
Appeal Decision

Site visit made on 23 January 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2024

Appeal Ref: APP/W1525/W/23/3324792

Emilie, Stock Road, Stock, Billericay, Essex CM4 9PQ

- 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 Sears against the decision of Chelmsford City Council.
 - The application Ref 23/00472/FUL, dated 17 March 2023, was refused by notice dated 9 June 2023.
 - The development proposed is the demolition of disused agricultural buildings and redevelopment of a single storey dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

3. The main issues are:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt, and
 - b) 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

4. The appeal site is within the Green Belt. It is situated at the end of a small cluster of homes, roughly halfway between Billericay and Stock. Policy S11 of the Chelmsford Local Plan 2020 (CLP) states that inappropriate development will not be approved except in very special circumstances. Paragraph 142 of the Framework identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. The Framework also sets out that inappropriate development is, by definition, harmful to the Green

Belt and should not be approved except in very special circumstances (paragraph 152). In paragraph 154 the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions. Exception (g) allows for limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.

5. CLP Policy DM6 (B) specifies that planning permission will be granted where the proposed development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing use and/or development. The four specific criteria to assess this are the size, scale, massing and spread of the new development compared to the existing; the visual impact of the development compared to the existing; the activities/use of the new development compared to the existing; and the location of the site being sustainable and appropriate to the type of development proposed.
6. The buildings to be demolished or removed comprise a large greenhouse and selection of other smaller structures. They would be replaced with a single storey, two-bedroom dwelling. The lawful use of these buildings and structures is contested between the parties. It is not in dispute that these were originally constructed and used for agricultural purposes (which can include horticulture). The construction and use of these buildings for such agricultural purposes would be not inappropriate in the Green Belt.
7. The appellant asserts these buildings ceased being used for the purposes of agriculture approximately ten years ago. The buildings are not in any productive agricultural function, and are clearly in a dilapidated condition. However, this does not, of itself, mean that another use has become established or is lawful. I have not been provided with any planning permission, or other documentation in the form of a lawful development certificate, to confirm this that another use has been established for the buildings. Indeed, I have noted the reference in the description of development on the application form made reference to these being disused agricultural buildings. In any case, whilst limited evidence has been presented which could persuade me that any use, other than one for agricultural purposes, has become lawfully established, it is not my role in the context of this S78 planning appeal to consider whether any use, other than for the purposes of agriculture, has become established in the intervening period.
8. Annex 2 of the Framework explains that the definition of previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings. Given that I have not been persuaded that the buildings have any other lawful use other than agricultural, I am not convinced that the proposed development involves previously developed land as defined in the Framework. This means that I find the proposal constitutes inappropriate development as it does not involve previously developed land.

Effect on openness

9. Turning to the openness of the Green Belt as per the exception set out in Paragraph 154 (g) of the Framework. It is national policy as set out in the Framework that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics

of Green Belts are their openness and their permanence. The openness of the Green Belt has both spatial and visual dimensions.

10. The impact of a development on the openness of the Green Belt is not necessarily related to its size but also its purpose. In this case, the proposed building would be of a smaller size and scale than those existing, and so would not harm openness in spatial terms. However, the existing buildings and structures were formerly used for agricultural purposes and therefore in such use would not be considered as being inappropriate in the Green Belt. The proposed dwelling would be inappropriate development and is likely to be accompanied by associated domestic paraphernalia including fencing, driveways, garden furniture and the like. Consequently, in visual terms, the proposed development would harm openness, contribute to urban sprawl and would not safeguard the countryside from encroachment. As such, the proposed dwelling would result a greater impact on the openness of the Green Belt than the existing development through limited visual harm to the openness of the Green Belt.
11. I have had regard to the Court cases cited by the appellant and the implications of these judgements. However, these arguments have not changed my reasoning here.

Other considerations

12. I have had regard to the potential aesthetic improvement of the site through the removal of the dilapidated greenhouse and other structures, which I afford limited weight given the scale of benefit that this would provide. The proposed dwelling is of a simple functional design and is not unappealing. It is also furthered by the appellant that the site is in an accessible location, this remains a neutral consideration.
13. As such, it has not been demonstrated that the proposal would meet any of the exceptions listed in policies DM6 or S11 of the CLP or paragraph 154 of the Framework. It would therefore amount to inappropriate development which is, by definition, harmful to the Green Belt.

Very special circumstances

14. Paragraphs 152 and 153 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
15. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.
16. The other considerations I have identified, including the aesthetic improvement to the site, are of limited weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified. Therefore, the very special circumstances necessary to justify the development

do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies outlined above.

Conclusion

17. The proposal would be inappropriate development, harming the Green Belt and in conflict with the provisions of the development plan when read as a whole. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Nick Bowden

INSPECTOR