



Appeal Decisions

Site visit made on 24 October 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2024

Appeal A Ref: APP/W1525/W/24/3338233

The Orchards, Roxwell Road, Writtle, Essex CM1 3SA

- 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 J Creasey against the decision of Chelmsford City Council.
 - The application Ref is 23/01770/FUL.
 - The development proposed is timber cabin garden building and adjacent timber viewing deck within the garden of an existing dwelling.
-

Appeal B Ref: APP/W1525/W/24/3345241

Buildings at The Orchards, Roxwell Road, Writtle, Chelmsford, Essex CM1 3SA

- 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 James Creasey against the decision of Chelmsford City Council.
 - The application Ref is 23/01609/FUL.
 - The development proposed is demolition of existing farm shop and storage buildings, replacement with construction of 2 new dwellings.
-

Decision

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. This decision letter addresses two appeals, as set out in the banner headings above. The appeals relate to different development proposals and the red line boundaries on the respective site location plans confirm the appeals relate to different sites. However, the sites are in close proximity and share common features, including access from the A1060 Roxwell Road. The blue line boundaries on the plans also confirm the sites are under common ownership. Although I have determined each appeal on its individual merits, I have addressed the common issues together to ensure conciseness and avoid duplication.
3. The building subject to Appeal A is located to the southwest of the overall landholding, west of the existing dwelling known as The Orchards, and at the southern edge of a pond. Planning permission was granted in 2019 to demolish The Orchards and replace it with a new dwelling, which was under construction at the time of my visit. The Appeal B site is situated adjacent to the A1060, to the east of the site access point.
4. At the time of my visit, the development associated with Appeal A appeared to have been completed in accordance with the plans on which the Council made

its decision. The description of development for Appeal A, as stated in the banner heading above, has been taken from the planning application form. However, I have omitted reference to the application being made retrospectively, given this does not pertain to an act of development.

Main Issues

5. A main issue in the case of both appeals is whether the proposals would be inappropriate development in the Green Belt, and if so, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations that would amount to the very special circumstances required to justify the proposals.
6. An additional main issue in respect of Appeal B only is whether the appeal site is a suitable location for housing, having regard to access to services and sustainable transport.

Reasons

Whether inappropriate development in the Green Belt

7. The appeal sites are located within the Green Belt. Paragraph 152 of the National Planning Policy Framework (the Framework) establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I shall address the considerations relating to this issue separately for each appeal.

Appeal A

8. Paragraph 154 of the Framework provides that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, it sets out exceptions including paragraph 154 d), which allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
9. Policy DM6 of the Chelmsford Local Plan, Adopted May 2020 (the LP) broadly aligns with the Framework's approach to new buildings in the Green Belt. Part C) of Policy DM6 permits the replacement of a building under the following similar conditions: the existing building being replaced is of permanent and substantial construction; the new building is in the same use as the existing; the new building is not materially larger than the one it replaces; and the new building would not be out of keeping with its context and surroundings, and does not result in any other harm.
10. Policy S11 of the LP further emphasises that the openness and permanence of the Green Belt will be protected, and opportunities for its beneficial use will be supported where consistent with the purposes of the Green Belt. Inappropriate development will not be approved except in very special circumstances.
11. The appellant contends that the proposed building is a replacement of a previous outbuilding that was located within the appeal site in a similar location. They argue that the proposed development is of similar construction and is not materially larger than the previous building. Furthermore, they assert that its location closer to the main house, and other permitted outbuildings, reduces its impact compared to the more isolated position of the pre-existing building.

12. I am provided with details of the outbuilding that has been removed, including its location and dimensions. While the previous building was located on the periphery of the landholding, further from the main house and associated structures, it was significantly smaller than the building proposed under Appeal A. As such, the proposal does not meet the requirements of paragraph 154 d) of the Framework or Part C) of Policy DM6, as it is materially larger than the one it replaces.
13. The appellant also references the removal of a single garage. While they confirm this is not the building that has been replaced by the cabin, it is asserted that the cumulative removal of the garage and the outbuilding, along with their replacement by the pump house and building subject to Appeal A, has resulted in a net reduction in built development on the site. Additionally, my attention is drawn to other buildings that have been granted planning permission, some of which sit forward of the front elevation of the main house. However, the only proposal before me is that described in the banner heading. I do not have full details of the considerations applied to previous planning applications or permissions at the site.
14. The building lies in substantial private grounds, appears to be constructed of high-quality materials, and is not widely visible from outside of the appeal site. However, these factors do not address the core issue that the proposed building is materially larger than the one it replaces, which is contrary to the requirements of paragraph 154 d) of the Framework and Part C) of LP Policy DM6.
15. The appellant also references considerations related to nearby proposals for electricity pylons, but these are irrelevant to the assessment of whether the proposal complies with the relevant tests for replacement buildings. Notably, the Framework does not require consideration of the effects on openness, given the key consideration is solely whether the proposed building is materially larger than the original.
16. The proposal conflicts with the development plan and the Framework due to its size. While Policy DM6 references consideration of context and surroundings, this only applies if the replacement building is not materially larger than the original. As I have already determined that the proposal conflicts with this requirement, these additional considerations do not alter my findings.
17. I therefore conclude that the Appeal A proposal would be inappropriate development in the Green Belt and would conflict with Policies S11 and DM6 of the LP and the provisions of the Framework, the aims of which have previously been set out.

Appeal B

18. The buildings subject to Appeal B lie adjacent to the A1060. A certificate of lawfulness issued in 2019 confirmed their lawful use for retail and storage purposes, which appeared to be the operational use at the time of my visit.
19. Based on the evidence before me, I am satisfied that the appeal site qualifies as previously developed land. Paragraph 154 g) of the Framework provides that the limited infilling or the partial or complete redevelopment of previously developed land may not be inappropriate development in the Green Belt,

provided it would not have a greater impact on the openness of the Green Belt than the existing development.

20. Part B) of Policy DM6 broadly reflects the provisions of the Framework, outlining factors determining the effects on openness to include the size, scale, massing and spread of the new development compared to the existing; the visual impact of the development compared to the existing; and the activities/use of the new development compared to the existing. These considerations will be assessed in this section. Additionally, I will address a further consideration of Policy DM6 B) under a separate section, concerning whether the location of the site is sustainable and appropriate to the type of development proposed.
21. The existing buildings form a cluster of interconnected structures with pitched roofs, located close to the northern edge of the site and very close to the edge of the A1060. The land slopes downward from the road and the buildings follow these contours, resulting in varied rooflines that step gradually downward from the roadside.
22. The proposed development would involve demolishing the existing buildings and constructing two adjoining dwellings. The northern edge of the proposed dwellings would sit farther back from the road, thereby retaining a slightly greater degree of separation from the roadside. The dwellings would feature pitched roofs, with the northern section being single-storey and the southern section two-storey. The ground floors would follow the slope of the land, with the floor level of the single-storey section positioned between the ground and first floors of the two-storey section.
23. While the proposed design maintains some sensitivity to the site's contours, the overall massing of the development would increase toward the south due to the addition of a second storey. This upward expansion would result in a structure that would appear significantly larger in size and massing than the existing buildings.
24. The southern section of the building would clearly present itself as a two-storey structure due to its fenestration and elevational design, contrasting sharply with the predominantly low-lying mass of the existing buildings. Although the southern elevation - featuring the majority of first floor fenestration - would not be visible from the A1060, the assessment of openness should not distinguish between the effects on public or private views. In any event, elements of the southern elevation would be visible from the access used by the neighbouring property, and its two-storey massing would be readily apparent from the main road. Consequently, despite the increased separation from the roadside, the overall visual impact of the proposal would diminish the openness of the Green Belt.
25. The Planning Practice Guidance (the PPG) establishes that openness is capable of having both a visual and spatial aspect, a principle reflected under Policy DM6. While the appellant's calculations indicate that the proposal would reduce the overall footprint, volume and amount of hardstanding compared to the existing development - suggesting acceptable spatial effects - the visual impact would still harm the openness of the Green Belt. Accordingly, the lack of spatial harm would not negate the harm identified in visual terms.

26. The appellant disputes the Council's assertion that the level of activity associated with the proposed development would exceed that of the current use, arguing instead that the development would reduce traffic movements. While I visited the site on a day when the retail element was closed to the public, there remained a level of activity associated with movements and deliveries. Although the retail unit reportedly only operates for 2 days a week, there appear to be no formal restrictions on its operating hours, meaning it could lawfully open more frequently and generate higher levels of activity than currently observed. Based on the evidence provided, I am not convinced that the proposed development of 2 dwellings would result in an increase in site activity significant enough to harm the openness of the Green Belt.
27. In conclusion, while I have found no harm to the openness of the Green Belt in spatial terms or due to the activities associated with the proposed development, the proposal would adversely affect the visual openness of the Green Belt. The Appeal B proposal would therefore be inappropriate development in the Green Belt and would conflict with Policies S11 and DM6 of the LP, as well as the relevant provisions of the Framework, the aims of which have previously been set out.

Suitability of location

28. Policy S1 of the LP requires all new development to accord with its spatial principles. For Appeal B, these include: optimising the use of suitable previously developed land; locating development at well-connected and suitable locations; focusing development at higher order settlements outside the Green Belt and respecting the existing development pattern and hierarchy of other settlements; and ensuring development is served by necessary infrastructure.
29. Policy S7 of the LP elaborates on the spatial principles referenced in Policy S1, emphasising the need to focus new housing and employment growth in the most sustainable locations in accordance with the settlement hierarchy.
30. The site is outside of any defined settlement. The surrounding area features some sporadic development, including residential properties along the A1060, and the site is relatively close to the settlement of Writtle to the southeast, which offers a range of local services and facilities. Further east is Chelmsford, a larger settlement with extensive amenities and public transport links.
31. There are bus stops along the A1060 within walking distance of the site, providing services to Chelmsford, Harlow and smaller nearby settlements. However, the road has a 60mph speed limit, is unlit, and lacks a pedestrian footpath. As a result, prospective occupiers wishing to access bus services would need to walk along uneven grass verges or the road itself, presenting safety and accessibility concerns. While there are some dedicated walking and cycling routes in the area, the routes close to the site are predominantly road-based and lack dedicated infrastructure for pedestrians or cyclists. Given these limitations, it is likely that future occupiers would rely primarily on private cars for transportation.
32. Policy S1 encourages the reuse of previously developed land but only where it is in a sustainable location. While the site presents accessibility challenges, its current use as a commercial operation must also be considered. The evidence suggests frequent vehicle movements on days when the business is open to

the public, with staff and visitors facing the same accessibility challenges as prospective residents and relying predominantly on private cars. Even on non-operational days, as observed during my visit, the site remains active, with vehicle movements related to deliveries and maintenance.

33. The Council has referred to paragraph 116 of the Framework, which seeks to minimise the scope for conflicts between cyclists, pedestrians and vehicles. It also highlights paragraph 109, which seeks to minimise the need to travel and offer a genuine choice of transport modes. While I recognise the accessibility challenges associated with the site, considering the proposal in the context of the site's existing operations, I am not convinced that the proposal would conflict with these provisions.
34. Given the site's current operations and its status as previously developed land, I am not convinced that its use for residential purposes would significantly increase reliance on private cars compared to its existing use. Therefore, despite its accessibility constraints, I conclude that the site can reasonably be regarded as a suitable and sustainable location for housing. It would therefore accord with Policies S1 and S7 of the LP, the aims of which have previously been set out.

Other Matters

35. The Appeal B proposal is for dwellings within the Zone of Influence of one or more European Sites comprising the Essex Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The appellant has submitted evidence of having paid a financial contribution to the RAMS, which is proposed to mitigate the additional recreational pressure on the European Sites arising through the proposed development. In the event that I was minded to allow the appeal, it would be necessary to consider this matter within an appropriate assessment.

