



Appeal Decision

Site visit made on 15 October 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st October 2024

Appeal Ref: APP/W1525/W/24/3338456

Hippodrome Barn, Goatsmoor Lane, Stock, Ingatestone, Essex CM4 9RS

- 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 Alex Bergin-McCarthy against the decision of Chelmsford City Council.
 - The application Ref is 23/00721/FUL.
 - The development proposed is change of use and conversion of an agricultural storage building to a home office.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed the words "*Retrospective application for the*" from the description as this does not form part of the proposed development.
3. I observed on my site visit that the appeal building was currently being used as a home office.
4. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Both parties, within their respective submissions had an opportunity to comment on the revised Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the 20 December 2023 version.
5. 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 of very significant weight, the weight I give to the changes in the draft Framework is limited given that no final document has been published and it is subject to potential change in the future. Consequently, in reaching my decision I have therefore had regard to the Framework published on 20 December 2023.

Background and Main Issues

6. The appeal site lies within the Green Belt.
7. Whilst the description of development states "*change of use and conversion of an agricultural storage building to a home office*", the main parties agree that the appeal building has been the subject of substantial works which go beyond a conversion, and it is now in domestic use.

8. Consequently, there is agreement between the parties that the development is not covered by the exceptions to inappropriate development stated in the relevant policies of the Chelmsford Local Plan (2020) (Local Plan) and the Framework. As such, there is common ground that the appeal scheme represents inappropriate development within the Green Belt, and I concur with that position.
9. Accordingly, the main issues are:
 - the effect of the development on the openness of the Green Belt; and
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify the development.

Reasons

Effect on openness

10. Openness is an essential characteristic of the Green Belt that is capable of having spatial as well as visual aspects.
11. The appellant acknowledges that the works undertaken represent a 'substantial reconstruction'. However, from the evidence before me it would appear that the building subject of this appeal has the same dimensions, and is located on the same footprint, as the previous building that existed on this site.
12. On that basis, and with no evidence to the contrary, the appeal scheme has not resulted in any greater impact on either the spatial or visual aspects of the Green Belt in comparison to what previously existed on the site. Furthermore, and for the same reasons, the development has not resulted in any encroachment into the countryside and I do not find it would conflict with any of the other purposes of the Green Belt set out at paragraph 143 of the Framework.

Other Considerations

13. As detailed, the appellant acknowledges that the appeal scheme is not covered by the exceptions to inappropriate development stated in the Local Plan and the Framework, and therefore advances 'very special circumstances'.
14. The Framework states 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.
15. My attention has been drawn to a number of judgments¹ which establish that the Framework does not define what "other considerations" might outweigh the damage to the Green Belt; that it is for the decision maker to exercise their judgement of these "other considerations" in any particular case; and that "other considerations" do not have to be rare or uncommon to be special,

¹ St Albans City and District Council v (1) Hunston Properties Limited and (2) Secretary of State for Communities and Local Government [2013] EWCA Civ 1610; Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692; and R (o.a.o. Khan) v London Borough of Sutton [2014] EWHC 3663

however rarity may be a relevant consideration. I have had due regard to these judgments in my determination of this appeal.

16. The appellant states that the impact of the development on the spatial, visual and volumetric openness of the Green Belt is exactly the same as what previously existed on the site, and that the design of the building is also very similar to what previously existed and is in keeping with the residential conversion of the adjacent buildings, as well as the character and appearance of the area. Furthermore, it is stated that no objections or complaints have been recorded, the domestic use as a home office causes no 'activity harm', and a condition could be attached to ensure the building is only used for purposes incidental to the enjoyment of the dwellinghouse at Hippodrome Barn.
17. The appellant therefore contends that the development has resulted in no substantive harm to the openness of the Green Belt or to the character and appearance of the area. These, in the appellant's opinion, are very special circumstances which outweigh the harm arising from the inappropriate development in the Green Belt.
18. In respect of the above, I have earlier acknowledged that the appeal scheme has not resulted in any greater impact on either the spatial or visual aspects of the Green Belt in comparison to what previously existed on the site, and I found it would not conflict with any of the other purposes of the Green Belt set out at paragraph 143 of the Framework.
19. Nevertheless, an absence of harm to the openness of the Green Belt, and the purposes of land within, as well as a lack of any objections or complaints, are neutral matters which are not positive considerations in support of the appeal scheme.
20. Similarly, I find the use of the building for domestic purposes, as well as its design and appearance, to be acceptable in terms of the relationship with the adjacent residential conversion and character and appearance of the area in general. However, I have limited evidence that the design, appearance or use of the previous building was in anyway harmful, and thus these again are matters that neither weigh for or against the development.
21. Consequently, in my judgement the very special circumstances put forward by the appellant are neutral matters that neither weigh for, nor against, the appeal scheme.

Other Matters

22. The Council has drawn my attention to an appeal decision² relating to the reconstruction of a barn at Gosses Farm, whereby the Inspector concluded that the scheme did not meet the exceptions within the Framework or Core Strategy³, and was therefore inappropriate development within the Green Belt.
23. The appellant has outlined a number of factors which they consider result in the appeal decision at Gosses Farm, and the case before me, being not directly comparable. Nevertheless, as detailed earlier in this decision there is common ground between the main parties that the appeal scheme before me represents

² APP/W1525/W/17/3173353

³ Chelmsford Core Strategy and Development Control Policies Development Plan Document 2001-2021

inappropriate development within the Green Belt. As such, the appeal decision at Gosses Farm is not determinative in my consideration of this appeal.

Green Belt Balance

24. The appeal scheme constitutes inappropriate development in the Green Belt and by virtue of paragraph 153 of the Framework this harm attracts substantial weight.
25. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations. I find that the other considerations put forward by the appellant are neutral matters that neither weigh for or against the appeal scheme and therefore these other considerations do not clearly outweigh the harm to the Green Belt.
26. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

Conclusion

27. The Council's reason for refusal refers to Local Plan Policy DM10 which relates to change of use of land and buildings. However, as established earlier the appeal building has undergone substantial works, which go beyond conversion and therefore the development does not represent a change of use of a retained building. Thus, I find that Policy DM10 has less relevance in respect of this appeal.
28. Nevertheless, the appeal scheme constitutes inappropriate development in the Green Belt and the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. The development therefore does not comply with Policies S11 and DM6 of the Local Plan, insofar as they together set out that inappropriate development in the Green Belt will not be approved except in very special circumstances.
29. The development therefore conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR