



Appeal Decision

Site visit made on 8 July 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2019

Appeal Ref: APP/W1525/W/19/3222204

**Land Adjacent Woodmead, Foxborough Chase, West Hanningfield,
Chelmsford CM4 9RA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G and Mrs E Weller against the decision of Chelmsford City Council.
 - The application Ref 18/01684/OUT, dated 28 September 2018, was refused by notice dated 23 November 2018.
 - The development proposed is the erection of one single storey two bedroom house.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is in outline, with all matters reserved for future consideration. I have determined the appeal on this basis.
3. The appellant submitted additional plans during the appeal, relating to the position of existing protected trees and their relationship to the proposed access. However, Planning Practice Guidance is clear that the appeal process should not be used to evolve a scheme and I have made my decision on the application plans which were consulted upon and assessed by the Council.
4. Since the Council's refusal of the application, the appellant has provided a Unilateral Undertaking (UU) which provides for a financial contribution to habitat management measures. The Council is satisfied that this successfully addresses its third reason for refusal. I return to the matter of the UU later on in my decision.

Main Issues

5. The site lies within the Green Belt and I consider that the main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on protected trees;

- Whether occupants of the proposed development would have satisfactory access to shops and services
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

6. Foxborough Close is a private, rural, and unmade road to the east of Stock Road. Mainly detached housing fronting the road, lies to the south of the road with a small number of detached houses to the north. The appeal site is located to the side of Woodmead, a detached bungalow set in a large plot. There are residential properties to either side with Foxborough Wood to the north. The residential properties to this side of Foxborough Close, are generally well spaced. To the rear of Woodmead lies woodland and open countryside.
7. The appeal site comprises a roughly rectangular plot of land. It is separated from the garden of Woodmead, by timber post and rail fencing and there is an outbuilding with the appearance of a stable in the north eastern corner.
8. Paragraph 145 of the Framework indicates that the construction of new buildings should be regarded as inappropriate development, unless they fall within one of the exceptions listed. These exceptions include limited infilling in villages. The definition of a village is not defined. Policy DC1 of the Core Strategy and Development Control Policies (2008) (the CS) confirms that new development in the Green Belt will be refused, except where it would meet certain criteria including residential infilling in villages in accordance with policy DC12.
9. Policy DC12 states that planning permission will be granted for residential infilling outside the Urban Areas or Defined Settlements provided that the site is a small gap in an otherwise built up frontage; and the development does not detract from the intrinsic character and beauty of the surrounding countryside; and the proposal does not consolidate existing development in remote areas or served by unsatisfactory roads. This includes areas within the Green Belt.
10. Neither the Framework or local plan policies define a village. It is therefore necessary to consider the relationship of the site with its surrounding built environment, as well as how that relationship is experienced. There are a number of residential properties clustered around the junction of Stock Road and Foxborough Close. The locality as a whole presents as an informal modest group of mainly residential properties, within a predominantly rural setting. Although there is a garage which has a small shop, there are few other essential facilities for residents. Given its small scale and its physical and functional characteristics, I am not persuaded that this is a village location for the purposes of applying national and local plan policy.
11. Policy DC12 does not require that development must be located within a village, therefore even if I was to find that the site was within a village, it is necessary to go on to consider, whether the proposal would amount to limited infilling.

12. Travelling east along Foxborough Close, the properties become considerably less dense, characterised by sporadic dwellings set in large plots, separated by sizeable gaps, before moving into open countryside beyond. The appeal site is located in the middle of a group of three dwellings. The Cedars and Woodmead have a common road frontage. Although, The Brambles is set further back from the road, all three dwellings share a similar spatial development pattern. The size of the plots, with their open and spacious character, mean that the appeal site is part of, and integral to, that relationship, rather than appearing as a gap within an existing built frontage. Consequently, the introduction of an additional dwelling into this area, would detract from the intrinsic open and spacious character and beauty of the surrounding countryside, by disrupting the gradual transition from the more built-up area to the west to the open countryside beyond.
13. Taking all of this into account, given the context of the appeal site, the proposed development does not in my judgement, amount to infill development. It would consequently not fall within any of the exceptions listed to Green Belt Policy. The proposed development is therefore inappropriate development in the Green Belt, that is in conflict with Policies DC1 and DC12 of the CS.
14. I have had regard to extracts of the appeal decision, provided by the Appellants in their evidence, APP/W1525/W/15/ 3133733, on land adjacent to Woodside, Dowsett Lane, Ramsden Heath. I note that the Inspector in this appeal concluded that the development proposed, comprised limited infilling in a village. However, the circumstances for that site are materially different. The Inspector found that the site lies between the existing dwelling at Woodside and a redundant nursery where the large buildings filled most of the width of the plot. There was additional built frontage to the south. The aerial photographs add to the impression that there is a gap in the built frontage that the proposed dwelling would fill.
15. In contrast to this, I have already found that the site for this appeal visually and physically forms part of the existing pattern of development, rather than a gap that an additional dwelling would fill. Moreover, I have insufficient evidence before me to confirm the full planning history or circumstances for this site. I have therefore determined this appeal on its own planning merits and this decision would not justify granting this appeal.

Effect on Openness

16. Paragraph 133 of the Framework, sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
17. The undeveloped nature of the appeal site currently adds to the open and spacious character of this part of the road and the wider area. The siting of the proposed dwelling is reserved for later consideration. However, given the form of the appeal site, it would be located between The Cedars and Woodmead, on land which apart from the small outbuilding is currently undeveloped. Moreover, the additional dwelling would undoubtedly introduce the domestic paraphernalia normally found at residential properties.

18. I therefore find that the construction of the proposed new dwelling would reduce openness both visually and spatially. It would thus have a harmful effect on the openness of the Green Belt and would conflict with Policies DC1 and DC12 of the CS. These policies when combined aim to identify development that would not be inappropriate within the Green Belt.

Protected trees

19. There are two separate Tree Preservation Orders (TPO) relevant to the appeal site. These are TPO/1977/017 and TPO/2003/071. It is not in dispute that the woodland to the rear of the site would be unaffected by the proposed development. However, the trees to the front of the site are covered by the latter TPO.
20. From my site visit the importance of the frontage trees within the street scene is clear. These are tall, mature trees that provide a framework that overarches this country lane adding to its rural charm. They therefore make an important contribution to the local landscape character and their loss would further open the views into the residential property, significantly detracting from the rural character and appearance of the area.
21. The indicative plans show the proposed access positioned between Woodmead and the protected frontage trees. Given the location of the trees' extent across the site's frontage, this seems to me to be the only reasonable configuration for providing a new access. I am mindful that the application is in outline. However, in the absence of sufficient technical arboricultural information, there is no clear evidence to demonstrate that an acceptable scheme could come forward on the site without resulting in harm to protected trees.
22. I acknowledge the appellants' willingness for additional trees to be identified and protected if the appeal were allowed. However, I have no indications of which trees these might be and whether they are of sufficient amenity value to warrant statutory protection. I therefore give this matter very little weight.
23. Consequently, the proposed development would be contrary to Policy DC14 of the Core Strategy which aims to protect woodland, trees and hedgerows from harm.

Other considerations

24. I have identified that the proposed development would be inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found the proposed development would cause harm to the openness of the Green Belt and to protected trees. Substantial weight is to be given to the harm to the Green Belt.
25. Very special circumstances will not exist unless the harm by way of inappropriateness, and any other harm, are clearly outweighed by other considerations. I conclude that the very special circumstances required to justify this proposal do not exist and the appeal is therefore dismissed.

Other matter

26. The appeal site lies within the Zone of Influence of the Blackwater Estuary SPA and RAMSAR site, which has been identified for its importance as a habitat supporting certain protected species. Within the Zone of Influence, an assessment has concluded that visitor pressure associated from new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA and Ramsar site, unless it is properly mitigated. The Habitat Regulations 2015 require an assessment to be undertaken as to whether a proposal would be likely to have a significant effect, on the interest features of a European protected site. The proposed development would provide a net increase of one dwelling. Therefore, the development has the potential to cause harm to these designated areas.
27. The UU that has been submitted has now addressed the Councils' third reason for refusal, and as I have already identified, substantive harm to the Green Belt, such that the appeal should be dismissed, there is no need to consider this further.

Conclusion

28. For the above reasons the appeal is dismissed.

Hilary Orr

INSPECTOR