Planning Balance

36. As set out in the preceding sections, I have found the development proposals subject to both appeals to be inappropriate in the Green Belt. Paragraph 153 of the Framework directs that substantial weight must be given to any harm to the Green Belt. It further clarifies that the 'very special circumstances' required to justify such development 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. I shall address the relevant considerations to each appeal in turn.

Appeal A

37. The appellant asserts that the Appeal A proposal is within the curtilage of the dwellinghouse at The Orchards. It is noted that the planning permission for the new dwelling currently under construction included a condition removing certain permitted development rights, including those relating to the construction of outbuildings within its curtilage.
38. The appellant contends that the proposed development falls within the dimensions that would have otherwise been allowed under permitted development. Additionally, it is argued that the development commenced before planning permission was granted for the new dwelling and, therefore, before the removal of permitted development rights. On this basis, the appellant claims the proposal qualifies as permitted development.

39. However, the question of whether the proposal conforms to permitted development limitations, or whether planning permission is required, is not a matter for determination in this appeal. The appropriate mechanism to resolve such issues would be through an application for a certificate of lawfulness under section 191 of the Town and Country Planning Act 1990.
40. Having considered the evidence as a whole, I am not convinced that there are any other considerations associated with the Appeal A proposal that would amount to the very special circumstances necessary to justify inappropriate development in the Green Belt.

Appeal B

41. The Appeal B proposal seeks to deliver two dwellings, which would contribute to the Government's objective to significantly boost the supply of homes. Additionally, it would make effective use of previously developed land, as supported by the Framework. These considerations carry moderate weight in favour of the proposal.
42. The appellant has also highlighted various fallback scenarios, including the potential to intensify operations under the site's current use or to extend and alter the existing buildings through permitted development and prior approval processes. Furthermore, the appellant has sought expressions of interest from potential occupiers who could expand the site's business operations under these provisions, potentially generating greater harm than the proposed development.
43. While I acknowledge the possibility of such fallback scenarios, they remain theoretical. The evidence provided does not allow for a direct comparison of their potential impact against the appeal proposal, nor does it demonstrate a strong likelihood of their implementation. As such, these fallback scenarios carry limited weight.
44. The evidence suggests the proposal would reduce the footprint, volume and amount of hardstanding in comparison to the existing development. It is also proposed that additional landscaping would screen the new dwellings, which would be viewed against a backdrop of mature vegetation. Additionally, the appellant has provided a statutory declaration (SD) addressing traffic movements and parking, arguing that the level of activity associated with the proposed development would decrease, thereby reducing its impact on the openness of the Green Belt.
45. While I acknowledge the potential reduction in scale in the context of the spatial openness of the Green Belt, the reduction would not be substantial. The proposed reduction in volume and footprint appears to partly be achieved through the creation of a central courtyard, which does little to mitigate the external spatial impact of the development. Similarly, while high quality materials and landscaping may provide some enhancement to the site's appearance, these contributions are of limited weight when considered alongside the key Green Belt principles outlined in the development plan and the Framework.
46. The SD concerning car parking and traffic movements is consistent with my observations at the site when the retail business was closed. However, the SD acknowledges variability in site activity depending on the season and weather,

introducing uncertainty about the overall effects on the openness of the Green Belt as a result of changes in car parking and traffic movements at the site.

47. In respect of Appeal B, although I have identified that the harm to the Green Belt is limited to its visual openness, the Framework directs that such harm must be given substantial weight. While some considerations, particularly the delivery of housing, weigh in favour of the proposal, these considerations – individually or collectively – do not amount to the very special circumstances necessary to justify inappropriate development in the Green Belt.
48. Because I have found the proposal to be unacceptable for reasons other than the effect on European Sites, it has not been necessary to undertake an appropriate assessment.

Conclusion

49. The proposals under Appeals A and B would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. For the reasons given above, I therefore conclude that both appeals should be dismissed.

P Storey

INSPECTOR