



Appeal Decision

Site visit made on 11 December 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 20th January 2025

Appeal Ref: APP/V1505/D/24/3346417

Majola, Clarence Road, Bowers Gifford, Basildon SS13 2JW

- 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 Miss Victoria McGregor against the decision of Basildon Borough Council.
 - The application Ref is 24/00400/FULL.
 - The development proposed is alterations to roof including increase to the ridge height to create first floor and with roof window to side elevation.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to roof including increase to the ridge height to create first floor and with roof window to side elevation at Majola, Clarence Road, Bowers Gifford, Basildon SS13 2JW in accordance with the terms of the application, Ref 24/00400/FULL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with drawing nos: MASS132JW_SP1.0; MASS132JW_BP1.0; MASS132JW-DR1.0B; MASS132JW-DR1.0C; MASS132JW-DR1.0E; and MASS132JW-DR1.0F.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B, C, D, and E of Part 1 of Schedule 2 to the Order shall be undertaken.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submissions from the parties on this matter. I have considered both parties additional submissions alongside their original representations when determining the appeal.

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

Principle of development and openness

4. Policy GB4 of the Basildon District, Local Plan Saved Policies, September 2007 (LP) indicates in the Green Belt dwellings will be allowed to extend to 90m² or by 35m² over and above the original floor area of the dwelling, whichever is greater.
5. The appeal property is a dwelling in the Green Belt, which was constructed in the early 1980s and replaced a smaller dwelling that was previously on site. There is a dispute between the parties over which dwelling the proposed extension should be assessed against. As the policy states "...above the original floor area of the dwelling...", and not of the original dwelling, my assessment is against the replacement dwelling as originally built in the 1980s. The proposal would not comply with saved LP Policy GB4 as the floor area of the dwelling as originally built is over 90m² and the proposal would increase the floor area by 97m².
6. However, saved LP Policy GB4 was adopted in 2007 but is a legacy policy and dates back to 1998. Paragraph 232 of the Framework is clear that a policy should not be considered out-of-date because of its age. Rather, due weight should be given to it according to its degree of consistency with the Framework. Saved LP Policy GB4 is not entirely consistent with the Framework as it sets a threshold on the extent of development. Whereas paragraph 154 of the Framework advises that the extension of a building in the Green Belt is not inappropriate provided it does not result in a disproportionate addition over and above the size of the original building. Therefore, I ascribe very limited weight to the conflict between the proposal and saved LP Policy GB4.
7. The Framework outlines that development in the Green Belt is inappropriate unless one of the specified exceptions, in paragraph 154, apply. The appellant has sought to demonstrate that both exceptions 154 c) and g) apply.
8. The proposed extension would result in a dwelling with an internal floor area that is 97m² (80%) more than the original dwelling. Nevertheless, when assessing the effect of a proposal on the Green Belt it is necessary to assess how the proposal would appear externally. Following the proposed extension, the gross external floor area would only be 19.1m (16%) larger than the original dwelling. However, the gross external volume would be increased by 177.1m³ (37%) and the ridge height by 1.71m (33%), when compared to the original dwelling. Therefore, the proposal would substantially increase the massing of the appeal property and would result in a disproportionate addition over and above the size of the original building.

9. The proposal would comprise of the partial redevelopment of previously developed land. It is therefore necessary to assess whether it would cause substantial harm to the openness of the Green Belt. Openness has two aspects, spatial and visual.
10. The area is defined by a loose pattern of development. Whilst there is a commercial use adjacent to the appeal site, the area is predominantly residential. There are several bungalows in proximity to the appeal site, including chalet bungalows. Most of these properties are set in spacious grounds. As such, the area is suburban in character. The appeal site is surrounded by built development, albeit the plot opposite includes a large area of tall dense vegetation.
11. Following the proposed extension, the appeal property would appear similar to other chalet bungalows in the area, and it would be reflective of the suburban character. Whilst the proposed extension would not alter the footprint of the existing development and does not include any dormers, it would significantly increase the height and massing of the appeal property, which is sited toward the front of the plot. The increased height and massing of the property, alongside the tall dense vegetation opposite would create a sense of narrowness and the proposed extension would appear visually dominating when viewed from the road. Therefore, the proposed extension would result in substantial harm to the openness of the Green Belt.
12. The proposal would not comply with exceptions c) or g) within paragraph 154 of the Framework. Therefore, I conclude that the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies. It would also have a harmful effect on the openness of the Green Belt. The proposal would be contrary to saved LP Policy GB4 and paragraph 154 of the Framework. I ascribe substantial weight to this harm.

Other considerations

13. Paragraph 153 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to explain 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.
14. Based on the evidence before me, the appeal property could either be extended upwards or through the addition of dormers by utilising permitted development rights. In either scenario, the appeal property could be significantly extended. There is no evidence that prior approval has been sought for an extension or that a certificate of lawful development has been granted. However, the appellant has secured grant funding from Essex County Council to part fund the works. The process of applying for and securing grant funding is a strong indication that the appellant intends to extend their property regardless of the outcome of this appeal. Therefore, I consider that there is more than a theoretical possibility that the property would be significantly extended even if the appeal was dismissed.
15. The appellant has indicated that the proposed works are necessary to provide a more suitable space for a bedroom for a young relative that they care for. Article 1 of the first protocol of the Human Rights Act (HRA) states that every person is entitled to the peaceful enjoyment of their possessions. Moreover, Article 8(1) of the HRA provides that everyone has the right to respect for their private and family

life, their home, and their correspondence. In addition, as these rights relate to a young relative, they must be considered in the context of Article 3 of the United Nations Convention on the Rights of the Child. This requires a child's best interest to be a primary consideration.

16. The proposal would provide more suitable space for a bedroom for a young relative. Not only is weight ascribed to this as a benefit, but it provides significant motivation for the appellant to extend their property. Which in turn increases the likelihood of the property being extended even if I dismiss the appeal. There is no evidence to indicate that the property could not be extended by constructing an additional storey through permitted development rights. That extension could have more of a harmful effect on the openness of the Green Belt than the appeal proposal. As it is likely that the appellant would extend their property regardless of the outcome of the appeal and the resultant extension would be more harmful than the appeal proposal, I ascribe very significant weight to the other considerations in favour of the appeal.
17. Therefore, the harm by reason of inappropriateness and to the openness of the Green Belt would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Conditions

18. Conditions specifying a time limit to implement the planning permission and approved plans are necessary in the interest of certainty. A condition requiring the materials to be used in the construction of the external surfaces to match those used on the existing dwelling is necessary to preserve the character and appearance of the area.
19. A condition restricting the use of certain permitted development rights is necessary to ensure that the Council can determine future proposals to extend the appeal property to ensure that the Green Belt is protected from future development. A condition of this nature would also be reasonable given the planning history of the site. Furthermore, a restriction on permitted development under Class E is reasonable as development under this class would be incidental to the appeal property and would therefore be an extension to it.

Conclusion

20. The proposed extension would conflict with the development plan but material considerations, notably the provisions of the Framework and the existence of very special circumstances, indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be allowed, and planning permission is granted.

J Hobbs

INSPECTOR