



Appeal Decisions

Site visit made on 11 March 2025

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal A Ref: APP/W1525/C/23/3318425

Appeal B Ref: APP/W1525/C/23/3318426

Land at 6 The Old Nursery, Rettendon, Wickford, Essex SS11 7HH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Gary Duce and Appeal B is made by Ms Karen Duce against an enforcement notice issued by Chelmsford City Council.
 - The notice was issued on 13 February 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the construction of an outbuilding.
 - The requirements of the notice are:
 - i. Demolish the unauthorised outbuilding and hardstanding shown outlined in blue at the approximate location on the attached plan
 - ii. Remove from the land all material resulting from step (i)
 - iii. Restore the land affected by the works carried out at steps (i) and (ii) to its former condition, by seeding with grass.
 - The period for compliance with the requirements is: 3 months.
 - The appeals are proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act ("the DPA").
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Appeal C Ref: APP/W1525/W/23/3314482

6 The Old Nursery, Rettendon, Wickford, Essex SS11 7HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Duce against the decision of Chelmsford City Council.
 - The application reference is 22/01606/FUL.
 - The development proposed is described as relocation of single storey outbuilding.
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Summary of decisions: The appeals are dismissed, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Preliminary Matters

1. Appeals A and B concern the outbuilding in its current location, and Appeal C relates to the building to be re-sited elsewhere on the land, but the issues are the same for both appeals. I have therefore considered them together but conclude in relation to each appeal independently.
2. In relation to appeal C, the description of development used by the Council on its decision notice, and the appellant on the appeal form, more accurately describes the development. It excludes reference to relocation of the building, since the building was erected in its current location without planning permission.

3. A revised version of the National Planning Policy Framework (“the Framework”) was published in December 2024. I have taken account of the comments of the main parties on the changes made.
4. Section 3 of the Notice alleges the construction of an outbuilding but Section 5i requires demolition of the outbuilding and hardstanding. The hardstanding is an area of concrete which forms the base of the outbuilding. It is included on the plans submitted for retention of the building, and an area of the same size is shown on the proposed plans for the relocated building. I have seen no evidence that the hardstanding was constructed under Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015. The hardstanding is therefore part of the development of the outbuilding which has occurred and may therefore be required to be removed in Section 5i, should I uphold the Notice.

Reasons

Background and Main Issues

5. The Land is a dwellinghouse erected pursuant to a planning permission reference 14/01602/MAT granted in 2016. That consent granted planning permission, as an amendment to an earlier one, for four new detached dwellings with detached garages and associated landscaping on the site of a former garden centre. Among other matters, on implementation, condition 17 of that permission withdrew ‘permitted development’ rights for the provision of any building required for a purpose incidental to the enjoyment of the dwellinghouses. It did so to protect the Green Belt from ‘excessive’ development. Condition 11 removed permitted development rights to extend the dwellings for the same reason. The parties agree that planning permission was implemented.
6. The Council reports that the outbuilding subject to Appeals A and B had been erected by 2021. An application for retrospective planning permission was submitted but refused. A further application for the building to be sited in an alternative location was refused in 2022 and is the subject of Appeal C.
7. The main issues for Appeals A, B and C are:
 - Whether the appeal site is grey belt land and whether the proposed developments are or would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the developments on the openness and purposes of the Green Belt;
 - Whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Whether inappropriate development in the Green Belt

8. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate development, subject to exceptions. Chelmsford Local Plan (2020) (“CLP”) Policy DM6, which relates to new buildings in the Green Belt, states planning permission will be granted for exceptions to inappropriate development, which reflect those set out in the Framework. The parties agree that none of the exceptions apply to the developments.

9. At the same time, the appellant states the building in its proposed location could be considered an extension to the existing garage building. The outbuilding would not be attached to the garage building, but even if I were to consider it to be an extension, the outbuilding is longer than the garage and more than half its width. It would therefore be a disproportionate extension to the garage building, and the exception in paragraph 154(c) of the Framework does not apply.
10. In December 2024 the revised Framework introduced the concept of Grey Belt land within the Green Belt. At the time of writing no party has alerted me to any Green Belt assessment which identifies or considers grey belt land. Grey Belt includes land that does not strongly contribute to Green Belt purposes (a), (b) or (d), and I have considered these below with the information available to me.
11. Of the five purposes of Green Belt, purpose (a) is to check the unrestricted sprawl of large built-up areas. The Land is part of the Metropolitan Green Belt encompassing a wide area of land beyond London, but it is not adjacent or near to a large built-up area. The land in the vicinity of the appeal site is rural in character, but located in the vicinity of ribbon development along Woodham Road, with glasshouses opposite, and other developments interspersed with farmland, and within a wider area predominantly characterised by undeveloped farmland. Considered as part of the larger whole, the Land makes a contribution as part of that area. But it makes only a weak contribution to purpose (a).
12. Purpose (b) is to prevent neighbouring towns merging into one another. There is a significant distance between the nearest towns of Wickford and South Woodham Ferrers, and the Land is only a small part of the gap between them. The Land does not make a material contribution to visual separation between these towns, and therefore does not make a strong contribution to purpose (b).
13. Purpose (d) is to preserve the setting and special character of historic towns. I have seen no evidence that the Land forms part of the setting of a historic town, and it therefore does not make a strong contribution to purpose (d).
14. With the information before me, it has therefore not been evidenced that the Land contributes strongly to Green Belt purposes (a), (b) or (d). There are exclusions related to areas or assets listed in footnote 7 of the Framework, but none apply in this case. With the evidence before me, the land is therefore 'grey belt' land for the purposes of the Framework.
15. In accordance with paragraph 155 of the Framework, I must therefore consider whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area, whether there is a demonstrable need for the developments, and whether the Land is in a sustainable location.
16. Over a third of the Council's area falls within the Green Belt. London's Metropolitan Green Belt extends as far as the appeal site, including areas around Chelmsford to the north and Southend-on-Sea to the south. The appeal site is a very small part of that wider area, and neither development would fundamentally undermine the Green Belt purposes considered as a whole.
17. Neither party have alleged that, as an outbuilding to serve a dwelling, either development is not one which is sustainable in terms of travel. But it has not been demonstrated that there is an unmet need for development of this type in the area.

18. The use as a whole is therefore inappropriate development in the Green Belt. Paragraph 153 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. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations

Openness:

19. Paragraph 142 of the Framework states that the fundamental aim of 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.
20. In 2013¹ the Council balanced the effect on the openness of the Green Belt of the then existing garden centre structures, open storage, parking and activity against the proposed development. At that time the Council described the four proposed houses as, 'relatively large in floorspace', but as 'creative design' with the houses being cut into the ground, which allowed for two-storey accommodation within buildings of single storey height above ground level. Comparing the proposals to the previous use, the Council considered their modest size and scale, low density and large landscaped plots, would on balance result in no more harm to the openness of the Green Belt than the previous use. Conditions were imposed removing permitted development rights for further extensions to the dwellings and outbuildings to prevent 'excessive' development of the land.
21. The alternative proposals granted subsequently maintained the same approach and contained the same conditions. In 2018 a variation to the garage of Plot 4 (now 6 The Old Nursery) was subject to a condition specifically allowing the construction of only one garage, and excluding other outbuildings. Overall, the Council has therefore allowed the maximum extent of development it considers will maintain the openness of the Green Belt in this location.
22. Spatially, the outbuilding has a footprint of 30 square metres (sqm) and a height of 2.5m at the front and 2.3m at the rear. The building of around 7.5m x 4m is therefore a significant size, particularly considering the garage excluded by the 2018 planning permission. In terms of size, scale and massing, it increases the volume of structures on the Land. In terms of spread it introduces, or would introduce, built development into undeveloped and less developed parts of the site. Even accounting for the reasonably generous size of the plot, and the extent of development on the nursery site to the south, the development does, and would, spatially reduce the openness of the Green Belt. As the structure is the same for the existing and proposed developments, the effects are the same for both schemes.
23. Visually, the outbuilding constructed stands closer to the road than the dwelling. From the east, the boundary hedgerow and vegetation in the adjacent field limit visibility. But its pale colour with contrasting fenestration, distinctly different from the darker tones of the dwelling and garage, make it a prominent feature in views from Woodham Road from the south and west. Its shallow roof slope also make it a notable feature against the pitched roofs of other buildings on the Old Nursery. Vegetation along the southern boundary and around the building has grown since the building was erected, but the outbuilding remains a visible feature on a

¹ The original permission reference 13/01169/FUL

previously open area of land. It increases the visibility of urban form, and visually reduces openness.

24. The proposed building would be less visible in the location proposed for Appeal C. From public areas, the garage building and dwelling would largely shield it from Woodham Road, as would the hedgerow from the east. Visibility from Rectory Lane would be very limited and filtered by views of other dwellings on The Old Nursery site. There would be views from the private internal access road serving the original dwelling to the north and, at relative distance, elsewhere within the estate, including from other dwellings. In these views the building would increase the visible extent of urban form and, overall, in the proposed location, the building would therefore have a limited harmful visual effect on the openness of the Green Belt.
25. The developments therefore do, and would, not preserve the openness of the Green Belt. Openness is an essential characteristic of Green Belts, as is preventing urban sprawl by keeping land permanently open. In terms of the Green Belt purposes, the openness of the Land assists in safeguarding the countryside from encroachment, and the moderate reduction in openness is therefore harmful to the Green Belt.
26. Substantial weight must be given to any harm to the Green Belt, including harm to its openness. Unless very special circumstances are found to justify the development it therefore conflicts with Chelmsford Local Plan (2020) (“CLP”) Strategic Policy S11 and Policy DM6. Together these policies seek to protect the openness and permanence of the Green Belt, by not approving inappropriate development except in very special circumstances. Without very special circumstances the developments also conflict with Chapter 13 of the Framework, which seeks to protect Green Belt land.

Other Considerations

27. The absence of harm in relation to other aspects of the developments weigh as neutral matters in the planning balance.
28. The parties refer to an Appeal Decision² relating to development within a domestic garden in Dacorum Borough where a building with a floor area of 20sqm in a rear garden was found not to be harmful to openness of the Green Belt. There is very little information before me about the circumstances of that development but, having found harm to openness arising from the developments before me, the Dacorum appeal decision is therefore distinguishable in that respect.
29. That appeal decision also related to development on land where ‘permitted development’ rights were withdrawn for reasons unrelated to the Green Belt. ‘Permitted development’ rights are not automatically withdrawn from land within the Green Belt. But the need for planning permission for additional outbuildings in this case is clearly related to the aims of Green Belt policy by preserving its openness following the extensive re-development of the land. I therefore attach only limited weight to the fact that planning permission is only required on account of the planning conditions removing ‘permitted development’ rights.

² APP/A1910/D/21/3280747

Conclusion

30. The Framework indicates 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 harm to the Green Belt, and any other harm, are clearly outweighed by other considerations.
31. The development is inappropriate development in the Green Belt and harms its openness, to which I must attribute substantial weight against the development.
32. The matters in favour of the development attract only limited weight, and the harm to the Green Belt is not clearly outweighed by the other considerations. The very special circumstances required to justify a grant of planning permission therefore do not exist. The development therefore conflicts with CLP Strategic Policy S11 and Policy DM6, which are described above, and with Chapter 13 of the Framework.
33. For the reasons above, I conclude the development would conflict with the development plan as a whole and the approach in the Framework. There are no other material considerations that require a decision to be made other than in accordance with the development plan.

Conclusions on Appeal A and Appeal B

34. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Conclusion on Appeal C

35. For the reasons given above the appeal should be dismissed.

Formal Decisions

36. Appeals A and B are dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
37. Appeal C is dismissed.

Peter White

INSPECTOR