
Appeal Decision

Site visit made on 22 November 2016

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/V1505/W/16/3153887

Auckland, Hovefield Avenue, Basildon, Essex SS12 9JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Andrew Whitby against Basildon District Council.
 - The application Ref 12/00286/OUT, is dated 24 February 2016.
 - The development proposed is "Outline planning permission to develop land for housing".
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matter

2. The application was submitted in outline with all matters reserved. An accompanying site layout plan has been treated as illustrative only.

Main Issues

3. The site is within the Green Belt and so the main issues are:
 - whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework);
 - the effect of the use of the access arrangements on the safety of pedestrians, cyclists and roads using the surrounding roads;
 - affordable housing provision;
 - whether the proposed houses would be safe from flooding;
 - whether the proposal makes adequate provision for any additional need for education arising from the development; and
 - if the proposal is inappropriate development, whether the harm caused 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 it.
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Reasons

Inappropriate development

4. The National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate unless they fall within exceptions listed in paragraphs 89 or 90.
5. The application site comprises the curtilage of a residential property at Auckland, residential properties and a field. Apart from the field, these areas consist of small number of dwellings and various buildings which would be considered as previously developed. The illustrative plan proposes 33 dwellings on the site. Although this plan is indicative only, the size of the appeal site at 1.10 hectares together with the description of the application and Appellant's appeal documentation would confirm a substantial and comprehensive re-development of the site.
6. On this basis, the exception to be considered is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Given the extent of the development proposed, there would be a greater scale of built form on the site than present which would have a greater impact on the openness of the Green Belt. For the similar reasons, the proposal would conflict with a purpose of the Green Belt in that it would not check the unrestricted sprawl of large built-up areas.

Highway safety

7. By reason of the substantial and comprehensive re-development of the site, there would be a material increase in the number of vehicles using the access from Hovefields Avenue onto the A127, the Southend Arterial Road. In the absence of further information of the traffic flows arising from the housing and access points into the site, I am unable to assess whether there would be severe impact on the highway safety of road users in the vicinity. In this regard, the Highway Authority support this view by raising an objection and requiring a Transport Statement.
8. In conclusion, I can only conclude that there would be harm to the safety of the highway users. Accordingly, the proposal would be contrary to policy within the Framework which requires all developments that generate significant amounts of movement to be supported by a Transport Statement or Transport Assessment.

Affordable Housing

9. Saved policy BAS S5 of the Basildon District Local Plan Saved Policies (LP) 2007 states that appropriate the provision of affordable housing on suitable sites of 1 hectare or more will be expected. The Interim Planning Obligations Strategy Supplementary Planning Document (SPD) 2015 further sets out a methodology for providing affordable housing. No means of achieving this have been put forward to me either in the form of a legal obligation or suitable planning condition.

10. Given the policy need identified, I consider that provision is necessary based on the evidence before me and would have met the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). In absence of any affordable housing provision, the proposal would be contrary to LP policy BAS S5 and the SPD.

Flood risk

11. The Appellant's Flood Risk Assessment (FRA) indicates that the site is at no significant risk. Essex County Council, as the Lead Local Flood Authority, has raised an objection until a satisfactory FRA has been submitted. It is not clear whether it has considered the submitted FRA or whether it considered that that there were faults with it.
12. The FRA has been carried out taking into account flooding policy within the Framework and associated Technical Guidance. Taking into account Environment Agency flood maps and SBC Strategic FRA (STA) 2010, it states that the site would not be at a significant risk from fluvial, tidal, land, groundwater or sewer sources. There has been no historic flooding associated with the site or immediate surroundings.
13. However there is little detail on how the area is currently drained or how the proposed development would be drained. Representations indicate the existing drainage systems are inadequate causing significant environmental concerns. There is also no sewer system/connection on Hovefields Avenue. The application is outline with all matters reserved but given these comments and the likely extent of built development on the site, the FRA is not comprehensive enough to address flood risk considerations. For these reasons, it has not been demonstrated that the properties on the new development or the surrounding area would not be prone to flooding if the appeal site was to be developed. Accordingly, the proposal would be contrary to the policy of the Framework which indicates new development should be planned to avoid increased vulnerability to flood risk.

Education

14. The Education Authority has indicated a forecast deficit in primary school places in the catchment area. In accordance with Essex County Council's 'Developers' Guide to Infrastructure Contributions', a contribution amount towards the provision of primary school places has been sought. In addition, further contributions towards primary school and secondary school transport is sought because the nearest schools are not within walking distance of the development.
15. However, the Council has not justified whether the contribution sought would amount to a funding or provision of an infrastructure project or type of infrastructure under Regulation 123(3) of the CIL regulations. If it did come within this regulation, there is no evidence as to whether five or more obligations have been entered into to secure the identified education project or infrastructure. Consequently, I am not persuaded that any contribution would be necessary and would meet the statutory tests under Regulation 122 of the CIL regulations. Accordingly, there would be no harm arising from the failure to provide for education on this basis.

Other considerations

16. The Appellant has indicated that a draft Local Plan proposes further residential development within the area for both settled, and gypsy and traveller communities. However, the emerging LP is still at an early stage of preparation with the plan not yet having being subject to examination, and adoption is not due until early 2018. For these reasons, I am not in a position to assess whether there have been or will be any significant objections to the policies. Therefore, the policy could change and I can only give limited weight to the emerging policies.
17. The Hovefields area has been developed in a rather adhoc and incremental manner. Much of the area takes the form of bungalow type developments on plots with outbuildings, caravans and temporary structures. Buildings differ in design, materials and sitings. Accordingly, the surrounding area is discordant in appearance and character. The northern part of the appeal site has some of these qualities but within the site, there is also the garden area of Auckland with trees and vegetation and a field to the side of this. The re-development of the northern part of the site could improve its appearance but by introducing a substantial extent of development onto the garden area of Auckland and the field, any overall improvement in character and appearance would be limited. Furthermore, the redevelopment of the site would do little to change the appearance and character of the surrounding area. For all these reasons, the environmental improvements would not be great and accordingly I attach only limited weight to this consideration.
18. The proposal would boost housing supply in a District which does not have a five year housing supply. Given the substantial and comprehensive nature of the proposed development, the number of dwellings coming forward would be of value. For this reason, I attach some significant weight to this consideration.
19. It has been argued that the new development could remedy the existing drainage and sewerage connection systems in the area. However it is unclear as to how this would be achieved based on the lack of details. A failure by the Council to take enforcement action against unauthorised developments is not be a matter for this appeal and does not relate to the merits of the proposal before me. Consequently, I can give no weight to these considerations.
20. There is support from the Hovefields and Honiley Avenue Neighbourhood Forum. However, the grounds for support have not been detailed and so I can only give limited weight to this consideration. Although an area is designated, the Neighbourhood Plan has not been formally drafted as yet and thus, I cannot ascertain whether the proposal would comply or conflict. Thus, I can give no weight to this consideration.

Conclusion

21. The proposal would be inappropriate development in the Green Belt which is by definition harmful. There would also be a loss in openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt.
22. There would also be harms arising from the severe impact on the highway safety of road users, the failure to provide affordable housing and adverse flood

risk. In favour of the proposal, the emerging LP policy would encourage development on the appeal site. There would be improvement to the character and appearance of the area and some local support for the proposal. It would also provide dwellings contributing to housing land supply. Nevertheless, for the reasons indicated, I can only give limited or small weight to these benefits.

23. The proposal would boost housing supply but Planning Practice Guidance¹ states that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute very special circumstances. Accordingly, the the absence of other harm and the benefits identified fail to outweigh the harm to the Green Belt and other identified harms. Consequently, very special circumstances needed to justify the proposal do not exist.
24. For all these reasons, the proposal would conflict with saved Policy BAS GB1 of the Basildon District Local Plan Saved Policies 2007 which state that the boundaries of the Green Belt are drawn with reference to the foreseen long term expansion of the built up areas acceptable in the context of the stated purposes of the Green Belt.
25. For the reasons given above and having regard to all other matters raised, including support, I conclude that the appeal should be dismissed and planning permission is refused.

Jonathon Parsons

INSPECTOR

¹ Paragraph 34 ID:3-034-20141006.