



Appeal Decision

Site visit made on 2 August 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/J1535/W/24/3337078

High Beech Hall, Church Road, Loughton, Essex IG10 4AJ

- 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 and Mrs Stephen Pledger against the decision of Epping Forest District Council.
 - The application Ref is EPF/1712/23
 - The development proposed is Construction of a new two storey dwelling with second floor accommodation in the roof, a detached double garage, a new replacement external rear swimming pool, new entrance gates and pillars; and associated site works, following demolition of existing dwelling and outbuildings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Stephen Pledger against the Council. This application is the subject of a separate decision.

Preliminary Matter

3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to paragraph numbers are to this version.

Main Issues

5. The main issues are:
 - whether or not the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (2023) (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt; and

- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify the development.

Reasons

Inappropriate development

6. The site is located within the Metropolitan Green Belt. It contains a large, vacant two and half storey house sited at an elevated position and located within expansive grounds. Within the grounds are entrance security gates, double garages, outbuildings, and a swimming pool to the rear of the house.
7. Policy DM4 of the Epping Forest District Local Plan 2011-2033 Part One (2023) (LP) outlines the five purposes of the Green Belt, and states that the construction of new buildings is inappropriate development in the Green Belt, unless one of the stated exceptions apply. One such exception is the replacement of a building, provided the building is of the same use and not materially larger than the one it replaces.
8. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. Paragraph 152 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The Framework at 154 d) also outlines that the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces is an exception to inappropriate development in the Green Belt. Consequently, Policy DM4 of the LP is consistent with the Framework.
9. The two parties disagree about the size of the existing dwelling, and the extent of the proposal's increases in floorspace and volume. Case law¹ has established that, taking a common-sense approach, the plain meaning of the Framework wording 'the one it replaces' must refer to a building as it exists on site now. The appellant's calculations are based on the existing dwelling, as extended, and also include within it the existing floor area of outbuildings which are near to the main dwelling. This results in an existing floor area of 645.5 square metres and an overall volume of 2,470 cubic metres.
10. The appellant considers the floorspace of the proposed dwelling and detached garage would be 839.7 square metres, representing a 30% increase over the existing floorspace. Its proposed footprint would be 541 square metres, representing a 17.5% increase over the existing footprint. The proposed volume would be 3,699.4 cubic metres, representing a 49.8% increase over the existing volume. Given the disagreement between the parties, for the avoidance of doubt I have assessed the proposal, and these increases, as a 'best case scenario' for the appellant.
11. I understand that the Council's pre-application response suggested that 50% increases in floorspace and volume may not be considered to be materially larger. However, I have not been directed to wording within Policy DM4, nor the Framework, which defines the term 'materially larger'. The supporting text

¹ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)

to policy DM4 states that in respect of the replacement of existing buildings it is not intended to define 'materially larger' since this would depend on the characteristics of the site locality, and existing buildings themselves in relation to the specific proposals.

12. Taking the percentage increases into account the proposal would have a significantly larger floorspace and volume. This would be spread across a larger, deeper footprint which would also project forward of the existing building line. The volume of the proposed dwelling would be increased and would have a large bulk and massing with notably more floorspace at both first and second floor levels than the existing dwelling. Whilst it is proposed to reduce the site ground levels to reduce the proposal's ridge height, the building's actual built form would be slightly taller than the existing building.
13. I acknowledge that the proposal would involve the demolition of outbuildings which are spread within the site. The footprint of the proposed building would be more contained than the somewhat sprawling nature of these existing structures. Despite this, the proposal would have a greater overall mass, and in my judgement, the replacement structure would have a fundamentally more imposing and commanding presence on the site.
14. Due to the lack of definition regarding what constitutes 'materially larger', this simply relies on a planning judgement based on the case before me. In my judgement, due to the imposing size of the proposed dwelling and the fact that it is demonstrably larger than the cumulative volume of buildings on the site, the replacement building would be materially larger than the buildings it would replace. Accordingly, it would fail to comply with the exception identified within 154 d) of the Framework, and would therefore be inappropriate development in the Green Belt.

Openness

15. Paragraph 142 of the Framework identifies 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.
16. Openness has both spatial and visual aspects. Whilst lower in height as a result of its construction at lower ground level and positioned in the same part of the site as the existing building, the bulk and mass of the proposed building would be noticeably greater. This would have a harmful effect on spatial openness.
17. Whilst the site has ample boundary screening, due to its elevated position the proposal would be clearly visible in views from the site access on Church Road. As the proposal would be wider and would have a deeper, projecting footprint than the existing property, it would have a moderate harmful effect on visual openness.
18. Despite the replacement tree planting, the increase in hardstanding to provide car parking and a hardstanding courtyard would also cause minor spatial and visual harm to the openness of the Green Belt.
19. Therefore, I conclude that the proposal would not preserve, and would have a harmful effect on, the openness of the Green Belt. Given the scale of the proposal, I consider the harm to openness to be moderate. As such, the

proposal would conflict with the provisions within the Framework which seek to preserve the openness of the Green Belt.

Other considerations

20. The appellant also suggests that, although the swimming pool would first need to be demolished, a rear extension with a depth of 8 metres and width of approximately 10 metres could be constructed, subject to the Prior Approval procedure. This constitutes a fallback position.
21. However, for significant weight to be afforded to the fallback position, there needs not only to be a reasonable prospect of it being carried out, but it would also need to be more harmful than the scheme for which permission is sought. The calculations submitted by the appellant show that the fallback would have a footprint which is a similar size to the proposal. However, the floorspace and volume of the existing building with the extension would be significantly smaller than the proposal. For this reason, and as the proposal would have more overall mass and would be wider, I find that it would have a greater impact on the openness of the Green Belt than the fallback position.
22. Paragraph 153 of the Framework states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In that context, for significant weight to be afforded to a fallback position it would also need to be more harmful than what would be allowed by the scheme for which permission is sought. While it may be a possibility that the works could go ahead, given that they would be less harmful than the proposal I give minor weight to the fallback.
23. My attention has also been drawn to previous developments which have been granted by the Council and which allowed significant increases in volume. In particular, a development at Warren Hill Lodge, Manor Road, Loughton (Ref EPF/2104/19), which had an increase in volume of approximately 60%. In that instance, the Council's officer report outlines that there would be a reduction in footprint but an increase in volume, and that in terms of its siting and footprint it would not result in a reduction in openness. The example at The Old Cottage, 16 High Road, Chigwell (Ref EPF/2516/20) would result in a 55% increase in volume. Whilst I accept that larger replacement dwellings have been permitted elsewhere, these types of development are fact sensitive and site specific, turning on the individual circumstances of each case. Therefore, these other schemes have not eased my concern that harm would arise in this case.
24. The appellant indicates that the insulation and heating arrangements of the house would be designed to meet or exceed the standards set out in the current Building Regulations, minimising energy consumption and the carbon footprint of the house during construction and use. It is suggested that the proposal would improve the planning of physical space and the removal of unattractive extensions. The proposals would enable a high-quality, detailed landscape proposal which would enhance the surrounding area. It is also suggested that it would enhance the ecological value of the site through measures such as the implementation of bird and bat boxes where feasible and new natural species planting. These factors, cumulatively, are afforded moderate weight.

Green Belt Balance and Conclusion

25. The proposal would constitute inappropriate development in the Green Belt which should not be approved except in very special circumstances. It would also not preserve, and would have a harmful effect on, the openness of the Green Belt. Substantial weight should be given to any harm to the Green Belt.
26. Therefore, the proposed development is contrary to Policy DM4 of the LP and the principles of the Framework that seek to protect the Green Belt from inappropriate development.
27. The proposal may be compliant with various other provisions of the development plan, including in relation to the effect on character and appearance and the living conditions of neighbouring occupiers. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.
28. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. I have afforded the fallback position limited weight. The other considerations in relation to the proposal do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
29. The proposal would be contrary to the development plan and the Framework taken as a whole. There are no other material considerations which indicate that the decision should be determined other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR