
Appeal Decision

Site visit made on 12 June 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2018

Appeal Ref: APP/B1550/W/17/3189704

Land south of The Limes, Church Road, Hockley, Essex SS5 4SS

- 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 S Page against the decision of Rochford District Council.
 - The application Ref 17/00565/FUL, dated 5 June 2017, was refused by notice dated 8 August 2017.
 - The proposed development is to demolish existing garage and build two new 4-bed detached houses.
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Decision

1. The appeal is allowed and planning permission is granted to demolish the existing garage and build two new 4-bed detached houses at land south of The Limes, Church Road, Hockley, Essex SS5 4SS in accordance with the terms of the application, Ref 17/00565/FUL, dated 5 June 2017, subject to the conditions set out in the schedule to this decision letter.

Main Issue

2. The main issue is whether the proposal would be inappropriate development in the Green Belt, including the effect on the openness of the Green Belt.

Reasons

3. Paragraph 79 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
4. The Framework, at paragraph 89, sets out the categories of development which may be regarded as not inappropriate in the Green Belt. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages¹.
5. Policy GB1 of the Rochford Local Development Framework Core Strategy (2011) (CS) outlines that the Council will direct development away from the Green Belt and that it seeks to prioritise the protection of Green Belt land based on how well the land helps achieve the purposes of the Green Belt. However, it is also noted that Policy GB1 is not entirely consistent with the Framework in that it doesn't take into account the exemptions outlined in

¹ Fifth bullet point of paragraph 89 of the Framework

- paragraphs 89 and 90 of the Framework. Given the above, and in accordance with paragraph 215 of the Framework, this policy cannot be given full weight.
6. In considering whether the development constitutes inappropriate or not inappropriate development, the fifth bullet point of paragraph 89 of the Framework refers to 'limited infilling' although this is not explicitly defined.
 7. Policy DM3 of the Rochford Local Development Framework Development Management Plan (2014) (DMP) and its supporting text deals with infilling and residential intensification. Whilst this is not specific to Green Belt land, it states that infilling can be defined as filling the small gaps between existing groups of dwellings with new development (paragraph 2.21).
 8. From the evidence before me, the appeal site is located just outside of the allocation boundary of the residential area to the west of Hockley. However, there are other residential properties to the north of the site which are also beyond the allocation boundary. There is also a new residential estate being under construction on the opposite side of Church Road.
 9. My attention has been drawn to a High Court judgement² which considered that a defined village boundary in a Development Plan is not conclusive to determining whether a site is within a village or not. It is for the decision maker to decide whether, as a matter of fact on the ground, the site appeared to be in the village.
 10. In this case, from my site visit, I saw that for all intents and purposes the appeal site is part of the village, especially given its relationship with the existing dwellings to the north and south of the site.
 11. Furthermore, the proposal would involve the construction of two dwellings between two existing dwellings. To my mind, the proposal would be limited in filling in a village and would therefore be not inappropriate development in the Green Belt.
 12. In considering the effect on openness, I have had regard to the Lea Valley Regional Park judgement³. This sets out that, where development is considered to be not inappropriate in the Green Belt, such development is not to be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. Consequently it is not necessary to assess the effect of the development on the openness of the Green Belt any further.
 13. For the above reasons the development would be not inappropriate development in the Green Belt and would be consistent with the aims and objectives of the Framework.

Other matters

14. The Council have also referred to Policy H1 of the CS which relates to the efficient use of land for housing, as well as Policy DM3 of the DMP. Policy H1 outlines that limited infilling is considered acceptable provided it relates well to the existing street pattern, density and character of the locality. Policy DM3

² Wood v SSCLG [2015] EWCA Civ 195

³ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

also give further design criterion for which such development should positively address.

15. The two new dwellings would be located broadly in line with the dwellings each side of the site and would respect the overall pattern of development on the west side of Church Road. Therefore, in considering the overall aims and objectives of both the above policies, I find that the development would accord with the provisions of both Policy H1 and Policy DM3.

Conditions

16. The Council has suggested a number of conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
17. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
18. In the interests of the character and appearance of the area, a condition relating to the proposed materials is also necessary. However it is not necessary for these details to be agreed prior to the commencement of the development.
19. It is also necessary to restrict further development within the curtilage of each dwelling, such as extensions and outbuildings in the interest of protecting the Green Belt.
20. I have also had regard to the conditions suggested by Essex County Council (as Highway Authority). I consider that a condition relating to the provision of the access, parking and turning spaces in a bound material with no surface water drainage being allowed to discharge onto the highway is also necessary in the interests of highway safety. However, I am not convinced that any of the other conditions are necessary to make the development acceptable in planning terms.

Conclusion

21. Taking all matters into consideration, for the reasons given above I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans – Site location and block plan, 17/30 drawing No 1 and 17/30 drawing No 2.

3. No development above the ground floor slab level of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development (including windows and doors) have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, or addition, permitted by Classes A, B or E of Part 1 of the Second Schedule shall be carried out.
5. Prior to the first occupation of each dwelling, the access, parking and turning space shown on the approved drawings (relevant to that dwelling) shall be provided in a bound material with no surface water being allowed to discharge onto the highway.