The Planning Inspectorate

Appeal Decision

Site visit made on 6 June 2017

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: 25th July 20117

Appeal Ref: APP/W1525/W/16/3165603
Land south of Kings Villa, Stock Road, Stock, Billericay CM4 9PH

- 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 Michael Williams (Edan Homes) against the decision of Chelmsford City Council.
- The application Ref 16/00938/FUL, dated 20 May 2016, was refused by notice dated 11 August 2016.
- The development proposed is the demolition of an existing workshop and warehouse (B1) and the construction of a 1no. new 5-bedroom detached dwelling (C3).

Decision

1. The appeal is dismissed.

Procedural Matter

2. There are two different red lines shown for the existing and proposed site on the application plans. For the purposes of the appeal, consideration has been given to the smaller red lined plan as this specially relates to the proposal.

Main Issues

3. The site is within the Green Belt and so the main issues are:

   - Whether the scheme would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan; and

   - If the scheme 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.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate unless they fall within the exceptions listed in paragraphs 89 or 90. The relevant exception to be considered is the 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.

5. Policy DC1 of the Council's Core Strategy and Development Control Policies Development Plan Document (DPD) 2008 (Focussed Review 2013) states that all development proposals must preserve the openness of the Green Belt and planning permission will be refused for development that does not fall into one of the exceptions listed. These exceptions broadly reflect those set out in paragraphs 89 and 90 of the Framework.

6. Turning to openness, this is an essential characteristic of the Green Belt which is commonly taken to mean the absence of built or otherwise urbanising form. The appeal site comprises an area of land set back from Stock Road which is accessed off a long track. There are two dilapidated buildings sited on it. The proposal would result in the demolition of these buildings and replacement with a dwelling on three levels, including a basement. As part of the development, ground levels of the site would be lowered.

7. There is a dispute over the height of the new dwelling. Much of the difference between the two parties derives from the changed ground level of the site. This would result in Stock Road being at a higher level than the ground level around the dwelling. However, the changed ground levels would slope down towards the dwelling which would allow views of the bottom part of the dwelling within the 'dug-out' part of the site. Notwithstanding this, even taking into account the Appellant's lower height of about 5.3m, such a height would be considerably higher than the existing buildings on the site. In this regard, the submitted plans show two buildings with ridge heights of approximately 3.2m and 2.4m.

8. The submitted plans indicate that the existing buildings would amount to a floorspace of approximately 203m^2. Again, there is a dispute regarding the size of the new building with the Appellant giving a figure of around 155m^2 and the Council a figure of around 358m^2. Having assessed the plans, the Council's figure would be more representative of the floorspace increase given the dwelling encompasses three floors and this would demonstrate a significant increase in floorspace. Turning to volume, the submitted plans indicate a figure of 501m^2 for the existing buildings. No equivalent figures for the volume of the dwelling have been provided but given the dwelling would be over three floors, the increased volume would be significant.

9. Sole comparison of existing and proposed floorspace areas can be misrepresentative of how much larger a development may be. However, taken together with the increase in height and volume of the new development, all these considerations would indicate a significant development in terms of scale and bulk. Additionally, the new floorspace would be in the form of one building further emphasising the size of the development. Consequently, there would be a greater impact on the openness of the Green Belt and this would not be preserved.

10. There would be limited public views of the development and landscaping is proposed to screen the development. Whilst there is a visual aspect to openness, openness is also defined in terms of the absence of development or built form and by virtue of the increased size of development, there would be a loss. In any case, the loss of openness can be appreciated from the occupiers of neighbouring properties and landscaping would take some time to establish.

Even once established, there would be significant concerns about the effectiveness of screening. Invariably, there will be understandable and justified requirements from any occupiers, such as achieving a need to achieve a satisfactory lighted living environment, for this not to be fully possible once a dwelling becomes occupied. In summary, there would be an adverse impact on openness and no exception would apply. The proposal would be inappropriate development contrary to DPD policy DC1 and the Framework, which is by definition, harmful to the Green Belt.

Other considerations

11. It has been indicated that the development would remove two structures of rudimentary design which are in a poor state of repair. The new dwelling would be finished in an attractive palate of materials taking into account its context and a residential form of development would not be out of keeping with an area. However there would be a significant increase in built scale and bulk on the site and therefore the proposal would result in modest improvement to the character and appearance of the area.

12. The new dwelling would be on previously developed land. Paragraph 111 encourages the effective use of land by re-using land that has been previously developed (brownfield land). However this is provided that the land is not of high environmental value. Here, the appeal site is within the Green Belt where openness is an essential characteristic which the proposal would affect. Therefore, this consideration is of limited weight.

13. The Appellant indicates an existing lawful use of the site could be undertaken which would have significant environmental and neighbour impacts. However, there is little detailed evidence to confirm this purported lawfulness and the Appellant's claim has been disputed by the Council. Therefore the benefits of negating these impacts remain unproven. Paragraph 80 of the Framework lists five purposes of the Green Belt. By reason of the loss of openness, the proposal would fail to check the unrestricted sprawl of a built-up area, which is large by virtue of the extent of development within the surrounding area, and therefore the purposes of the Green Belt would not be complied with.

14. My attention has been drawn to a planning permission for dwellings on an adjoining site. The Council was satisfied that the site had been continuously used for a ten year period as a commercial yard/builders yard despite the site not benefiting from lawful use. Additionally the residential proposal was assessed to not have a greater impact on the openness of the Green Belt than the existing commercial buildings and associated activity. Contrary to the Appellant's view, this position does not apply here because the Council is not satisfied regarding the lawfulness of the site. As I have indicated, there is no evidence before me of the lawfulness of the use here and additionally, this other site is noticeably larger in area and extent of buildings. Thus, there are differences between the two sites making any meaningful comparison difficult. In any case, this other permission demonstrates that every proposal has to be considered on its own planning merits.

15. The proposal would support the broadening of the local economy and deliver a decent home which would widen choice in a pleasant and safe environment. The dwelling would be sustainably constructed. Such economic, social and environmental benefits would weigh in favour of the proposal but are limited by reason of only one dwelling being proposed. In terms of sustainable

development, these benefits are offset to the extent, to which, the proposal would fail to perform a wider environmental role by reason of its location within the Green Belt which I shall discuss below under conclusions.

Conclusion

16. The proposal would be inappropriate development in the Green Belt which is by definition harmful. There would also be an adverse loss in the openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt.

17. There would be some economic, social and environmental benefits but these would be limited by reason of the one dwelling being proposed. Similarly there would be a limited benefit of re-developing a brownfield site. There would be a modest improvement to the appearance and character of the area. Consequently the potential harm to the Green Belt, by reason of inappropriateness, and any other harm is not clearly outweighed by other considerations and 'very special circumstances' needed to justify the proposal do not exist. On this basis, the proposal would be contrary to the policy DC1 of the DPD and Framework.

18. The Appellant states that the policies contained with the DPD are out-of-date but the age of a development plan is not sufficient in itself to indicate this. Nevertheless the application of the relevant point of paragraph 14 of the Framework (in which references to silent plans and out-of-date policies are contained) is qualified by its provision that permission should be granted unless specific policies in the Framework indicate that development should be restricted. The footnote to that paragraph includes 'land designated as Green Belt' within a list of such policies. For the reasons set out above, I have concluded that the scheme would conflict with national policy in the Framework as well as with LP. It would not therefore amount to sustainable development in the terms of the Framework.

19. For the reasons given above and having regard to all other matters raised, including support, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR