

Appeal Decision

Site visit made on 4 September 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/C1570/W/24/3336789

Latchings, Latchmore Bank, Little Hallingbury, Essex CM22 7PH

- 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 Mr Hynes against the decision of Uttlesford District Council.
 - The application ref is UTT/23/1498/FUL.
 - The development proposed is conversion of residential outbuilding to self-contained dwelling, with associated curtilage, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. 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. Both main parties have been invited to comment on this change and the responses received have been taken into account. References to the Framework in this decision are to the December 2023 version, unless specifically stated otherwise.

Main Issues

3. The main issues are:
 - Whether 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 proposal on the openness of the Green Belt, and;
 - 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

4. The area of the proposed development lies within the designated Green Belt. The Framework, at paragraph 142 identifies that the fundamental aim of

Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate development, but lists exceptions in paragraph 154.

5. Policy S6 of the Uttlesford Local Plan 2005 (the ULP) relates to development in the Green Belt, but refers to settlements which are excluded from the Green Belt and major development sites. As such it does not contain provisions relevant to the appeal scheme. The supporting text nonetheless acknowledges that development in the Green Belt will only be permitted if it accords with national planning policy on Green Belts. There are a number of exceptions to inappropriate development given by the Framework which could be relevant to the appeal scheme. These are considered in turn below.

Extensions

6. The proposed works to the building are described by the appellant as extensions. The Framework includes extensions among the forms of development that are not inappropriate in the Green Belt where those extensions or alterations do not result in disproportionate additions over and above the size of the original building.
7. There is not substantive evidence regarding the size of the 'original' building on the site and I have no strong reason to believe this would have been different to the building as it currently exists. Using the appellant's figures, despite a reduction in the footprint of the building, the proposal would entail a 47% uplift in the volume of the building and it would more than double in its maximum height through the addition of a first floor contained within the new roof slopes. These are significant uplifts to the size of the building and would amount to disproportionate additions. As such, the proposal would not conform to this exception to inappropriate development.

Replacement of a building

8. The Framework also refers to the replacement of a building, provided the new building is not materially larger than the one it replaces. For the reasons set out above, the extent of enlargement of the building, in particular in its height and introduction of an additional floor, would amount to the new building being materially larger than the existing. As such it would not conform to that exception.

Limited infilling in villages

9. Limited infilling in villages is also not inappropriate in the Green Belt under the Framework. The site adjoins the settlement boundary to the east, which encompasses the residential properties which line the western side of this part of Latchmore Bank. Those properties form a continuous frontage of buildings of varying size and design, but which share a consistent front building line. While it is unclear whether the existing building forms part of the curtilage of Latchings, the proposal would nonetheless be positioned along Port Lane which runs along side the northern side of Latchings. This is a single track lane bound by hedgerow to the north. There are a number of

properties on the southern side of Port Lane, however these are set within more generous and verdant plots with varying set backs from the road. Together these factors give a more rural and open character to Port Lane, it does not have a continuous frontage and it does not appear as part of the village. Even if the appeal site were to be considered part of the village, for example as part of the garden of Latchings, given the more dispersed nature of development on Port Lane and the distance of separation to the houses to the west, it would not be infilling.

10. I have had regard to the appeal decision relating to development further south along Latchmore Bank¹. However, the Inspector noted its position close to the nucleus of the village and a greater amount of surrounding development which led to the conclusion that it was limited infilling in a village. In the case of the development at Spellbrook Lane², the Council found that site to be within the village and this was a position informed in turn by earlier appeal decisions relevant to that site. In the case of development at Land South of Spellbrook House³, the Council had regard to an earlier appeal decision on the same road which benefitted from similar circumstances as part of a pattern of largely continuous development. As such the circumstances surrounding those developments are different to those of this appeal.

Redevelopment of previously developed land

11. The application form and drawings suggest the existing building is a residential or curtilage outbuilding, as described by the Council in its officer report. However, it is later described by the appellant as having its own curtilage and I observed during the site visit that the area of the appeal site has been separated from Latchings by fencing. As a result, there is uncertainty as to whether the site can be considered previously developed land, as defined by the Framework, since that excludes land in built up areas such as residential gardens. As above, Latchings could be considered in a built up area as it forms part of the village. The description of proposed development here also refers to conversion, rather than redevelopment. As such it is not clear that the proposal would fall under the Framework's provisions for redevelopment of previously developed land.
12. In conclusion on this main issue, the proposal would not conform to the exceptions to inappropriate development given by the Framework. The proposal would therefore be inappropriate development in the Green Belt by definition.
13. I have had regard to the consultation version of the Framework of July 2024 which includes changes to its Green Belt section. However, for the above reasons, the proposal would not conform to any of the exceptions to inappropriate development given within that version. Neither is it apparent that the provisions of new paragraph 152 would be met in this case.

¹ UTT/19/1896/OP and APP/C1570/W/19/3241822

² 3/22/0289/FUL – East Herts Council

³ 3/16/1286/FUL – East Herts Council

14. Given the provisions of Policy S6 of the ULP are not relevant to the proposal, the appeal scheme would not conflict with it. However, this would not alter the above conclusions against the Framework.

Openness

15. The courts have established that the openness of the Green Belt has a spatial aspect as well as a visual aspect⁴. Therefore, the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt.
16. The openness of this part of the Green Belt is derived from the more sporadic nature of development on Port Lane, comprising larger plot sizes and the gaps between buildings as well as the open countryside beyond to the north and west. There is a much lesser sense of openness on Latchmore Bank, described above, however this more regular ribbon development is excluded from the Green Belt.
17. There would be a reduction in the spatial aspect of the Green Belt's openness arising from the increase in built form which is described as a 47% uplift in volume. In addition, the proposal would have a greater visual impact on openness arising from the new first floor which would be visible from Port Lane above the site boundary, accentuating the presence of development on the site where the current building is low level. Boundary planting could provide some screening, however this would be unlikely to mitigate for the visual effects of the first floor. The proposal would therefore decrease and be harmful to both the spatial and visual aspects of the Green Belt's openness. The degree of this harm would, however, be moderate, given the visual effects would be limited to localised views on Port Lane and the relationship to other buildings in the vicinity.
18. In conclusion on this main issue, the proposal would be harmful to the openness of the Green Belt and also the purpose of the Green Belt to save the countryside from encroachment.
19. Given these effects, the proposal would also not meet the exception to inappropriate development at paragraph 155 of the Framework which includes the re-use of buildings.

Other Considerations

20. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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. It makes clear that substantial weight should be given to any harm to the Green Belt.
21. The proposal would contribute a new dwelling to the Council's housing stock and this is particularly important given the Council acknowledge that it cannot demonstrate a five year land supply for housing. There would be economic benefits arising from the construction process and ongoing

⁴ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

expenditure by future occupants into the local economy. The new house would be located close to a village and would contribute to the vitality of this community, which is supported by the Framework. The Framework also acknowledges that support should be given to the use of under-utilised land and buildings, especially where it would help to meet the need for housing. Together, however, the extent and weight of these benefits is limited, given the scale of the proposal and these matters attract moderate weight.

22. Given the existing building is low level and sits unobtrusively on the site, it is not apparent that the proposed design is a benefit and where the proposal has been found to be acceptable in other respects, for example impact on neighbouring properties, these do not amount to benefits of the proposal.
23. Overall, while there would be some small scale benefits arising from the proposal, together these would not clearly outweigh the harm identified to the Green Belt, to which I must give substantial weight. As a consequence, the very special circumstances necessary to justify the development do not exist.

Other Matters

24. While the Council accept that it does not have a five year land supply for housing, the application of policies in the Framework that protect land designated as Green Belt provide a clear reason for refusing the development proposed. As such, the proposal does not benefit from the presumption in favour of sustainable development set out within paragraph 11d) of the Framework. This would similarly be the case if it were to be concluded that there were no relevant development plan policies.

Conclusion

25. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR