

Raymond Stemp Associates

Planning and Development Consultants

e-Newsletter

October 2009

Appeal Case

Extension allowed in Green Belt

RSA represented the Appellant, Mr W Ballam, at an appeal, following the refusal of planning permission by Brentwood Borough Council for a first floor extension at Dudbrook Cottage and White Cottage, Howard Lodge Road, Navestock.

The appeal property constitutes a pair of semi-detached dwellings located within the Metropolitan Green Belt with a limited amount of sporadic development in the vicinity, including a care home.

The main issue in this appeal was whether the appeal proposal would be inappropriate development within the Green Belt and if so, whether very special circumstances exist which would clearly outweigh the harm by reason of inappropriateness and such other harm identified. The appropriate policy of the Replacement Local Plan states that the size of the extension to dwellings in the Green Belt should not exceed the original habitable floor space by more than 37 square metres.

The Planning Inspector, Mr Ray Yorke, indicated that although the floor space figures supplied by the parties, differed, it was clear even on the Applicants lower figure that the proposed extension to Dudbrook Cottage, taken together with the extension already built, and making an allowance for habitable floor space, which existed in the demolition of the outbuilding, the proposals would exceed the 27 square metres set out in planning policy. The Inspector concluded that the evidence would be inappropriate development in the Green Belt which by definition would be harmful.

However, in considering very special circumstances, the Inspector referred to the various calculations of the additional floor space supplied by the Council as ranging from 1 metre to just over 5 metres. The Inspector considered that all the figures showed a relatively minor increase in floor space over the policy limit and he took into account that the additional floor space would be at first floor level with no increase in the footprint of the dwellings.

The Inspector, therefore found that the proposal would be inappropriate development in the Green Belt, but that it would not

affect the openness of the Green Belt and he also found that the very special circumstances were sufficient to outweigh the harm by reason of inappropriateness in this case. He granted planning permission subject to conditions.

V.A.T

Increase

In January 2010 the rate of V.A.T will be increased from 15% back to 17.5% rate which existed before the credit crunch started. There is just enough time to get these projects started now and so to avoid the increase in V.A.T.

If you have a project in line, do give RSA a call, and we will use our best efforts to get the project underway in order to save you paying the increase in V.A.T. A quick start is needed if this objective is to be achieved.



Appeal Case

Flats allowed in Romford

RSA represented the Appellant Company, Gainsgrove Limited, at a planning appeal hearing following the refusal of planning permission by the London Borough of Havering for the development of a vacant site in Victoria Road, Romford, with a three storey block of five flats. The proposed development would be constructed by using a highly energy efficient and sustainable pre-fabricated building system developed in Holland called "Spacebox". This would be the first development to use this system in the UK. Private communal amenity space would be provided at the rear garden and a roof terrace, while three on-site parking spaces would be provided at the front of the property.

The appeal site, which is located within ten minute walk of Romford town centre, adjoins a two storey terraced houses on one side and a large four storey block of flats on the other. The Planning Inspector, Mr J Mansell Jagger, considered that Victoria Road is undistinguished architecturally and contains a variety of building

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Raymond Stemp Associates Ltd, Registered Office: Aquila House, Waterloo Lane, Chelmsford, Essex CM1 1BN

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types and styles ranging from two storey terraced and semi-detached houses with pitched roofs to three and four storey blocks of flats with flat roofs. The Council described these blocks of flats as “anomalies” but the Inspector considered that as these buildings have formed part of the street scene for many years they cannot be ignored when considering the context of the proposed development.

On the question of the effect of the development on the character and appearance of the area the Inspector concluded that the proposed building would be neither incongruous or over-dominant nor visually intrusive in the street scene, but would enhance the appearance of the site and surroundings.

On the question of the size of the amenity space the Inspector considered that although there would be a notional shortfall against the SPG standards, he considered that there would be sufficient space to provide an attractive and usable area of amenity space for all five flats, particularly having the benefit of a southerly aspect. The Inspector noted that as the new building would be northeast of the adjoining house, there would be no loss of sunlight or any direct overshadowing and that the building had been designed to maintain a 45 degree sight line from the bedroom window and in addition it had not been demonstrated that there would be any significant reduction in daylight received. For these reasons the Inspector concluded that there would be no material harm to the living conditions of future occupiers of adjoining residents and that the proposal would not conflict with the Council's adopted policies.

It was found that the proposal would provide an adequate level of car parking that would accord with national guidance and the Council's adopted standards.

The Planning Inspector therefore concluded that he found no compelling reason to alter his conclusion regarding the acceptability of the proposal and he therefore granted planning permission subject to a number of conditions.

Costs awarded against London Borough of Havering

RSA acting on behalf of the Appellant Company in the above appeal submitted an application for an award of costs arising from the Council's unreasonable behaviour.

The Planning Inspector agreed that the Council failed to give sufficient weight to Government guidance in PPS3 to make the most efficient use of previously developed land within the built-up areas and in particular it failed to recognise the sustainability of the location of the appeal site. In addition, national planning policy and the Council's own policies and SPGs clearly indicate the need for flexibility on the amount of private amenity space and the number of car parking spaces to be provided in a location such as this. The Inspector found the Council's assertions on these matters to be unsupported by any objective analysis. In addition, the Inspector considered that the Council misconstrued the area's character and failed to recognise the variety of building types and sizes.

The Inspector went on to say that the Council produced no evidence to demonstrate why the development would be “incongruous, dominant and visually intrusive” or to show why the contemporary design proposed would be inappropriate in this location. The Council also failed to show that the level of car parking and amenity space provided would result in any material harm to highway safety or residential amenity.

The Inspector acknowledged that it was reasonable for Members to exercise their own judgement, but in the Inspector's view, the Council failed to produce any substantive evidence to support the reasons for refusal and for not accepting the officer's clear recommendations. He said that Members could have sought to defer consideration of the application for a site visit or to seek amendments.

The Inspector concluded that the Council had acted unreasonably both in its unsupported reasons for refusal and in its defence of the appeal. He therefore awarded a full award of costs in favour of the Appellant Company.

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