
Appeal Decision

Hearing held on 6 June 2017

Site visit made on 6 June 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 6th July 2017

Appeal Ref: APP/B1550/W/16/3162052

Ashingdon Hall, Church Road, Ashingdon, Essex, SS4 3HY

- 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 Ms Maureen Stewart (c/o Mavis Wood Ltd) against the decision of Rochford District Council.
 - The application Ref 15/00595/FUL, dated 14 August 2015, was refused by notice dated 29 April 2016.
 - The development proposed is single storey extension to existing building to create self-contained, state of the art, 15 bedroom dementia facility.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Ms Maureen Stewart (c/o Mavis Wood Ltd) against Rochford District Council. This application is the subject of a separate Decision.

Procedural Matters

3. A number of documents were submitted by the appellant prior to the Hearing relating to the Council's second reason for refusal and in support of the need for the proposal, as set out at the end of this decision. The parties agreed that such evidence was integral to the main issues and because the Council and interested parties had not been able to respond prior to the Hearing an adjournment was taken to consider them. Consequently I find there would be no prejudice to any party from my consideration of these documents in determining the appeal and I have therefore taken them into account.

Preliminary Matter

4. At the Hearing the appellant helpfully clarified that there is no dispute that the proposal lies within the Green Belt and would constitute inappropriate development within the Green Belt, as defined by the National Planning Policy Framework ('the Framework'). Furthermore, that the harm by reason of inappropriateness should be given substantial weight. On the evidence before me I concur with that position.

Main Issues

5. Given the above, the main issues are:

- The effect of the proposal on the openness of the Green Belt and the purposes of including land within the Green Belt.
- Whether the parking provision is acceptable and the effects on highway safety, the appearance of the streetscene and the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.
- Whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Policy context

6. Although there is no reference to policies of the development plan in the Council's first reason for refusal, the Statement of Common Ground refers to Policies GB1 and GB2 of the Rochford District Council Local Development Framework Core Strategy 2011 ('CS'). These policies relate to protection of Green Belt land, allocating the minimum amount to meet the housing and employment needs of the district and prioritising protection of such land subject to how well the land helps achieve the purposes of the Green Belt. The policies also support the continuation of existing rural businesses and rural diversification and recreational uses. The proposal is not covered by any of 4 exceptions within Policy GB2.
7. This approach is carried through in Policy DM11 of the Rochford District Council Local Development Framework Development Management Plan 2014 ('DMP') which allows extensions to existing business premises within the Green Belt, subject to 9 criteria, including consideration of the effects on the openness of the Green Belt.
8. I have also been referred to Policy DM10 of the DMP which relates to Previously Developed Land within the Green Belt which also requires compliance with Policy GB2. The Council also contended that part of the appeal site was part of the residential curtilage of Ashingdon Hall. However, my observations on site lead me to conclude that part of the site did appear to be PDL but the lack of any substantive evidence or explanation from the Council means I am unable to reach any definitive conclusions on the issue of curtilage. In any event, the policy is clear that the five purposes of including land within the Green Belt should not be undermined and that openness should not be harmed.
9. The appellant does not dispute that the approach within the CS and DMP is consistent with the Framework, which, at Paragraph 79 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and permanence.
10. There was also no dispute that the proposal would meet some of the criteria set out within Policies DM10 and DM11. However, the main areas of dispute related to the effect on openness and purposes of including land within the

Green Belt in terms of assisting in safeguarding the countryside from encroachment. The Hearing proceeded on this basis.

