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## Appeal Decision

Site visit made on 3 June 2025

**by E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 June 2025**

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**Appeal Ref: APP/B1550/W/24/3353380**

**Woodlands, 39 Wood Avenue, Hockley, Essex SS5 5NU**

- 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 T Brown against the decision of Rochford District Council.
  - The application Ref is 24/00226/FUL.
  - The development proposed is a replacement dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. Comments have been sought from both parties in relation to the revised Framework and any comments received have been taken into consideration within my decision.

### Main Issues

3. The main issues are:
  - whether the development would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies; and
  - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### Reasons

*Whether it is inappropriate development*

4. The appeal site is a parcel of land at the end of a row of dwellings on Wood Avenue. It is occupied by a single storey dwelling to the front of the site set on a large open plot. Although in a residential location, the site is set amongst a woodland which has a semi-rural character, it is also located within the Green Belt and outside of any defined settlement boundary. The proposed development would replace the existing dwelling on the appeal site with a new chalet bungalow

style dwelling with an attached garage and a new entrance wall and gates and landscaping.

5. Paragraph 154 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Under paragraph 154 (d), the exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy DM21 of the Rochford District Council Local Development Framework Development Management Plan 2014 (the LP) states that replacement or rebuild of existing dwellings in the Green Belt will be permitted, taking into account various considerations. Therefore, the general aims are consistent with that of the Framework.
6. The proposed replacement building would be in the same use as the existing building on the appeal site. There is no specific definition of the term 'materially larger' within the Framework. However, criteria (i) of Policy DM21 of the LP states that the total size of the dwelling should result in no more than a 25% increase in floorspace of the original dwelling. This criteria makes reference to the 'original' dwelling, however the exception within paragraph 154 (d) does not include the term original and therefore can be taken as meaning the dwelling in its current form.
7. Submitted plans indicate that the current dwelling on the appeal site has a floorspace of 96.3m<sup>2</sup>, this is formed of the original dwelling with a floorspace of 60.9m<sup>2</sup>, and extensions to this dwelling which have already taken place. In their statement, the appellant contends that the floorspace of the proposed dwelling would be 139m<sup>2</sup>. However, the submitted plans indicate that the floorspace on the ground floor would be 160.2m<sup>2</sup> and that the floorspace of the first floor would be 51.2m<sup>2</sup>, with a total proposed floorspace of 211.4m<sup>2</sup>. This would vastly exceed the 25% outlined within Policy DM21 of the LP and would clearly result in a dwelling which is materially larger than the one it replaces. Therefore, the proposal would not fall under the exception within paragraph 154 (d) of the Framework.
8. The appellant also contends that the proposed development could fall under paragraph 154 (g) of the Framework, which includes limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continued use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
9. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
10. As established above, the proposed dwelling would be larger than the dwelling it is to replace, with a greater width, height and, as such, overall volume and bulk. It would also cover a greater proportion of the appeal site than at present. Due to this increase in built form and the relatively large scale of the proposed building when compared to the current building, the proposed development would have a significant spatial impact on the openness of the Green Belt. In addition, the larger proposed dwelling would be highly visible from the road and public footway to the

front of the site, thereby significantly eroding the visual openness of the site. Therefore, the proposed replacement dwelling would have both a spatial and visual impact on the openness of the Green Belt, in that it is reduced, resulting in substantial harm to the openness of the Green Belt.

11. Previously developed land is defined within the Framework as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. Nevertheless, even if I were to conclude that the appeal site constitutes previously developed land, due to the substantial harm to the openness of the Green Belt, it would not fall under the exception in paragraph 154 (g) of the Framework.
12. The development would therefore be inappropriate development within the Green Belt. This is harmful to the Green Belt which, in accordance with paragraph 153 of the Framework, should be given substantial weight. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, which will be considered below.

### *Other Considerations*

13. The appellant has outlined a number of extensions to the existing dwelling and outbuildings on the appeal site which could be constructed under permitted development rights. This includes two outbuildings to the rear of the dwelling, one to be used as a garage and one to be used as a home gym, which were granted a lawful development certificate<sup>1</sup>. Another lawful development certificate<sup>2</sup> was also granted for a single storey side extension to the existing dwelling. The appellant also considers that another side extension and a rear extension could be added to the existing dwelling under permitted development rights.
14. The submitted plans indicate that these extensions would result in a dwelling with a total floorspace of 139.3m<sup>2</sup>, the garage would have a floorspace of 49m<sup>2</sup> and the gym outbuilding would have a floorspace of 54.7m<sup>2</sup>. Should all these developments be constructed on the appeal site, the floorspace of all built form would be greater than the proposed dwelling before me.
15. The appellant has stated that should planning permission be granted for the proposed development the garage and gym outbuildings would not be constructed, as these would be accommodated within the main dwelling. Further permitted development rights could be removed by condition which would prevent any outbuildings being constructed on the appeal site without express permission, including those which have previously been granted a lawful development certificate. Although it is noted that such a condition would only take effect once the permission is implemented.
16. However, if all the proposed extensions to the existing dwelling were constructed under permitted development rights, the total floorspace of the dwelling would be less than the total floorspace of the proposed replacement dwelling. It may be considered that the resultant building would be unattractive with varying rooflines. However, it would have a lesser volume, bulk and height than the proposed replacement dwelling. Although more spread out across the site, the proposed

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<sup>1</sup> 22/00753/LDC

<sup>2</sup> 21/00852/LDC

outbuildings would be located to the rear of the main dwelling with less visibility from the public realm and would appear as typical outbuildings in this residential location.

17. Therefore, although it appears that there is a real prospect of the fallback development outlined above being implemented on the appeal site, I am not convinced that the proposed extensions and outbuildings would be more harmful to the Green Belt than the appeal proposal before me. Therefore, it would not represent a genuine fallback position and I give it limited weight.
18. In their planning statement the appellant has highlighted three appeal decisions where the permitted development options were considered a relevant fallback position. The first<sup>3</sup> and second<sup>4</sup> appeal decisions relate to replacement dwellings. However, in both of these examples it was found that the fallback position would have a greater impact on the openness of the Green Belt than the proposed development. The third<sup>5</sup> also relates to a replacement dwelling. However, in this example it was found that the fallback position would be more harmful to the character and appearance of the area than the proposed development. Therefore, these developments are not directly comparable to the appeal proposal before me.
19. As part of their appeal statement, the appellant has brought another appeal decision<sup>6</sup> to my attention which also relates to a replacement dwelling in the Green Belt. However, this was found to not be inappropriate development in the Green Belt having regard to the provisions of a specific development plan policy in this district. Therefore, this development is also not directly comparable to the appeal proposal before me.
20. The appellant indicates that the proposed development would result in a modern, energy efficient dwelling on the appeal site, compared to the existing dwelling which is dilapidated and would be difficult to bring up to modern standards. They also propose ecological improvements to the site through tree planting, although no specific details have been provided in this regard. However, I note that the appeal site and the existing dwelling are in poor condition and therefore I give these benefits moderate weight.

### **Green Belt Balance**

21. The development would be inappropriate development in the Green Belt in that it would result in new buildings within the Green Belt which do not fall under any of the listed exceptions. The Framework establishes that substantial weight should be given to any harm to the Green Belt and the development 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.
22. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraph 153 and 154 of the Framework.

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<sup>3</sup> APP/P1805/W/16/3143807 (Clifford Cottage, Top Road, Wildmoor, Bromsgrove B61 0RB)

<sup>4</sup> APP/R0660/W/22/3309363 (5 Summerhill Road, Prestbury, Macclesfield, Cheshire SK10 4AH)

<sup>5</sup> APP/L1765/W/22/3308026 (Cartref, Sutton Wood Lane, Bighton, Hampshire S024 9SG)

<sup>6</sup> APP/X0415/W/23/3332240 (The Homestead, Bottom Lane, Seer Green, Buckinghamshire HP9 2RH)

**Conclusion**

23. For the reasons given above, I conclude that the appeal should be dismissed.

*E Grierson*

INSPECTOR