
Appeal Decision

Site visit made on 28 February 2017

by Stephen Hawkins MA MRTPI

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

Decision date: 29 March 2017

Appeal Ref: APP/X0415/W/16/3160901

Homestead, Burtons Lane, Little Chalfont HP8 4BL

- 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 Smyth of Homestead Rel Ltd against the decision of Chiltern District Council.
 - The application Ref CH/2016/1517/FA, dated 12 August 2016, was refused by notice dated 12 October 2016.
 - The development proposed is demolition of existing agricultural units and construction of three detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is in the Metropolitan Green Belt. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in saved Policy GB2 of the adopted Chiltern Local Plan 1997 (LP) and paragraph 89 of the National Planning Policy Framework (the Framework). I share that conclusion. Therefore, the main issues in this appeal are:
 - The effect of the proposal on the openness and purposes of the Green Belt.
 - The effect on the character and appearance of the area.
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal site mainly consists of a group of former agricultural buildings and a tennis court, occupying a broadly rectangular area of land adjacent to a substantial detached dwelling, 'Homestead'. Two of the buildings have recently received prior approval from the Council for their change of use to single dwellings¹. However, during my site visit I observed that neither change of use had taken place. Vehicular access is obtained from Burtons Lane via a long private drive shared with the existing dwelling. To the north are the back

¹ References CH/2016/0843/PNAD & CH/2016/0845/PNAD.

gardens of the detached residential properties fronting Loudhams Wood Lane, with open fields to the south and east.

Green Belt openness and purposes

4. The proposed dwellings would be arranged in a row, occupying part of the area of the existing buildings and the adjacent hardsurfaced yard. According to the details supplied, the cumulative footprint of the proposed dwellings would be about a third smaller than that of the existing buildings.
5. Paragraph 79 of the Framework advises that openness is an essential characteristic of the Green Belt. Openness is accepted as meaning an absence of buildings or development. I have been referred to a passage in a recent decision of the Court of Appeal² to support the appellant's position that the proposed dwellings would increase the openness of the Green Belt. However, in a more recent case³, the same Court has confirmed that the concept of openness includes a visual as well as a spatial element. I have also been referred to an appeal decision where openness was considered separately from matters of visual impact⁴. Even so, that decision pre-dates the recent case law. It therefore follows the footprint of built form alone is not the determining factor in the consideration of the effects of a development on openness; the size, height and overall bulk of the proposed dwellings are also relevant factors.
6. On account of the proposed dwellings being of a height similar to nearby dwellings, they would be around double the height of the existing buildings. The proposed dwellings would also have a much greater volume than the existing structures. As a result, they would have substantially increased size, height and overall bulk in comparison with the existing buildings. Although the spread of built form would be reduced in comparison with the existing buildings, the close grouping of the proposed dwellings would emphasise their cumulative size and bulk. This would be apparent at points along Burton Lane and from nearby residential gardens. The gardens of the proposed dwellings would incorporate land to the south of the tennis court, resulting in new boundary enclosures on land that is currently largely open. Consequently, the proposed dwellings would result in a reduction of the openness of the Green Belt.
7. Accordingly, I find that the proposal would significantly erode and thereby substantially harm, the openness of the Green Belt. The proposal would therefore represent an encroachment into the countryside, conflicting with one of the five purposes of Green Belts listed at paragraph 80 of the Framework. In accordance with paragraph 88, substantial weight must be afforded to the harm to the Green Belt.

Character and appearance

8. The existing buildings on the appeal site have a simple, functional appearance typical of many agricultural buildings and they mostly have a low profile. They are situated in an area that could aptly be described as having a semi-rural character and appearance. This is due to the location beyond the more built-up part of Little Chalfont, adjacent to open fields. Consequently, the existing

² R (Lee Valley Regional Park Authority) v Epping Forest DC [2016] EWCA Civ 404.

³ John Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466.

⁴ Ref: APP/Y3615/A/12/2168295

buildings are accepted features in their surroundings and visually, the appeal site relates more readily to the adjacent fields as opposed to the nearby housing.

9. The proposed dwellings would reflect the design and scale of nearby residential properties and they would have a similar plot size. However, due to their substantial overall size, height and bulk as well as their closely arranged siting, the proposed dwellings would have an assertive, more built-up and obviously residential appearance in their surroundings. This would be entirely at odds with the more rural characteristics of the appeal site and the adjacent fields. The existing planting on the northern boundary of the appeal site and elsewhere in the vicinity would not significantly offset the adverse visual effects identified above.
10. Consequently, the proposed dwellings would appear as harsh and alien features in their surroundings, particularly in views from Burtons Lane and from nearby residential gardens and they would be seen as an obvious, residential intrusion into the otherwise mainly rural surroundings. As a result, the proposed dwellings would have an unacceptable adverse effect on the character and appearance of the area. The visual impact of the proposed dwellings would be substantially greater than that which would arise from implementing the prior approvals, as there are unlikely to be significant changes to the external appearance of the existing buildings or the land within their curtilages.
11. As a result, the proposal would not accord with saved LP Policy GC1, as it would not be in scale with the surroundings, it would not relate well in terms of overall dimensions to the landscape features which form the setting of the appeal site and it would not relate well to the characteristics of the appeal site.
12. The proposal would also not accord with Policy CS20 of the adopted Core Strategy for Chiltern District (CS) as it would not achieve a high standard of design, reflecting and respecting the character of the surrounding area and those features which contribute to local distinctiveness. The failure to promote or reinforce local distinctiveness would also be inconsistent with paragraph 60 of the Framework and would not adequately reflect the importance placed on good design as a key aspect of sustainable development at paragraph 56.

Other considerations

13. No evidence has been presented to dispute the appellant's claim that the Council does not have a 5-year supply of housing land. Therefore, in accordance with paragraph 49 of the Framework I have to regard the Council's policies for the supply of housing land as not being up-to-date. In accordance with case law⁵, this would include Policy GB2. However, as the appeal site is in a Green Belt, in accordance with paragraph 14 and footnote 9 there are specific policies in the Framework which indicate that development should be restricted. Moreover, the Planning Practice Guidance⁶ advises that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development within the Green Belt.

⁵ Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East, SCLG [2016] EWCA Civ 168.

⁶ Housing and economic land availability assessment Paragraph: 034 Reference ID: 3-034-20141006.

14. When assessed against the objectives of sustainable development, the proposal would have to achieve the three mutually dependent roles at paragraph 7 of the Framework- economic, social and environmental. The proposed dwellings would be on a 'windfall' site, boosting the supply of new housing in accordance with paragraph 47 of the Framework in a location which is accessible to local facilities, services and public transport links by means other than the private car. Given that there is a shortfall in housing land supply, this benefit has to be afforded some weight. However, the benefit would be modest. It would also only be slightly greater than that arising from the two dwellings granted under prior approval; this has the effect of limiting the scale of the benefit.
15. In addition to the modest social benefit identified above, the proposal would provide a small economic benefit, notably in terms of short-term employment in the construction sector during the building phase. However in this instance also, the benefit would only be marginally greater than that which would arise from implementing the prior approvals. There would be adverse social and environmental impacts arising from the proposal as a result of the failure to create a high quality built environment and the failure to contribute to protecting and enhancing the natural and built environment. As the proposal would not achieve the social and environmental roles, it would not be sustainable development as meant by the Framework.
16. I have been referred to the 'Green Belt Preferred Options Consultation' document published by the Council last year in connection with its preparation of a new joint Local Plan with a neighbouring authority. In the document, the appeal site forms part of a larger area of land south east of Little Chalfont that the Council proposes to remove from the Green Belt. However, the new Local Plan is at a very early stage in its preparation. At paragraph 79, the Framework advises that an essential characteristic of Green Belts is their permanence. Consequently, in accordance with the advice in paragraph 216, I have given this document weight.
17. I accept there is a realistic prospect that the prior approvals will be implemented, resulting in two new dwellings within two of the existing buildings together with their associated residential curtilages. However, for the reasons set out above the effects of the prior approvals would be significantly less harmful than the appeal scheme. Therefore, the prior approvals do not represent a 'fallback' position that might otherwise justify the proposal. Nor can they establish the principle of further residential development at the appeal site.
18. I have also been referred to two appeal decisions concerning a residential development for 56 dwellings⁷ and 110 dwellings⁸ in areas administered by nearby Councils, where the absence of a 5-year supply of housing land weighed in favour of granting permission. However, neither of those sites were in a Green Belt and due to their scale, the benefits offered by those schemes in terms of boosting housing supply were substantial. Consequently, neither of the decisions referred to are directly comparable with the appeal scheme.
19. The proposal would not cause unacceptable harm to the living conditions of the occupiers of adjoining residential properties or highway safety conditions. These are neutral factors which neither weigh in favour or against the proposal.

⁷ Ref: APP/J1915/A/14/2224660.

⁸ Ref: APP/Q3115/A/14/2217931.

20. I have also taken the representations made by interested local residents, the Parish Council and the Chiltern Society into account. In addition to the main issues, the matters raised include alleged increases in noise, air and light pollution, noise and disturbance during the construction phase, harm to local wildlife and a lack of capacity in infrastructure and local medical services. However, as I do not have any firm evidence before me in relation to any of these matters, I have afforded them little weight.

Planning Balance

21. Whilst there may be an undersupply of housing land, the proposal would make a very modest net contribution to boosting that supply. The other benefits arising from the proposal are limited. Therefore, the other considerations would not clearly outweigh the totality of the harm to the Green Belt. There would also be harm to the character and appearance of the area. Accordingly, the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would be inconsistent with the Framework and it would not accord with the Development Plan.

Conclusion

22. The proposal would be inconsistent with the Framework, it would not accord with Development Plan and for the reasons given above I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR