
Appeal Decision

Site visit made on 10 January 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2024

Appeal Ref: APP/B1550/D/23/3325220

4 Barrow Hall Cottages, Barrow Hall Road, Little Wakering, Essex SS3 0QP

- 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 Jason Szukalski against the decision of Rochford District Council.
 - The application Ref 23/00302/FUL, dated 5 April 2023, was refused by notice dated 21 June 2023.
 - The development proposed is the erection of a detached, single storey outbuilding to provide parking, storage space and office space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached, single storey outbuilding to provide parking, storage and office space at 4 Barrow Hall Cottages, Barrow Hall Road, Little Wakering, Essex SS3 0QP in accordance with the terms of the application, Ref 23/00302/FUL, dated 5 April 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg No BHR-SZ-03; and Drg No BHR-SZ-04.
 - 3) The materials to be used in the construction of the external surfaces of the roof of the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. The description of development given above is taken from the Council's Decision Notice and the appeal form, rather than the planning application form, as this provides a more concise description of the proposal.
3. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment. Where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.

Main Issues

4. The main issues are:

- Whether or not 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 appeal proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area; and
- Whether the 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

Inappropriate development

5. The appeal site is located within the Metropolitan Green Belt (Green Belt). Paragraph 154 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, subject to a number of identified exceptions. The main parties have not suggested that any of the listed exceptions are relevant to this case and there is nothing before me that would lead me to reach a different conclusion.
6. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful.

Openness

7. Paragraph 142 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. Openness has both spatial and visual aspects.
8. The appeal building would be located at the rear of the dwelling within a garden enclosed by a boundary fence. On approach from Little Wakering, the building would only be glimpsed in the gap between dwellings. In views from the other direction, it would be largely screened. As such, views from outside of the site would be limited. Nonetheless, the introduction of the building would spatially reduce the openness of the Green Belt. The proposal would therefore be moderately harmful to openness.
9. On this issue, I conclude that the proposal would result in a loss of openness in the Green Belt which conflicts with paragraph 142 of the Framework.

Character and appearance

10. The appeal site contains a two-storey detached dwelling with a wide gated access on one side. It is within a small cluster of residential development and agricultural buildings. The variety of buildings in the cluster and the flat landscape comprising of agricultural fields, contribute to the informal rural character and appearance of the area.

11. The proposed building would be simple in its design and form, with a hipped roof which would reduce its bulk. The building would be constructed with timber clad walls and tiled roof, with timber doors to the garage. Such materials are in keeping with the rural setting and would be appropriate for use in the construction of an outbuilding of this nature.
12. The proposed building would be sited directly abutting the rear boundary and would span the full width of the garden. A significant proportion of the garden would, however, remain open. This would ensure that the building would not appear inappropriately scaled or dominate the property despite its large footprint and overall height. In addition, due to the limited views of the building from outside of the site, it would not be a prominent feature in the rural setting and would not have a poor relationship with the nearby domestic scaled and larger agricultural buildings.
13. Consequently, the proposal would not harm the character and appearance of the area. It would therefore accord with Policy DM10 of the Development Management Plan which seeks development that reflects the character of the locality.

Other consideration

14. Reference has been made to a possible fall-back position, namely the potential construction under permitted development (PD) rights of an outbuilding as detailed on the submitted 'GPDO Class E Compliance Plan' (Compliance Plan). Buildings incidental to the enjoyment of a dwellinghouse are permitted development under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) subject to limitations. The Council accept that the building shown on the Compliance Plan, would accord with all such limitations. The Council, however, considers that the building is of a disproportionate size and claims that it is not required for purposes incidental to the enjoyment of the dwellinghouse, and so does not benefit from PD rights.
15. My attention has been drawn to the case of *Emin v SSE and Mid Sussex DC* [1989] JPL 909 which confirmed that regard should be had not only to the use to which a Class E building would be put to, but also to the nature and scale of that use in the context of whether it was a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwellinghouse might be part of that assessment but is not by itself conclusive.
16. The proposed building would accommodate garaging for three vehicles, a office/study and a store. Such uses are generally accepted to be incidental to the enjoyment of a dwellinghouse. I acknowledge that the development is relatively large, but there is nothing before me that suggests, in this case, that the intended uses are not reasonably required for incidental purposes. Even when the existing outbuilding is taken into consideration the proposed building and its intended uses would be subordinate and reasonable in land use terms in relation to the enjoyment of the dwellinghouse. Accordingly, I find that the proposed building is required for incidental purposes and is capable of being permitted development by virtue of Schedule 2, Part 1, Class E of the GPDO.
17. A certificate of lawful development has not been issued for the building shown on the Compliance Plan. Nonetheless, I am satisfied that there is a reasonable likelihood that the Compliance Plan building would be constructed if I was

minded to dismiss this appeal, given that, with the exception of the small store, it would accommodate the same uses. The building on the Compliance Plan can therefore be considered to be a fallback position.

18. The fallback position would have a marginally smaller footprint than the appeal proposal and would be sited 2 metres or more from the boundaries. Nevertheless, its impact on the spatial and visual dimensions of the openness of the Green Belt would be comparable to that of the appeal proposal. I therefore attribute substantial weight to the fallback position.

Green belt balance

19. Paragraph 152 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
20. The appeal scheme has harmful implications for the Green Belt as it is inappropriate development and would erode its openness. However, I have found that the effect of the proposals on the character and appearance of the area does not weigh against it. In addition, I have found that the fallback position weighs substantially in its favour.
21. Overall, I find that the fallback position clearly outweighs all other harm and any conflict with the Framework. I therefore conclude that there are very special circumstances in this case that justify the granting of planning permission.

Conditions

22. In addition to a time limit condition, I have considered it necessary to attach a condition specifying the approved plans, in the interests of certainty.
23. I do not consider that it is appropriate to require that the materials to be used in the construction of the walls of the development match the existing, in recognition that the existing dwelling is not clad in timber. However, in the interests of the character and appearance of the area a condition is necessary to ensure that the roof tiles match.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR