



Appeal Decision

Site visit made on 12 April 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/W1525/W/23/3331333

Kates Cottage, Park Lane, Ramsden Heath, Chelmsford, Essex CM11 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Kelvin Higgs against the decision of Chelmsford City Council.
 - The application Ref is 23/00879/FUL.
 - The development proposed is the demolition of the existing bungalow, garages and outbuildings. Erection of a new house and garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published a recently revised National Planning Policy Framework ("the Framework") and all references in this decision relate to the revised document. I am satisfied that the parties will not be prejudiced by the changes to the national policy context as there are no changes relevant to the substance of this appeal.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework.
 - The effect of the proposed development on the openness of the Green Belt.
 - If the proposal is inappropriate development, 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 it.

Reasons

Whether inappropriate development

4. Policy DM6 of the Chelmsford Local Plan, Adopted May 2020 ("the CLP"), states that planning permission will be granted for specific exceptions to inappropriate development in the Green Belt. These exceptions include the replacement of a building provided that the proposed new building is not materially larger than the one it replaces. This exception is consistent with Framework Paragraph 154.d).

5. The Council's numerical calculations indicate that the appeal proposal would lead to a reduction in the volume and floor area of buildings on the appeal site. However, whether a proposed building is materially larger than the building to be replaced is primarily an objective judgement by reference to its size, and not accounting for any visual effects or effects on Green Belt openness.
6. Floor space, footprint, volume, height and width can all be relevant factors to this judgement, together with the relationship between them in terms of the scale, massing and form of a building. As such, this points away from the objective judgement being one based purely on a mathematical exercise of comparing numerical volumes and floor areas.
7. The hipped roof style of the proposed dwelling would limit its bulk at roof level. However, its roof ridge and outer walls would be considerably taller than those of the existing bungalow and outbuildings. Compared to the existing buildings on the appeal site, a greater proportion of the volume of the proposed dwelling would be consolidated at an elevated level within the cuboid form of its main core with roof above. Consequently, the relationship between the volume, height and form of the proposed dwelling would result in it having a greater bulk and massing than the existing buildings on the site.
8. In having regard to the factors relevant to an objective assessment of size, the proposed dwelling would, in isolation to the site's surroundings and effect on Green Belt openness, appear bulkier and visibly larger than the existing buildings to be replaced. For these reasons the proposed dwelling would be materially larger than the existing bungalow and outbuildings it would replace. Therefore, it would not meet the exception for replacement buildings in the Green Belt set out in CLP Policy DM6 or Framework Paragraph 154.d) and would be inappropriate development in the Green Belt.

Openness

9. The essential characteristics of Green Belts are their openness and permanence. Openness is not defined in the Framework but has been established by caselaw, including that referred to by the Council, as an absence of development and it has spatial and visual aspects. Openness is open textured, and a number of factors can be relevant in its consideration.
10. Despite the boundary wall and driveway indicating the presence of a dwelling on the appeal site, the existing bungalow is not conspicuous in views from the road given its low height and position towards the rear of the appeal site. Although most of the outbuildings are set closer to the road, they are also low height buildings consolidated hard against the south boundary. As such, much of the site closest to the road is devoid of buildings and contributes positively to openness in views from the road.
11. In these respects, neither the existing bungalow or the outbuildings are readily appreciated, or prominent in views from the road, and the eye tends to be drawn to the large 2 storey dwelling to the south. By comparison, the proposed dwelling would be set much closer to the road and more or less in line with the front elevation of the 2 storey dwelling to the south, where its greater bulk and massing would be clearly visible from the road, and through the gaps between the frontage trees.

12. In this position the scale and massing of the proposed dwelling would close-out views across the appeal site from the road and towards the backdrop of trees along the rear boundary. As such, it would result in a loss of visual openness in the Green Belt, albeit to a modest and localised extent in views from directly opposite the site frontage. Although the proposal would not result in the sprawl of a large built-up area or lead to towns merging into one another, it would nonetheless harm Green Belt openness for the reasons given above.
13. For these same reasons, the proposal's impact on Green Belt openness would be greater than that of the existing development on the appeal site. As such, even if previously developed land, it would not meet the exception in Framework Paragraph 154.g) for: *"limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would: - not have a greater impact on the openness of the Green Belt than the existing development..."*.

Other considerations

14. The proposed dwelling would be likely to consume less energy and emit less carbon dioxide than the existing bungalow. However, given the scale of the proposal, I attach only modest weight to these favourable benefits to the environment.
15. I am not persuaded that the benefits to the occupiers of reducing the maintenance burden, improving surveillance and security of the property, and reducing the walking distance between the car parking area and the proposed dwelling would only be possible through the appeal proposal. Furthermore, I have no substantive evidence that the property has been affected by a persistent problem of crime. As such, these benefits hold limited weight in the proposal's favour.
16. I have limited details regarding the other dwellings that are under construction in the locality of the appeal site and therefore I am unable to determine whether they are comparable to the appeal proposal. As such they are of limited relevance and weight to my considerations in this appeal.

Other Matters

17. Whether the proposed dwelling could be set further back into the site from the road is of limited relevance to my considerations, which are based on the scheme before me.
18. The appellant's concerns over the Council's pre-application advice fall outside of the scope of my considerations in this appeal and have not influenced my determination of it.

Green Belt Balance

19. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. I must therefore give substantial weight to the proposal's harmful effect on the Green Belt.

20. The other considerations that I have identified in the evidence do not, either individually or cumulatively, outweigh the totality of harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist. As a result, the proposal would be contrary to CLP Policy DM6, the requirements of which are set out above.

Conclusion

21. The proposal would conflict with CLP Policy DM6 and the Framework in respect of the Green Belt. This results in conflict with the development plan, when read as a whole. The material considerations do not indicate that a decision should be taken other than in accordance with that plan. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR