

## The Planning Inspectorate

### HOUSEHOLDER PLANNING APPEAL FORM (Online Version)

RECEIVED

30 APR 2015

SUPPORT SERVICES

**WARNING:** The appeal and essential supporting documents must reach the Inspectorate within the appeal period. **If your appeal and essential supporting documents are not received in time, we will not accept the appeal.**

**Appeal Reference: APP/B1550/D/15/3028076**

#### A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name Mr Daniel Frith

#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☒ No ☐

Name Mr Martin Gaine

Company/Group Name Just Planning

#### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority Rochford District Council

LPA reference number 15/00067/FUL

Date of the application 27/01/2015

Did the LPA issue a decision?

Yes ☒ No ☐

Date of LPA's decision 02/04/2015

#### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes ☒ No ☐

Address  
Green Shutters  
Hall Road  
ROCHFORD  
Essex  
SS4 1NX

Is the appeal site within a Green Belt?

Yes ☒ No ☐

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes ☐ No ☒

## E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form?

Yes ☐ No ☒

Please enter details of the proposed development. This should normally be taken from the planning application form.

Two Storey Pitched Roofed Front Extensions, Extend Porch and Canopy, Pitched Roof Front Dormer and Insert Two Roof Lights, Two Storey Rear Extension Incorporating First Floor Balcony and Flat Roofed Rear Dormer, Detached Garage to Front, and Construct 1.8m High Front Wall with Railings and 2.2m High Gates

Area of floor space of proposed development (in square metres)

100

## F. REASON FOR THE APPEAL

The reason for the appeal is that the LPA has;

1. Refused planning permission. ☒
2. Refused permission to vary a condition(s). ☐
3. Refused prior approval of permitted development rights. ☐

## G. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

### 1. Written Representations ☒

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes ☒ No ☐

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes ☐ No ☒

### 2. Hearing ☐

### 3. Inquiry ☐

## H. GROUNDS OF APPEAL

The grounds are set out in

Have you made a costs application with this appeal? Yes ☐ No ☒

## I. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

### CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates; ☒

### CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below: ☐

## CERTIFICATE C

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below. ☐

### I. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding. ☒

(b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant. ☐

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below. ☐

### J. SUPPORTING DOCUMENTS

01. A copy of the application form sent to the LPA. ☒

02. A copy of the LPA's decision notice. ☒

### K. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided?

Yes

☐ No

☒

### L. NOW SEND

#### Send a copy to the LPA

Send a copy of the completed appeal form, the personal details form and any supporting documents (including the full grounds of appeal) not previously sent as part of the application to the LPA. If you do not send them a copy of this form and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your forms

- locating your local planning authority's email address:

<http://www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/appeal/sendingacopytothecouncil>

- attaching the saved forms including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

**You may wish to keep a copy of the completed form for your records.**

## **M. APPEAL DOCUMENTS**

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@pins.gsi.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to PO Box 3035, Bristol, BS1 9AY.

**You will not be sent any further reminders.**

Please ensure that anything you do send by post or email is clearly marked with the reference number.

### **The documents listed below were uploaded with this form:**

**Relates to Section:** GROUNDS OF APPEAL  
**Document Description:** The grounds of appeal  
**File name:** Appeal Statement Green Shutters.pdf  
**File name:** Appendix A - Appeal Decision.pdf

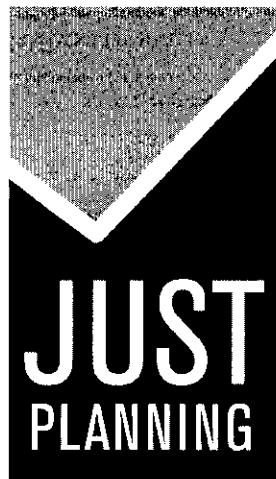
**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 01. A copy of the original application form sent to the LPA.  
**File name:** application form.pdf

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 02. A copy of the LPA's decision notice.  
**File name:** refusal.pdf

