
Appeal Decision

Site visit made on 13 February 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 20th February 2024

Appeal Ref: APP/W1525/D/23/3328089

6 Butts Way, Chelmsford, Essex CM2 8TJ

- 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 S Stephens against the decision of Chelmsford City Council.
 - The application Ref 23/01019/FUL, dated 20 June 2023, was refused by notice dated 4 August 2023.
 - The development proposed is described in the refusal notice as "*demolition of existing garage; raise roof to create first floor with dormer window; two storey side extension; single storey rear extension; front porch extension; alterations to fenestration*".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. On my site visit, I saw that the appeal property is currently undergoing building work. At the time of my visit, those works appeared to include a partially-completed upward extension, to provide living accommodation at first floor level. However, I have no details regarding this work, or any relevant decisions relating to it. In the absence of any further information, I have based my decision on the present appeal on the plans and submissions before me.

Background and main issues

3. Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, my decision must be made in accordance with the development plan for the area, unless material considerations indicate otherwise. In the present case, the development plan for the area is the Chelmsford Local Plan (the CLP), adopted in May 2020.
4. It is not disputed that the appeal property lies within an area designated in the CLP as green belt (GB). In such areas, CLP Policy S11 states that inappropriate development should not be approved except in very special circumstances. Policy DM11 provides that permission may nevertheless be granted for extensions and alterations to existing buildings, but this is subject to certain provisos; one of these is that the development would not result in disproportionate additions over and above the size of the original building.
5. In the National Planning Policy Framework (the NPPF), the most relevant policies relating to green belts are set out in paragraphs 152-154. These make clear, amongst other things, that 'inappropriate' development in this context includes any development involving the construction of new buildings, except where various specified exceptions apply. Inappropriate development is to be

treated as harmful to the GB, by definition. Any harm to the GB is to be given substantial weight. 'Very special circumstances' will not exist unless the harm to the GB, and any other harm, are clearly outweighed by other considerations.

6. In the light of the above, and of the submissions before me, it seems to me that the main issues in the appeal are:
- whether the proposal would constitute 'inappropriate development' in terms of green belt policy;
 - if so, whether any other harm would also be caused to the green belt;
 - the effects of the proposed design on the area's character and appearance;
 - whether any other considerations weigh significantly either for or against the proposed development;
 - if the development is inappropriate, whether the harm to the green belt, and any other harm, would be clearly outweighed by other considerations, so as to amount to very special circumstances.

Reasons for decision

Inappropriateness

7. The appeal proposal would involve new building works, which are deemed to be inappropriate in terms of GB policy, unless any of the specified exceptions apply. Although Policy DM11 NPPF sub-paragraph 154 (f) allow an exception for extensions and alterations, this only applies where the resulting additions are not disproportionate to the original building. In both cases, the policy wording and supporting text make it clear that the assessment of proportionality requires a comparison with the original building, and that this is to be carried out on a cumulative basis, taking account of any previous extensions.
8. In the present case, according to the Council's report, the original dwelling had an internal floor area of approximately 70 sq m, and since that time, it has been extended to the rear and side, adding a further 57 sq m. By the Council's calculations, the present appeal proposal would increase the overall floorspace to approximately 262 sq m, amounting to an increase of 274% over the size of the original. I note that these figures have not been challenged by the appellant.
9. To my mind, a cumulative increase on this scale indicates that the development would result in the dwelling being extended to a degree which would clearly be disproportionate to the original. Again, this does not appear to be disputed.
10. I therefore find that the proposed scheme does not fall within the scope allowed for extensions and alterations. There is no suggestion that any of the other exceptions or exemptions is applicable. It follows that the proposal would be inappropriate development in terms of GB policy, contrary to CLP Policies S11 and DM11.
11. Having regard to NPPF paragraph 153, substantial weight attaches to the 'definitional' harm to the GB arising from such development, by reason of its inappropriateness, irrespective of any other impacts on the GB.

Any other effects on the green belt

12. Despite its location in the green belt, Butts Way comprises a group of 20 or so existing properties, forming a well-defined residential enclave, distinct from the surrounding countryside. The existing properties are laid out in the form of a cul-de-sac, with closely-spaced detached dwellings on regularly sized plots, in a conventional linear arrangement, giving the street a built-up, suburban character.
13. The appeal site is an existing residential plot, with an existing property on it, and is thus typical of this street scene. It is set centrally amongst the group, with other dwellings on all sides, including one to the rear, preventing any intervisibility with the nearby agricultural fields. As a result of this combination of circumstances, it seems to me that, irrespective of the development now proposed, the appeal site contributes nothing to the GB's openness, nor to the rural character of the wider GB area.
14. It follows that the proposed scheme would not result in any loss of openness or adversely affect the GB's visual character. Nor would it have any direct adverse impact on any of the GB's purposes. Nevertheless, in the light of the matters set out earlier in this decision, this does not diminish the harm that the development would cause to the GB in policy terms, due to its inappropriateness.

Effects of the design on the area's character and appearance

15. The development now proposed would increase the height and volume of the existing dwelling, adding new accommodation mainly at first floor level. As such, the building would become slightly more prominent in the Butts Way street scene. However, the first floor rooms would be within the enlarged roof structure, and this would avoid any impression of over-dominance. As a result of this, the building's size and massing would to my mind be broadly consistent with the range of sizes already present in the street. Likewise, neither the architectural style nor the quality of the design would be noticeably different from those around it.
16. It follows that, in terms of its design, the development would have no significant adverse effects on the area's character or appearance. In this regard, the proposal would avoid conflict with CLP Policy DM23, which seeks generally to encourage high quality design and respect for existing character.
17. I note the appellant's contention that the development would bring about a positive visual enhancement of the site, due to the outdated nature of the existing building. However, I see no clear evidence for this. To my mind, the building in its present form is reasonably in keeping with the surroundings in Butts Way, and would remain so. Although the development now proposed would be acceptable in my view, for the reasons already explained, I am not persuaded that it would be a marked improvement. Overall therefore, the effect on the area's character and appearance would be neutral.

Other matters

18. I have also given consideration to the appellant's submissions regarding a possible fallback position, based on permitted development rights under Class

AA of Part 1, Schedule 2 to the GPDO¹. That Class permits the enlargement of a dwellinghouse by the construction of additional storeys, subject to various conditions and limitations.

19. However, Class AA permits such additions only over the 'principal part' of the dwelling, as defined at GPDO paragraph AA4. The present appeal scheme would include the equivalent of an additional storey above the existing garage/workshop extension, but that part of the building is clearly not a principal part. Class AA rights would therefore not appear to permit a development similar to the appeal proposal.
20. In any event there is no evidence that a development could be carried out under Class AA rights which would be materially more harmful than the appeal scheme; nor that any such development would have a realistic prospect of being implemented if the appeal scheme were refused. There is therefore no clear reason why granting permission for the appeal proposal should be seen as beneficial in comparison with any potential Class AA fallback development.

Very special circumstances

21. In accordance with NPPF paragraph 153, the harm to the green belt, by reason of inappropriateness, must carry substantial weight.
22. Whilst I have found no other harm, there is equally no evidence that the development would have any significant benefits. The lack of harm to the area's character and appearance weighs neutrally, neither for nor against the development. So too does the possibility of some form of fallback scheme under Class AA. In the overall planning balance therefore, there are no 'other considerations' of a positive nature to counter the substantial weight of the GB harm.
23. Consequently, having regard to the terms of NPPF paragraph 153, the harm that I have identified is not clearly outweighed by any other considerations. It follows that the 'very special circumstances', which are necessary to justify inappropriate development in the GB, have not been demonstrated.

Conclusion

24. For the reasons already explained, the proposal would be 'inappropriate development' in terms of green belt policy, and therefore harmful to the GB, by definition. No very special circumstances have been demonstrated. The development would conflict with CLP Policy S11. There is no suggestion that the development finds any positive support in any other development plan policies. The scheme is therefore contrary to the development plan as a whole. This conflict with the development plan is not outweighed by any other material considerations.
25. In these circumstances, S.38(6) of the 2004 Act leaves no other alternative than that permission be refused. The appeal is therefore dismissed.

J Felgate

INSPECTOR

¹ The Town and Country Planning General permitted Development) (England) Order 2015 (as amended)