprint of the building that would amount to disproportionate additions over and above the size of the original dwelling. It thus does not benefit from the exception set out in Paragraph 154(c) of the Framework and would conflict with Policy DM4 of the Local Plan. It would therefore be inappropriate development in the Green Belt.

Effect on openness

14. Openness is an essential characteristic of the Green Belt. Several factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. The matters relevant to openness are therefore a matter of planning judgement, and the openness of the Green Belt can have a spatial aspect as well as a visual aspect.
15. The appeal site comprises a large detached two storey dwelling, with accommodation in the roof space, and its associated curtilage. The plot is generously sized, and I saw on my site visit includes a number of detached outbuildings to the rear. The site is enclosed by high fencing or walls on all sides however the front elevation of the dwelling, and particularly upper floors, can be seen from Epping Road. The site is also partially screened by tree and shrub planting along site boundaries, albeit some is beyond the appeal site.
16. Though largely within the existing footprint and primarily to front elevations, the proposed extensions would infill areas around the existing dwelling where there are currently canopies, set-backs, cut-outs, or bay windows which assist in breaking up the overall mass of the building. The proposal would also add floorspace at second floor, including additional openings and dormer windows in the roof slope. Moreover, the proposed plans before me depict an increase in the eaves and ridge height in multiple areas of the existing dwelling.
17. These changes alone would visibly increase the overall mass of the building and thereby would have a visual and spatial impact on the openness of the site. Combined with the previous extensions over and above the size of the original dwelling, the proposal would have a deleterious effect on the openness of the Green Belt. It would also fail to safeguard the countryside from encroachment and so would conflict with the purposes of including land within the Green Belt.
18. I therefore conclude that the proposal would harm the openness of the Green Belt in both visual and spatial terms. This would be mitigated to some limited extent by the factors mentioned above. However, paragraph 153 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. This therefore weighs heavily against the proposal.

Other considerations

19. The appellant contends that additional extensions and several further outbuildings could be erected at the site utilising permitted development rights (PDR), and that this would have a greater impact on the openness of the Green Belt than the proposed development.
20. A plan has been provided to demonstrate this, showing an alternative side and rear extension at ground floor, and numerous additional detached outbuildings. However, it has not been clearly demonstrated how the extensions would benefit from PDR, and there is no formal confirmation of such in the form of a Certificate of Lawful Development (CLD) before me. Nevertheless, while they would increase the footprint of the building at ground floor, the plan before me does not clearly demonstrate that the extensions would have a more harmful effect on the openness of the Green Belt than the appeal proposal.
21. The outbuildings shown on the plan are all significant in size and in some cases excessively so for their indicated purposes. It is therefore not clear that they would be incidental to the enjoyment of the dwellinghouse, a prerequisite of the PDR. The plan also shows 7 large garden storage buildings that combined would be disproportionately sized compared to the retained garden areas and therefore likely of limited benefit. I therefore do not consider there to be any real prospect that such development might occur were the appeal dismissed.
22. Moreover, even if I were to consider the alleged PDR to be a realistic fallback, and this would have a more harmful impact on the openness of the Green Belt than the appeal proposal, no mechanism has been put before me to prevent the PDR being exercised in the event the appeal was allowed. This therefore does not weigh significantly in favour of the appeal proposal in this instance.
23. My attention has been drawn to examples of large, detached dwellings in the surrounding area, some of which appear similar in size to the appeal dwelling. No further information on these neighbouring dwellings has been provided and so I cannot draw any meaningful comparisons to the appeal proposal before me. Ultimately, each case must be considered on its merits, and these other examples do not lead me to a different conclusion on the main issues.

Conclusion

24. The appeal proposal comprises inappropriate development that is harmful to the Green Belt. I give this harm substantial weight as required by the Framework. I have considered the matters put before me in favour of the scheme. However, there are no other considerations that clearly outweigh the substantial weight I have afforded to the Green Belt harm arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.
25. The proposed development conflicts with the development plan, taken as a whole, and I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR