



Appeal Decision

Site visit made on 5 September 2023 by Ifeanyi Chukwujekwu BSc MSc MRTPI
MIEMA CEnv

Decision by Chris Forrett MRTPI, DipTP, BSc (Hons)

an Inspector appointed by the Secretary of State

Decision date: 4 April 2024

Appeal A Ref: APP/K2230/D/23/3319091

Meadow Cottage, School Lane, Higham, Rochester, Kent ME3 7JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Graham Loft against the decision of Gravesham Borough Council.
 - The application Ref 20221356 dated 20 December 2022, was refused by notice dated 6 March 2023.
 - The application sought planning permission for change of use of ancillary outbuilding to an independent two-bedroom dwelling with home office, parking and landscaping and a separate curtilage to Home Farm Cottage without complying with conditions attached to planning permission Ref 20151151, dated 5 November 2015.
 - The conditions in dispute are Nos 6 and 7 which state that: 6.) *The outbuilding hereby permitted as garaging to the use of the dwelling hereby permitted shall not subsequently be altered internally or externally or otherwise enlarged or extended, and 7.) The outbuilding hereby permitted as garaging shall be used as garaging ancillary to the residential dwelling hereby permitted and for no other purpose; the building shall not contain at any time any living accommodation and it shall not at any time be sold, parted, let or exchanged as a separate unit.*
 - The reasons given for the conditions are: 6.) *In order that any enlargement or alteration or any other use of the buildings may be the subject of a separate planning application which the Local Planning Authority would wish to consider on its merits having regard to adopted planning policy and guidance and 7.) That any other use of the building hereby permitted may be the subject of a separate planning application which the Local Planning Authority would wish to consider on its merits having regard to adopted planning policy and guidance.*
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Appeal B Ref: APP/K2230/D/23/3323215

Meadow Cottage, School Lane, Higham, Rochester, Kent ME3 7JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Graham Loft against the decision of Gravesham Borough Council.
 - The application Ref 20221322, dated 12 December 2022, was refused by notice dated 1 March 2023.
 - The development proposed is a first-floor rear extension.
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Decision

1. Appeal A is allowed and planning permission is granted for change of use of ancillary outbuilding to an independent two bedroom dwelling with home office,

parking and landscaping and a separate curtilage to Home Farm Cottage at Meadow Cottage, Barn adjacent to Home Farm Cottage, School Lane, Higham, Kent ME3 7SJ, without complying with conditions 6 and 7 attached to planning permission Ref 20151151, dated 5 November 2015, but subject to the conditions set out in Annex A of this decision.

2. Appeal B is dismissed.

Background & Procedural Matters.

3. The planning application form referred to permission 20141170, whereas the Council's decision notice (and appellants appeal form and statement) refers to permission 20151151. Given the Council and the appellant have considered the proposal on the basis of permission 20151151, so have I.
4. Planning permission was granted on 23 March 2015¹, for the change of use of an ancillary outbuilding to an independent two-bedroom dwelling with home office, parking, landscaping and a separate curtilage to Home Farm Cottage. A subsequent planning permission was granted via an appeal decision on 26 January 2017², which resulted in the removal of the original condition 10 of that planning permission. It is this resultant dwelling which both appeals relate to with Appeal A considering conditions imposed on the appeal permission (in respect of the existing outbuilding/garage building) and Appeal B relating to an extension to the dwelling itself. Although the appeals are different, and I have considered them on their individual merits, to avoid duplication I have dealt with these in one decision.
5. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.
6. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

7. The main issues for these appeals are:
- whether the conditions in dispute are necessary and reasonable (Appeal A);
 - whether the proposal is inappropriate development for the purposes of development plan policy and the Framework (Appeal B);
 - the effect of the development on openness of the Green Belt (Appeal B);
 - the effect of the development upon landscape character and the appearance of the host dwelling (Appeal B); and
 - if the development is inappropriate, whether the harm by reason on inappropriateness, and any other harm, is clearly outweighed by other

¹ Reference 20141170

² Appeal Ref: APP/K2230/W/16/3155581 (Council reference 20151151)

considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons for the Recommendations

Conditions (Appeal A)

8. The outbuilding which is the subject of this appeal is located within the curtilage of Meadow Cottage, which was itself an outbuilding to Home Farm Cottage that has been converted to a detached dwelling. Condition 9 of the relevant planning permission removes all domestic permitted development (PD) rights, but this condition does not form part of the appeal proposal and to consider this now would extend the scope of the permission.
9. Paragraph 56 of the Framework states that “planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”.
10. With regards to the necessity and reasonableness of the disputed conditions, the Council has stated that these conditions ensure extensions and outbuildings cannot be constructed without first requiring permission, to avoid uncontrolled extensions, alterations and other uses of the outbuilding. Given the location of the site within the Green Belt, the Council considers that removal of the conditions would result in the outbuilding becoming a domestic building and there would be no control over further development which could be contrary to guidance set out in the Framework which aims to safeguard the Green Belt from encroachment. However, with the exception of the installation of renewable energy development, condition 9 removes PD rights and as such other ‘development’ would be likely to require express planning permission.
11. To my mind, there is clearly an element of duplication in the restrictions imposed by conditions 6 and 9, in that both conditions prevent external alterations or enlargements. In short, this duplication is unnecessary. That said, condition 6 goes further in that it also restricts internal alterations and any works which would not normally be considered to be ‘development’.
12. However, I consider that neither internal alterations nor works which would not normally be considered to be development (or renewable energy developments) would have any discernible impact on the Green Belt or the character and appearance of the area. As such I consider the entirety of condition 6 to be unnecessary.
13. Turning to condition 7, this prevents the outbuilding being used as anything other than a garage ancillary to Meadow Cottage. It also sets out that it should not be used at any time for living accommodation or that it be sold, parted, let or exchanged as a separate unit.
14. In my view the use of the existing outbuilding/garage does not have any significant impact on either the Green Belt, the character and appearance of the area or to the living conditions of the occupiers of nearby residential properties. This would remain the case providing that the building remains in domestic use associated with the main dwelling.
15. As such I consider that condition 7 to use the building solely for garaging is unnecessarily restrictive. However, to ensure that the building remains

associated with the host property, a revised condition should be imposed to secure this objective, which I consider is necessary and reasonable.

16. For the reasons given above, condition 6 is not necessary and in its originally drafted form condition 7 is overly restrictive in its use. As such they fail to comply with the Framework in this regard.
17. In respect of the other conditions from permission 20151151, the guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged. The Council has provided conditions which they suggest should be included if the appeal is allowed and planning permission granted. As the original development has already been carried out it is not necessary to impose the suggested plans condition. I consider all of the other suggested conditions remain relevant and shall be imposed.

Whether the proposal is inappropriate development (Appeal B)

18. Paragraph 142 of the Framework outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 154 and 155, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
19. Paragraph 154(c) sets out that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions, including the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework defines 'original building' as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
20. The planning history detailed in the planning officer's report as well as the appellant's statement suggest that Meadow Cottage has been extended at the side and rear via another permitted scheme³. I also observed this to be the case on visiting the site, and on this basis, I consider that the existing building is not the original building. I have made my assessment against Paragraph 154(c) accordingly.
21. The Framework does not define what would be classed as a disproportionate addition, but the overall size of the building (either in terms of footprint, floorspace or volume) are clearly important factors. However, saved Policy C13 of the Gravesham Local Plan 1994 (the 'LP') states that extensions to dwellings will be restricted to an overall limit of one third of the gross floor area of the original dwelling (measured internally).
22. The Council, in their planning officers report, have presented calculations which suggest that the combination of the existing and proposed extensions would amount to an approximate 49 percent increase in floor space, which exceeds the threshold stipulated by policy C13 by some margin.
23. I acknowledge that applying a numerical or percentage limit on floorspace increase is not necessarily entirely consistent with the Framework. It is

³ Application ref. 20180043

nevertheless a useful indicator of size. By virtue of increases in depth, width and height, the proposal would result in a significant increase in volume from the original dwelling. Whilst the first-floor rear extension would not increase the external footprint of the dwelling, this does not outweigh the increase in floorspace or volume of the resultant dwelling.

24. In addition to the above, the appellant has drawn my attention to several other decisions which consider this matter. However, none of these developments are within the same Local Planning Authority area as the current proposal. Notwithstanding that, some of these have a greater percentage increase than the appeal proposal. Additionally, reference has been made to a light industrial development on the nearby railway station car park. That said, none of these decisions lead me to a different conclusion on whether there would be a significant increase in the size of the resultant appeal property.
25. Taking all of the above into account, the cumulative increase in the size of the building would be disproportionate when compared to the original dwelling. As such, the proposal would not accord with the exemption outlined at paragraph 154(c). Consequently, the proposal would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraphs 154 or 155 of the Framework. It would also be contrary to Policy CS02 of the Gravesham Local Plan Core Strategy (September 2014) (the 'CS') and Policy C13 of the LP.

Effect upon openness of the Green Belt (Appeal B)

26. One of the five purposes of a Green Belt, outlined at paragraph 143 of the Framework, is that it should assist in safeguarding the countryside from encroachment. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has a spatial aspect as well as a visual aspect.
27. The first-floor rear extension would increase the depth of the dwelling at first floor significantly. In the location of the extension, the height of the dwelling would also be increased from single to two storeys and there would be an increase in width at first floor where the extension would project beyond the roof slope. It would also result in an overall increase in volume which would inevitably diminish openness.
28. The size of the dwelling would significantly increase thereby reducing openness in this part of the Green Belt. The first-floor extension would be a bulky addition. It would occupy space and cause spatial harm to the Green Belt because of its scale.
29. In coming to the above views, I acknowledge that the extension would be located to the rear of the site and is surrounded by built development. Therefore it would not be visible from public vantage points. However, this does not overcome the loss of openness as a result of the increased built form.
30. I find the development has a materially harmful effect upon openness and conflicts with the Framework, Policy CS02 of the CS and Policy C13 of LP. These, amongst other matters, seek to ensure that new development within Green Belts would preserve its openness and would not conflict with the purposes of including land in it.

Landscape character and appearance of host dwelling (Appeal B)

31. Policy CS12 of the CS identifies that landscape character and valued landscapes will be conserved, restored and enhanced. In this instance, the appeal site falls within the locally designated Higham Arable Farmlands landscape character area, which is noted for being open arable farmland with isolated farmsteads, views to the river Thames and undulating topography.
32. The appeal site is physically and visually separated from the agricultural land to the south by way of a densely landscaped boundary and is clearly in domestic use. Due to its close visual and physical relationship to Higham railway station and its car park, the appeal site cannot be considered to have any attributes of an isolated farmstead. To my mind, in this setting, the addition of a first-floor extension would not interrupt or obstruct any greater views of the wider landscape setting. On this basis, I find that the proposal would not harm the landscape character of the Higham Arable Farmlands and would accord with Policy CS12 of the CS.
33. Turning to the effect of the proposal on the host dwelling itself, the proposed first floor extension would be the same height at the ridge with the existing dwelling and would extend to the full depth of the existing single storey rear extension. The roof would also project beyond the western roof slope, which would result in an oddly angled pitched roof that would not match the pitched roof form of the host dwelling. Thus, by virtue of its scale, mass and design it would be an incongruous addition which would be harmful to the appearance of the host dwelling.
34. I acknowledge the appellant's submissions regarding the visibility of the proposed extension. However, Gravesham's Local Plan Household Alterations/Extensions Design Guide Supplementary Planning Document October 2021 (the 'SPD') requires that extensions and alterations should be subordinate to the host property/building, allowing the original building to remain dominant, regardless of whether they are seen from the street. Similarly, the requirement for good design, as set out in chapter 12 of the Framework, applies to all development.
35. I conclude that the proposed first floor rear extension would be harmful to the appearance of the host dwelling and would conflict with the objectives of policy CS19 of the CS and the Framework. These, amongst other matters, seek to ensure that new development is visually attractive and would make a positive contribution to the character of the area.

Other considerations (Appeal B)

36. The proposed extension would provide additional living accommodation at first floor level together with a shower room and toilet. Whilst this would no doubt improve the level of accommodation for the appellant, I can only give this very limited positive weight in my decision.

Green Belt balance (Appeal B)

37. The Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be attached to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.

38. I have concluded that the proposed development would cause harm to the Green Belt by reason of inappropriateness and reduction in openness, as well as harm to the appearance of the host dwelling and I attach substantial weight to this harm.
39. I consider that the other considerations only have very limited positive weight in my decision.
40. Therefore, in considering the substantial weight given to the Green Belt, I am of the view that the very special circumstances necessary to justify the Appeal B proposal do not exist. As such, the Appeal B proposal would conflict with the Framework, Policy CS02 of the CS and Policy CS13 of the LP.

Conclusion and Recommendation

41. For the reasons given above, and having had regard to all other matters raised, I recommend that Appeal A should be allowed, and Appeal B should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

42. I have considered all the submitted evidence and my representative's report and on that basis Appeal A appeal is allowed subject to conditions and Appeal B is dismissed.

Chris Forrett

INSPECTOR

Annex A

- 1) Notwithstanding the details submitted in the approved landscaping plan (received by the local planning authority on 11 December 2014), the existing 2 metre close board fence situated between the outbuilding (Meadow Cottage) and the main dwelling (Home Farm Cottage) shall be retained in its entirety for the duration of the Meadow Cottage's use as a separate dwelling.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of the approved dwelling.
- 3) At least 2 of the 3 vehicle parking spaces shown on the approved plan shall be retained for parking of vehicles. Those spaces shall be retained for that use thereafter.
- 4) The outbuildings shall only be used for domestic purposes associated with its host property, Meadow Cottage.

- 5) Notwithstanding the provisions of Article 3, Part 1 Classes A-H of Schedule 2 to 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 enlargement, improvement or other alteration of the dwelling hereby permitted shall be carried out, including the provision of dormers, roof lights or other roof alterations, the erection or construction of a porch outside any external door, the installation of any chimney flue, vent pipe, rainwater goods or microwave antennae or the formation of any additional window, door or other form of opening and no building or enclosure required for a purpose incidental to the enjoyment of the dwellings (including any fixed items of domestic paraphernalia such as washing lines) or any hard surface or domestic heating storage container or microwave antenna shall be installed, constructed or placed within the curtilage of the dwelling, other than as may be shown in the approved plans.
- 6) No external lighting shall be erected or placed within the site or on the buildings.