**PLEASE ENSURE THAT A COPY OF THIS SHEET IS ENCLOSED WHEN POSTING THE ABOVE DOCUMENTS TO US**

**Completed by** MR MARTIN GAINE

**Date** 30/04/2015 08:53:02



## Appeal Statement

*Householder Extensions*

AT

Green Shutters, Hall Road, Rochford SS4 1NX

Date: 29 April 2015

Ref: GS-15071

## 1. Introduction

- a. This Appeal Statement has been prepared by Just Planning on behalf of Mr D Frith to support an appeal against a refusal of planning permission for a householder development at Green Shutters on Hall Road in Rochford.
- b. Following a description of the site and surrounding area, this report will consider the planning history, set out a summary of relevant planning policy and outline the case for the appellant.
- c. It will be demonstrated that the development is appropriate in light of national and local planning policy and that permission should therefore be granted.

## 2. Background

- a. On 27 January 2015 the appellant submitted an application to Rochford District Council (reference: 15/00067/FUL) for the following development:

*Two Storey Pitched Roofed Front Extensions, Extend Porch and Canopy, Pitched Roof Front Dormer and Insert Two Roof Lights, Two Storey Rear Extension Incorporating First Floor Balcony and Flat Roofed Rear Dormer, Detached Garage to Front, and Construct 1.8m High Front Wall with Railings and 2.2m High Gates*
- b. In a notification dated 2 April 2015, the Council advised that the application had been refused, for the following reason:
  1. *The Allocations Plan (2014) shows the site to be within the Metropolitan Green Belt and the proposal is considered to be inappropriate development contrary to the National*

*Planning Policy Framework. Within the Green Belt, planning permission will not be given, except in very special circumstances, for the construction of new buildings or for the change of use or extension of existing buildings (other than reasonable extensions to existing buildings, as defined in Policy DM17 of the Development Management Plan of other policy compliant exceptions). Any development which is permitted shall be of a scale, design and siting, such that the appearance of the countryside is not impaired.*

*Policy DM17 of the Development Management Plan provides that the total size of a Green Belt dwelling as extended, including any extension which may have previously been added, will not normally exceed the original floor space by more than 25%. The proposal is considered excessive, rather than reasonable, resulting in a substantial change in the appearance and character of the property having a significant impact on the openness of this part of the Green Belt contrary to local and national planning policy.*

### 3. Site Description

- a. The application site comprises a detached house located on a row of similar properties on the southern side of Hall Road. The other side of Hall Road is largely characterised by open countryside, with a golf course and Southend Airport located behind the site to the south.
- b. The other properties on this row have been extended and altered in various ways, and these alterations form part of the character of the area.

- c. The property is located within the Metropolitan Green Belt as identified in the Allocations Plan (2014).

#### 4. Planning Policy

- a. The development plan for the area comprises the adopted Core Strategy (2011), the Development Management Plan (2014) and the Allocations Plan (2014).
- b. The Allocations Plan identifies the areas of land covered by the Metropolitan Green Belt, including the appeal site. Policy DM17 of the recently adopted Development Management Plan suggests that extensions to a dwelling in the Green Belt should not *normally* represent more than a 25% increase in the internal floorspace of the original dwelling, and that there should be no material increase in the height of the building and no impact on the character and appearance of the Green Belt.
- c. The National Planning Policy Framework (NPPF, 2012) sets out the government's national planning policies and how these policies should be applied. It identifies a presumption in favour of sustainable development. Development is sustainable when it meets the economic, social and environmental needs of a community.
- d. According to the NPPF, *"the government attaches great importance to Green Belts"* and goes on to say:  
*"A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this (include) 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".*



- e. Paragraph 186 of the NPPF states that Local Planning Authorities (LPAs) should approach decision-making in a positive way in order to promote sustainable development. LPAs should look for solutions rather than problems and should seek to approve applications for sustainable development where possible (paragraph 187) and work proactively with applicants to achieve the best outcomes.
- f. According to the NPPF:

*"Planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole."*
- g. The NPPF places a strong emphasis on increasing homeowners' flexibility to improve their living space (paragraph 57) and living conditions (paragraph 9).

## 5. Case for the Appellant

- a. The Council has raised no concerns about the design and appearance of the proposed development, nor has it expressed concerns about the impact on the residential amenity of neighbours. According to the reason for refusal, the sole issue is whether the extension is 'reasonable' and whether it is likely to have a "significant impact on the openness of this part of the Green Belt".
- b. The openness of green belt land is protected by both national policy (the NPPF) and adopted local policy. Both accept that it is reasonable for homeowners to want to extend their homes as long

as the extensions are not 'disproportionate' and do not harm the character and appearance of the green belt.

- c. Policy DM17 of the Development Management Policies (2014) departs from national planning policy in setting a specific limit on the size of extensions of 25% of the original floorspace. The 25% limit is arbitrary and not suitable for the very wide range of circumstances to which it applies. Extensions of 25% of the original floorspace will represent disproportionate additions in some cases and not others. It is clear that site-specific circumstances must be taken into account in the application of the 25% limit and that an extension of more than 25% of the original floorspace may be acceptable where there is no adverse impact on the character and appearance of the green belt.
- d. In a recent appeal decision relating to extensions to a property in the green belt in another part of Rochford District (reference: APP/B1550/D/14/3000020), the inspector accepted that the proposed extensions exceeded the thresholds set out in adopted local policy but concluded nevertheless that the extension "*would affect neither the openness of the Green Belt nor the character and appearance of the property*", and allowed the appeal. The decision is attached in Appendix A.
- e. In this case, the officer's report argues that the proposed increase in floorspace is considerably more than 25% of the original dwelling, but does not set out what harm the Council thinks will be occasioned. Very little reference is made to the design of the proposal or the nature of the surroundings, including the presence of much larger dwellings along the row.
- f. The appeal property is the only property on the row not to have been substantially extended, apart from small-scale alterations in

the 1980s. It is the smallest property on the row and the application of the 25% allowance to its original size fails to take into account the current pattern of development along this road.

- g. The extended dwelling will be no wider and no taller than the existing. It projects forward to align with the front of the neighbouring property ('Long Bridge') and projects no deeper to the rear than the neighbour to the other side ('White Cottage'). As the properties are set back substantially from the main road and sit on unusually deep plots, the increased depth of the extended building will not be readily apparent from any public vantage point.
- h. A large part of the new floorspace is provided by a loft conversion. This additional floorspace is provided within the envelope of the existing building (the roofspace) and will not, therefore, have a material impact on the openness of the Green Belt. In any case, the loft alterations are permitted development under the General Permitted Development Order (GPDO) 1995, as amended.
- i. The subject property is located on a part of the green belt that is not especially open. It is part of a cluster of detached houses, with a golf course and airport located to the south. There is open countryside to the north of the site, but permission has been granted for the erection of 600 dwellings on this land (10/00234/OUT). It seems particularly unreasonable that the Council would grant permission for a development of this scale on currently open green belt land, whilst refusing permission for relatively small-scale extensions to a property on an existing ribbon of development on the other side of the road. In any case, the fact that this part of the green belt will be so comprehensively redevelopment means that the appeal site will be surrounded on

all sides by development, mitigating the impact of the proposed new extensions.

## 6. Conclusions

- a. The appellant has a growing family and the house is currently awkwardly configured for modern family living. National and local planning policies accept that homeowners may extend their homes to provide enhanced living accommodation and the improvement in the living conditions of occupiers is a material planning consideration.
- b. The NPPF and policy DM17 preclude 'unreasonable' extensions where these have an impact on the openness of the green belt. In this case, the house is no wider or taller than existing, and much of the increase in floorspace is accounted for by new rooms in the roofspace (which can be considered permitted development).
- c. The Council considers the extensions disproportionate but does not explain what specific impact the extensions will have on the openness of the green belt. This property is smaller than its neighbours and its increased depth will not be readily apparent from the street. As a result of the surrounding development (and in particular the proposed new development of 600 homes on the other side of Hall Lane) the proposals will not have a material impact on the character and appearance of the area or the openness of the green belt.
- d. For these reasons, the inspector is respectfully requested to allow the appeal.

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## Appeal Decision

Site visit made on 6 November 2014

**by Timothy C King BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 18 November 2014**

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**Appeal Ref: APP/B1550/D/14/3000020**

**The Conifers, Rosilian Drive, Hockley, Essex, SS5 5LS**

- 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 Christopher Beales against the decision of Rochford District Council.
  - The application Ref 14/00308/FUL, dated 17 April 2014, was refused by notice dated 18 July 2014.
  - The development proposed is '*Single storey rear extension.*'
- 

### Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at The Conifers, Rosilian Drive, Hockley, Essex, SS5 5LS, in accordance with the terms of the application, Ref 14/00308/FUL, dated 17 April 2014, and the plans submitted with it, 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 extension hereby permitted shall match those in the existing building.
  - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 2786-03, Rev. A (Sheets 1 and 2).

### Procedural Matters

2. For the avoidance of doubt, this decision post-dates the Court of Appeal overturning the previous Patterson J judgement.

### Main Issues

3. The main issues in this case are:
  - 1) whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
  - 2) the effect of the proposal on the openness of the Green Belt;

- 3) the effect of the proposal on the character and appearance of the appeal property; and
- 4) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Whether the proposal is inappropriate development*

4. The appeal property is a detached dwelling located within a substantial plot, similar to the neighbouring property, 'Hylton', to the south and the dwellings, 'Quince Cottage' and 'Greenfields' on the opposite side of Rosilian Drive. It is, though, a single storey bungalow, roughly L-shaped, with a detached side garage. The proposal would comprise a single storey rear extension to the main dwelling, with a floor area of approximately 39 sqm.
5. The Framework states that inappropriate development is, by definition, harmful to the Green Belt. All development is inappropriate unless, in the case of any new building constructed, it falls within one of the exceptions referred to in paragraph 89 of the Framework. This would include the extension of an existing building which, provided that it does not result in disproportionate additions over and above the size of the original building, would not necessarily amount to inappropriate development.
6. There is no clear guidance within national policy over what may, or may not amount to disproportionate additions. However, Policy R5 of the Rochford District Replacement Local Plan (LP) indicates that extensions to dwellings in the Green Belt outside of the rural settlement areas will be restricted in size, and states a maximum floorspace figure of 35 sqm.
7. Both parties agree that the original building was erected in the 1930's as a timber structure which had only a lounge, bedroom and hallway, and was without basic services. The Council estimates that this building had a floor area of only some 29 sqm, and the appellant doubts whether it could have been termed as habitable accommodation. The planning history, certainly up until 2000, is somewhat unclear, although it would seem from the evidence before me that the original building was replaced, with its footprint extended in 1982 by an estimated 39 sqm. Further alterations were subsequently made, including a single storey rear extension, granted planning permission in 2003.
8. In terms of the extra floorspace already added to the original building the Council provides a total figure of approximately 62 sqm. However, the original timber building contained no internal bathroom until 1968 when, the Council indicates, a small bathroom of less than 5 sqm was incorporated. On the information before me it would not have been until 1982, when the original building was virtually replaced and the original floorspace doubled in size, that the building would have resembled anything like a small family dwellinghouse. Reference to LP Policy R5 states "*the total size of the dwelling as extended will not exceed the original habitable floorspace by more than 35 sqm.*" As such, it would not be unreasonable to take, as the starting point, the building as extended following the 1982 permission. Nonetheless, when factoring in the

additional floorspace now proposed , whether taking a cumulative increase of some 93 sqm, as advocated by the Council, or, alternatively, a lesser figure of just over 60 sqm, which I have explained, in the context of Policy R5, it would still represent a significant addition over and above the form of the 'original' building.

9. Overall therefore, the proposal would represent inappropriate development for the purposes of the Framework. This, by definition, is harmful to the Green Belt and I attach substantial weight to this harm.

#### *Openness*

10. The Framework states that an essential characteristic of Green Belts is their openness and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land within them permanently open. In this particular instance the Council, whilst considering that the proposal would have only a limited impact on neighbouring properties, not least from existing vegetative screening, comments that it would cause harm to the Green Belt's openness. However, there is no explanation put forward as to the actual harm that would be occasioned and how.
11. Openness is not defined, but it is commonly taken to be the absence of built development. In this regard the appellant indicates that the proposal represents only partial infill immediately to the rear of the house rather than an extension which would project deep into the rear garden and which would have a more pronounced impact on the Green Belt's openness. The proposal would extend the southern flank wall into the bungalow's rear decking area to align with the deeper northern flank, and the section of decking between would be built over with the rear elevation effectively squared off. The rear garden proper, which is a substantial open area of grassed land, is at a slightly lower level and would remain intact and untouched by the development. As such, I am mindful that the proposed extension would be largely contained within the bungalow's envelope.
12. On this issue I have also taken account of the site's contextual setting. With the proposed extension being to the rear of the dwelling, and with the central section's roof shown to be lower than the main dwelling the development would not be visible from Rosilian Drive itself. Due also to mature screening and the appeal property being angled away from 'Hylten', along with the considerable distance between, the development would not be visible to its occupants. Further, to the rear of the appeal property's back garden is an open field which acts as a buffer to a caravan site beyond.
13. In the circumstances I do not consider that the positioning of the proposed development would materially change the public perception of the site given the limitations on its visibility which I have described. I conclude that the development would preserve the openness of the Green Belt, and would not conflict with either Local Plan policy or the Framework.

#### *Character and appearance*

14. In addition to the mathematical calculations made on the first main issue I have also had regard to the scale and appearance of the proposed addition as it would appear in relation to the existing dwelling. My overall perception is that

the proposed extension, due to its positioning and height, would be subordinate to the host dwelling. Further, there is no defined or common character, either to the dwellings in the immediate vicinity or 'The Conifers' itself; the latter having been previously altered and extended in a somewhat piecemeal fashion. As such, despite the proposed floorspace increase of some 39 sqm, I consider that the extension would not be a dominant addition and would satisfactorily integrate within the main house and also its setting. I consider that the character of the dwelling would be unchanged whilst there would be no change in its appearance evident from Rosilian Drive.

15. On this main issue I thereby conclude that the proposal would not be harmful to the character and appearance of the appeal property.

*Whether very special circumstances exist to outweigh any harm identified on the first three issues*

16. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

17. I have found the proposal to be inappropriate development within the Green Belt and I have therefore proceeded to assess whether there are material considerations in this case which constitute very special circumstances to outweigh the perceived harm to the Green Belt.

18. Although normal householder permitted development rights to extend the dwelling under Class A were cancelled by way of a Legal Agreement entered into in 1982, the appellant mentions that, via the Class E entitlement, an alternative plan exists to erect a L-shaped outbuilding which would create a courtyard space outside the rear elevation. This may or may not be the case, but I am mindful of the two-storey accommodation provided by the neighbouring dwellings and, despite the stated need for additional floorspace at the appeal dwelling, the proposal is not to create a second storey or roofspace accommodation but, instead, to extend largely in the form of infill at the dwelling's rear. I have also had regard to the disproportionate size of the existing dwelling's footprint compared to its substantial curtilage area and, given the way the dwelling has evolved, I am satisfied that squaring off its rear elevation would now create the additional floorspace to constitute a family-sized dwelling appropriate to its context.

19. I consider that the above points together are sufficient to outweigh the totality of harm that I have identified. The substantial weight I have attached to this is therefore itself outweighed and the very special circumstances necessary to justify the development have been demonstrated.

*Other matters*

20. I have had regard to the Council's reference to its emerging Local Development Framework Development Management Submission Document (DMD). Emerging Green Belt policy thereto suggests that a floorspace increase of up to 25% over and above that of the existing dwelling would be looked upon favourably. Whether such a percentage figure would be more or less favourable to the proposal is of little consequence here as I have not been provided with any information to suggest that the DMD has moved to adoption, and I must attach



only limited weight to emerging policy documents. I also note the objection from Hullbridge Parish Council but this has not affected my conclusions.

### **Conclusions**

21. Although I have identified the proposal to be inappropriate development due to the disproportionate increase in the size of the floorspace above that of the original dwelling, I have found that it would affect neither the openness of the Green Belt nor the character and appearance of the property. Moreover, I have concluded that material considerations exist which constitute very special circumstances to outweigh the perceived harm to the Green Belt by reason of inappropriateness. Accordingly, I allow the appeal and have imposed conditions requiring the use of matching external materials and also, in the interests of proper planning and for the avoidance of doubt, that the development shall be implemented in accordance with the approved plans.

*Timothy C King*

INSPECTOR