Openness and five purposes

11. The appellant has drawn my attention to the Court of Appeal decision in *John Turner v SSCLG and East Dorset District Council* [2016] EWCA Civ 466. This indicated that "[t]he word 'openness' is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents" (paragraph 14).
12. I saw from my visit that part of the appeal site is formed by an existing hardstanding used for the parking of vehicles to the side and rear of the host property. This part of the site also contained a series of single storey and somewhat dilapidated outbuildings that appeared to be in use for stabling and general storage. The appeal site also extends beyond this parking area and into a grassed and open field to the rear which at the time of my visit was being used for the grazing of horses. This open part of the site also contained isolated trees along with landscaping and scrub at its margins.
13. Given the topography of the land which slopes away down towards Carewdon Road there are clear views of open countryside and this part of the site provides a sense of spaciousness and openness that positively contributes to the semi-rural setting of this peripheral part of the settlement.
14. The perceived mass of the building would be reduced by the height, stepped rooflines and setbacks that would break up the elevations. In combination with the use of sympathetic materials, including render and timber the overall appearance would not be incongruous within this part of the settlement, which contains a variety of architectural styles and designs. It would also be partly sited on an area of the appeal site that contains hard surfacing and existing outbuildings.
15. Nevertheless, in any reasonable assessment it would represent a considerable increase in the footprint, volume and scale of built form on the site, as an extension and when compared to the existing structures that occupy part of the site. Furthermore, although of a lower height than the host property the perception from surrounding residential properties and from the open countryside beyond would be a building in a traditional style but clearly perceived as a substantially larger building than existing buildings on the site and any of the surrounding buildings in terms of its footprint, depth and width.
16. Openness of aspect is a characteristic quality of the countryside and safeguarding the countryside from encroachment includes the preservation of the quality of that openness. The proposal would not extend beyond the existing Church Hall building immediately to the east but it would clearly encroach beyond the existing rear building line and garden boundaries of residential properties fronting onto Ashingdon Road. I disagree with the

appellant that this would only '*slightly protrude*'¹ given the siting and overall size, scale and depth of the proposal.

17. As a result, the encroachment of built form into part of an open field would be clearly seen as an encroachment into the countryside. Whilst I accept that part of the site is developed, it is still part of the countryside, and to that extent open. The land would also be further urbanised by the proposed parking and circulation area in the north east corner of the site, introducing a greater level of activity and use from pedestrians and vehicles than presently exists.
18. Overall, the proposal would intensify both the use of site and the amount of built development on it. It would result in a greater and more harmful impact on openness in both spatial and visual terms and amount to a clear encroachment into this part of the countryside. Both parties were of the view that there would be 'moderate' harm in this regard. To my mind and in the context of this particular site and the role that it plays in contributing to the openness of this part of the Green Belt I consider that the use of the term 'moderate', or put another way 'average', somewhat underestimates the effects.
19. For these reasons, the proposal would conflict with Policies GB1 and GB2 of the CS and Policies DM10 and DM11 of the DMP insofar as these require the objectives of the Green Belt to not be significantly undermined and that openness is not harmed. The proposal would also conflict with the fundamental aim of Green Belt policy within the Framework which is to prevent urban sprawl by keeping land permanently open and conflict with the purpose of assisting in safeguarding the countryside from encroachment. In accordance with paragraph 88 of the Framework, I attach substantial weight to this harm.

Parking provision, highway safety, appearance of the streetscene and living conditions

20. The Council's second reason for refusal is based on significant traffic movements associated with the proposal leading to congestion, an increased dominance of parked vehicles on nearby streets, to the detriment of the appearance of the streetscene. Furthermore, that this would result in increased noise and disturbance to the detriment of the living conditions of those occupiers fronting the street.
21. The Council has not expanded much upon its concerns and when questioned Mr Davis expressed a view that he was unsure why members of the Planning Committee took a different view to that given by the Council's officers. I also note that the relevant highway authority considered the development acceptable, subject to conditions – although I am not bound by their assessment.
22. In the absence of any substantial details from the Council to evidence their concerns, the appellant commissioned a Transport Statement which sought to address the parking provision and likely number of trips that would result. Mr. Simpson confirmed that the proposal would result in 13 car parking spaces to serve both staff and visitors to the facility. This would be below the Council's maximum required parking provision of 1 space per f/t member of staff and 1 space per 3 bedrooms.

¹ Paragraph 4.3 of Appellant's Statement of Case.

23. The appellant also clarified that staff shifts were separated between an early, late and night shift and that the proposal would result in a total of 10, 8 and 6 members of staff being present on the site during the early, late and night shifts respectively. I also heard that due to the nature of care, visitors were allowed 24 hours a day, 7 days a week and that between shifts there is a lag of 15-20 minutes in order for staff to changeover.
24. Ashingdon Road is a busy thoroughfare through the heart of the village and contains some on-street parking restrictions around the junction of Church Lane and along stretches of the road. Some on-street spaces were also available in surrounding streets. Neighbouring residents contended that the Church Hall car park was not available for use to address any shortfall in demand which occurs at weekends and during the evening when visitor numbers are likely to be at their peak.
25. Whatever the case may be, in any reasonable assessment the proposal would result in additional trips albeit that this is tempered somewhat by the close proximity of a regular bus service which would be available for staff and visitors and I am also mindful that not all staff would arrive in separate vehicles.
26. There is no evidence before me of any particular highway safety issues associated with on-street parking in this locality. From my observations, albeit during the late afternoon, some spaces were available and there is nothing substantive from either the Council or third parties to demonstrate that any modest increase in potential on-street parking as a result of the proposal would have a harmful impact on highway safety.
27. Furthermore, on such a busy route which had vehicles passing through and stopping off at nearby shops and residential properties, I am not persuaded by the Council's position that additional vehicles parked on street would give rise to a sense of overcrowding in what is a spacious approach into the village. Consequently, there would be no harmful effects in terms of the appearance of the Ashingdon Road or Church Lane streetscenes, the latter of which also contains a length of highway specifically used for the parking of up to 5 vehicles opposite the access to the appeal site.
28. These spaces were not restricted and in the context of such a busy thoroughfare, any increase in on-street parking would be modest and is unlikely to give rise to levels of noise and disturbance that would be harmful to the living conditions of the occupiers of those residential properties fronting Church Lane and surrounding streets.
29. For these reasons, I am not persuaded that the parking provision would not be acceptable and would result in harm to highway safety, the appearance of the Ashingdon Road and Church Lane streetscenes or cause harm to the living conditions of the occupiers of neighbouring properties in terms of noise and general disturbance. In this respect, the proposal would accord with Policy DM31 of the DMP insofar as development should protect and enhance the quality of life within communities.

Other considerations

30. The considerations put forward by the appellant as clearly outweighing whatever harms arise is the need for the development, the high quality design of the proposal and the opportunities to support an existing business.

31. I heard from current practitioners regarding the current state of Dementia diagnosis and existing care provision within the District and the implications of not being able to provide a satisfactory quality of care for those in need. The appellant contends that of the 1297 people with Dementia within the District, roughly a third would be in need of a bed space, taking into account personal choice of those wishing to stay in their own home or hospital. However, only 154 bed spaces are available with demand continuing to rise. The Council did not dispute any of the figures or evidence put forward in this respect.
32. The Council were also unable to provide me with any indication that this need would be met by schemes granted planning permission within the last 5 years or that there is any likelihood of the estimated quantitative requirement being likely to be met, or very nearly so as a result of land being allocated for such uses.
33. The evidence from the appellant to the Hearing also indicated that the serious deficiency in the District is not only a quantitative one but also a qualitative one. In this regard I was provided with copies of Care Quality Commission reports relating to 2 other similar facilities within the District which indicated that in a number of areas the service provided required improvement and in terms of the safety at one home, was inadequate. I heard that this conclusion prevented these facilities from taking on additional residents. Contrasted with this was an Inspection Report for Ashindgon Hall which concluded that the overall rating of the care service provided is good.
34. Thus, there is little doubt to my mind that there is a need for the proposal. Furthermore, in the absence of evidence to the contrary from the Council that need is sufficiently great and sufficiently localised that it ought to, or could only, be met by development on this particular site, on land within the Green Belt, is compelling. Mr Davis suggested that this should be given only moderate weight but taking everything together I consider the need, ability of the appellant to offer a good level of care and the lack of other sites to meet this need is greater than moderate. The proposal would make a modest but valuable contribution towards this shortfall and I attach considerable weight to it.
35. Turning to quality of design I accept the appellant's contention that design is capable of amounting to a very special circumstances. However, all development is required by the Framework at paragraphs 57-59 and the development plan to be of a high quality. To my mind, design must therefore go beyond mere satisfaction of the normal quality of design objectives required by national and local policy.
36. The Framework, at paragraph 63 states that '*great weight should be given to outstanding or innovative design which helps raise the standard of design more generally in the area*'. I have no doubt that great care and consideration has gone into the design of the scheme not least because of its attachment to a Grade II listed building and the high quality of care the appellant seeks to provide. I also heard from the Architect at the Hearing about the design rationale for the proposal.
37. However, the approach to design in terms of its scale and appearance seems to me to not be uncommon given the sensitivity of Ashindgon Hall as a designated heritage asset and the requirements of the development plan. Moreover, I am not persuaded that the design is particularly innovative or exceptional that

would help to raise design standards. Nor am I persuaded that the rationale and resultant scheme is not simply the commonplace approach to designing acceptable living accommodation standards for vulnerable members of society suffering from Dementia. Consequently, I attach little weight to the design quality of the proposal.

38. The proposal would provide some economic benefits through job creation and by supporting an existing business. I attach minimal weight given the likely numbers of jobs that would be created and the lack of any evidence of the consequences for the existing business, were I to dismiss the appeal. I give very little weight to the economic benefits of construction jobs and the additional patronage of village services during construction, given their short term nature. I give no weight, in this particular case, to mere compliance with the normal development management highway safety, character and appearance, amenity and heritage objectives of the development plan and the Framework given its Green Belt location.

Other Matters

39. Ashingdon Hall is a Grade II listed building and I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Notwithstanding my findings in relation to the size and scale of the building in Green Belt terms I am satisfied that the design and appearance of the proposal would preserve the building and its setting. In Framework terms it would not cause harm to the significance of a designated heritage asset.

Planning balance and conclusions

40. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and 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.
41. Whilst weighty considerations, the other considerations put forward do not clearly outweigh the substantial weight that I give to the harm to the Green Belt by reason of inappropriateness, the harm to openness and conflict with one of the 5 purposes. Consequently, the very special circumstances necessary to justify the development do not exist.
42. Even if I were to agree with the appellant that the development plan is silent on the issue of need for such development², Paragraph 14 of the Framework indicates that in such cases permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances, national Green Belt policy provides that to be the case here.
43. Drawing my conclusions together, although I have not found harm to the living conditions of adjoining occupiers in terms of noise and disturbance, harm to highway safety or the appearance of surrounding streetscenes, I have found

² Paragraph 6.7.2 of Appellant's Statement.

substantial harm in terms of inappropriateness, harm to openness and conflict with one of the 5 purposes of including land within the Green Belt. In my view, these are the prevailing considerations and whilst there would be compliance with some aspects of the development plan, the proposal would conflict with the development plan, when read as a whole and the Framework.

44. Material considerations do not indicate that a decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Zack Simons	Landmark Chambers
Mr Clive Simpson MRTPI	Clive Simpson Planning Ltd
Ms Maureen Stewart	Appellant
Lianne Parkin	On behalf of Appellant
Annabel Brown RIBA	Annabel Brown Architects
Lynne Simmons	Essex County Council
Sandra Allen	Father resided at Ashingdon Hall
Michael Davey	NHS

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robert Davis BA MSc	Rochford District Council
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INTERESTED PARTIES:

Mr Terry Flowers	Local resident
Mr Raymond Parfitt	Local resident
Mr Harry Daniels	Local resident
Jacky Penfold	Local resident
Mr David Bolton	Local resident

DOCUMENTS AND PLANS SUBMITTED PRIOR TO THE HEARING

1. Intermodal Transportation Transport Statement, May 2017.
2. Extract from Rochford District Council website – Launch of Rochford parish dementia Action Alliance, 17 January 2017.
3. Department of Health 'The Prime Minister's challenge on dementia 2020', February 2015.
4. Care Quality Commission Eastwood Hall Limited Inspection Report, 6 July 2016.
5. Care Quality Commission Maviswood Limited Ashingdon Hall Inspection Report, 7 July 2016.
6. Care Quality Commission Larchwood care Homes (South) Limited Stambridge Meadows Inspection Report, 6 July 2016.