



Appeal Decision

Site visit made on 3 December 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2021

Appeal Ref: APP/V1505/W/19/3244082

Land rear of Willow Farm, Orchard Road, Ramsden Bellhouse, Billericay CM11 1RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Webb of Willow Farm Developments against the decision of Basildon District Council.
 - The application Ref 19/01192/OUT, dated 6 August 2019, was refused by notice dated 19 November 2019.
 - The development proposed is provision of 10 houses, including 4 affordable units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address differs between the application forms and the Council's Decision Notice. For clarity and precision, I have used the address as provided on the application forms.
3. The planning application is submitted in outline with all detailed matters reserved for a subsequent approval. An indicative layout (Drawing No. 19/2808/02) accompanies the outline planning application and I have taken this into account in so far as establishing whether or not it would be possible, in principle, to erect ten dwellings on the site.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the proposal would result in an unacceptable flood risk; and
 - 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

Inappropriate development

5. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Paragraph 145 of the Framework identifies that the construction of new buildings should be regarded as inappropriate development in the Green Belt, other than in respect to a limited range of specified exceptions. These exceptions include limited infilling within villages and the provision of affordable housing for local community needs under policies set out in the development plan.
7. Policy BAS GB1 of the Basildon District Local Plan Saved Policies (2007) (BDLP), identifies the boundaries of the Green Belt. The Council have commenced the preparation of a Revised Publication Local Plan 2014-2031 (RPLP). Policy GB1 of the RPLP identifies that the Council will continue to protect the openness and permanence of the Green Belt, with development only being permitted in very special circumstances, if it is not inappropriate, or if it accords with an adopted Neighbourhood Plan. Whilst the RPLP has not yet been subject to independent examination, in this regard the Policy is consistent with the Framework, and therefore attracts moderate weight.
8. The appeal site comprises an open, undeveloped area of land. To the north is a railway embankment, to the south is an area of woodland and beyond both of these features are open fields. The western boundary of the site comprises the rear boundaries of the properties on Orchard Avenue. To the east are open fields. Consequently, having regard to the situation on the ground, the appeal site lies within the open countryside and does not form part of the village. As a result, the proposed development would not meet the exceptions identified in Paragraph 145 with regards to limited infilling in a village. Even if I were to conclude that the site fell within the village, I do not consider that the development of 10 houses would be limited. Neither, due to the nature of its surroundings, would the proposal comprise infilling development.
9. The appellant has drawn my attention to the Council's Strategic Housing Land Availability Study (SHLAS), along with the designation of Ramsden Bellhouse as a Neighbourhood Area, within which the Local Plan has set a target of 39 dwellings to be delivered via a Neighbourhood Plan (NP). Paragraph 136 identifies that Green Belt boundaries should only be altered in exceptional circumstances through the preparation or updating of plans. As yet however, no NP has been prepared for the area, therefore there are no policies within the development plan, or any emerging plans, that identify the site as being suitable for development, or to suggest any alterations to the existing Green Belt boundaries in respect of the appeal site.
10. Paragraph 146 identifies that certain other forms of development are also not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. The appeal proposal does not fall within any of the identified forms of development contained within this Paragraph.

11. It has not been put to me that the proposal would not be inappropriate development in the Green Belt for any other reason and I have found no reason to believe that it would. Therefore, when assessed against the relevant sections of the Framework and the adopted policies in the BDLP and the emerging policies on RPLP, the proposed dwelling would represent inappropriate development within the Green Belt.

Openness

12. The essential characteristics of Green Belts are their openness and their permanence. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development.
13. The appeal proposal would introduce ten dwellings into a location that is currently devoid of any built development. The erection of the new dwellings, along with associated residential activity and paraphernalia, would therefore inevitably result in the significant loss of openness across the site.
14. Whilst parts of the site are screened from public views, the overriding characteristic of the appeal site is one of openness, with wide and far reaching views across the open countryside. Therefore, in both spatial and visual terms the proposal would have a significantly greater impact on the openness of the Green Belt than the existing situation. This would be contrary to the Framework where it states an essential characteristic of Green Belts are their openness. The proposal would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. Furthermore, it would fail to assist in safeguarding the countryside from encroachment.

Flood Risk

15. The appeal site is located within Flood Zone 1, which means that it is at the lowest risk of flooding. The Framework however identifies that for sites of one hectare or more, proposals should be accompanied by a site-specific flood risk assessment.
16. The appeal application is supported by a Flood Risk Assessment which concluded that, provided the recommended mitigation measures in the report were put in place, flood risk to the appeal site would be reduced to an acceptable level. The proposed mitigation measures would include regular maintenance of any existing and proposed drains and culverts surrounding, or on the site; and the preparation of a Sustainable Drainage Strategy (SuDS) for the Site to manage surface water over the lifetime of the proposed development. The delivery of such a strategy could be secured through an appropriately worded planning condition.
17. Having reviewed the supporting information, and with no evidence before me to demonstrate the contrary, I conclude that the development would not have an adverse impact on flood risk, either for the future occupiers of the development or in relation to increased flood risk elsewhere. The proposal would therefore comply with Policy CC4 of the RPLP.

Other considerations

18. It is acknowledged that the Council, at this moment in time, are unable to demonstrate a 5 year supply of housing land. From the information before me, I see no reason to disagree with this position and I have therefore determined the appeal on this basis.
19. Paragraph 11 of the Framework states that where relevant policies are out of date, permission should be granted, unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 of the Framework specifies that Green Belt is included within such protected areas. As I have already found that the Framework policy relating to Green Belt in Paragraph 143 indicates that development is inappropriate, such that, notwithstanding the current absence of a Framework compliant supply of housing land, the tilted balance does not apply in this case.
20. However, the proposal would provide much needed housing. The proposal would therefore make a contribution to the provision of housing and assist the Council to achieve its targets.
21. On sites with an area of one hectare or more, Policy BAS S5 of the BDLP requires between 15% and 30% of the total number of new homes to be affordable. The 2015 Basildon Borough Council Planning Obligation Strategy requires an affordable housing provision equivalent to 36% of dwellings on the site. Policy H26 of the RPLP, requires 31% affordable housing provision on all sites of 11 units or more, with a tenure split of 70% affordable rent and 30% intermediate housing. The proposal makes provision for four affordable homes. Whilst this level of provision would comply with the development plan, there is a disagreement between the parties in relation to the exact tenure mix. The provision of affordable housing could bring public benefits. However, there is no mechanism before me with regard to the delivery of these units. Consequently, I can give this benefit only limited weight.
22. The appellant has submitted that the development would provide the opportunity for self-build homes and would include improvements to the site through enhanced public access and the provision of bio-diversity enhancements and new tree planting. These are also benefits of the proposal.

Green Belt Balance

23. When assessed against the Framework and the relevant development plan policies, I have found that the proposal would be inappropriate development within the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm. I have also found that significant harm would be caused to the openness of the Green Belt.
24. 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 resulting from the proposal, is clearly outweighed by other considerations.
25. I consider that the proposal does deliver some positive benefit in the form of new dwellings, along with the provision of affordable housing. However, with no mechanism before me for their delivery, I attribute little weight to the latter.

26. The proposal would also deliver economic benefits during the construction phase of the development and support existing local services and facilities once the homes are occupied. Social and environmental benefits would also be provided through the provision of improved public access to the site, along with the proposed biodiversity enhancements and the new tree planting. These factors weigh in favour of the proposal.
27. Furthermore, I note that the Council raise no other issues in relation to ecology, highways and impact on neighbouring occupiers, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.
28. However, considering the substantial weight and national importance to protecting the Green Belt, all of the considerations that weigh in favour of the proposal do not clearly outweigh the identified harm to the Green Belt, so as to amount to the very special circumstances necessary to justify the development.

Other Matters

29. The site is located within close proximity of the Benfleet and Southend Marshes Special Protection Area. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. Thus, given my overall conclusion on the main issues it is not necessary for me to consider this matter in any further detail.

Conclusion

30. For the above reasons, and having taken all matters into consideration, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR