



Appeal Decision

Site visit made on 25 June 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Appeal Ref: APP/H1515/W/19/3226525

Land adjacent Elm Farm, Chelmsford Road, Blackmore, Essex CM4 0SF

- 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 Jack Thursting against the decision of Brentwood Borough Council.
 - The application Ref 18/01754/FUL, dated 19 October 2018, was refused by notice dated 22 March 2019.
 - The development proposed is new three bedroom bungalow with hardstanding including 2 No parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

(i) Whether the 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.

(ii) The effect on the openness of the Green Belt.

(iii) Whether the proposal would preserve the setting of the Grade II Listed Elm Farmhouse.

(iv) If the development would be inappropriate, whether the harm 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 the development.

Reasons

Whether inappropriate development in the Green Belt

3. The appellant contends that the Green Belt boundary should be altered and the land taken out of this designation. They also suggest that given the land was not cultivated for agricultural use it is not 'prime' Green Belt. The purposes for which the Green Belt is intended to serve are set out at paragraph 134 of the Framework and do not include a grading of the quality of Green Belt land based on its current use. In any case the designation of Green Belt is a matter for the Local Plan process and not a matter for me to determine. Based on the

evidence before me and for the purposes of my assessment, the appeal site is in the Green Belt.

4. Paragraph 145 of the Framework confirms that the construction of new buildings in the Green Belt should be regarded as inappropriate unless the development falls under one of a number of exceptions. The approach to considering development in the Green Belt in Saved Policies GB1 (New Development), GB2 (Development Criteria) and GB4 (Established Areas of Development) of the Local Plan is broadly consistent with national policy in the Framework.
5. The appellant and the Parish Council suggest the proposal would constitute development falling under exceptions identified in the Framework, namely those at paragraphs 145 e) limited infilling in villages and 145 f) limited affordable housing for local community needs under policies set out in the development plan. Saved Policy GB4 (Established Areas of Development) of the Brentwood Replacement Local Plan (2005) (the Local Plan) also allows for residential development within the established areas of frontage development on genuine infill plots.
6. A caravan park adjoins the northern boundary of the site and the nearest dwelling to the west is the Grade II Listed Elm Farmhouse. Land to the east between the appeal site and Spriggs Lane is open and covered in vegetation. The lack of development to the east means that there is not a continuous built-up frontage. The proposal would extend the built-up frontage rather than infill a gap between existing buildings on the frontage and therefore the site is not a logical infill site. Furthermore, the proposal is for a market dwelling and I have no evidence before me to suggest that the development would meet affordable housing requirements in line with the exception under paragraph 145 f).
7. The appellant has made me aware of a recent planning application which proposed residential development of the land to the east of the appeal site. This application was refused by the Council. I have not been provided with the full details of this application and given planning permission was refused it does not alter my assessment in terms of the extent of built-up frontage. My attention has also been drawn to a site on the opposite side of Chelmsford Road which has planning permission for a detached dwelling. However, the site referred to sits between other dwellings within a continuous line of development and is not comparable to the appeal site.
8. Another exception under paragraph 145 g) of the Framework relates to limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. The evidence before me confirms the site was previously part of the curtilage of the original farmhouse and suggests there was previously a mobile home on the site. I note reference within the appellant's heritage statement to the site being untidy with heaps of building materials. During my site visit I also noted there was some evidence of a previous loose stone hardstanding. However, the site is presently overgrown and includes mature tree planting to the boundary with the highway. The site does not display characteristics of previously developed land to any significant degree and whatever remains of previous development that might have existed here have either disappeared or have largely blended into the landscape. On

the basis of the definition in the Framework, the site would not be considered as previously developed land.

9. The appellant has referred to the Council preparing a new development plan and that this includes proposals to extend Blackmore on the northern side to meet housing needs. The Council has confirmed that the emerging Local Plan has not yet been submitted for examination and, given the early stage in its preparation, this argument does not alter my conclusions.
10. To conclude, the proposed market dwelling constitutes inappropriate development in the Green Belt when assessed against national policy in the Framework and the relevant policies in the Development Plan.

The effect of the development on the openness of the Green Belt

11. Paragraph 133 of the Framework sets out the essential characteristics of Green Belts, which are their openness and permanence. It has been held in the High Court that openness is epitomised by the lack of buildings or development. Openness is a separate issue from the effect of a development on the character and appearance of an area.
12. The site is largely screened from Chelmsford Road by mature hedgerows. I also acknowledge the single storey scale of the proposal and that the caravan park to the north gives a developed backdrop to the site. The design and siting of the proposal would therefore reduce the visual impact of the proposal to a limited degree. However, the prominence of built form would still be increased when compared with the existing situation. For example, the development would be visible where there would be a gap in the hedgerow to accommodate a driveway and when travelling eastwards along Chelmsford Road looking over the boundary fence with Elm Farmhouse.
13. Visual impact is only part of the assessment of the impact of the proposal on openness. A lack of visibility does not in itself mean that there would not be a loss of openness in Green Belt terms. My assessment must also take the spatial impact into consideration. The footprint, height and volume of the building would undoubtedly affect openness when compared with the current undeveloped nature of the site.
14. For the above reasons, the development would not preserve the openness of the Green Belt and would conflict with the purposes of including land in it. The development is therefore contrary to national policy in the Framework and Saved Policies GB1 and GB2 of the Local Plan.

Listed Buildings

15. The neighbouring dwelling at Elm Farmhouse is a Grade II listed building. Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty to consider whether the development affects a listed building or its setting. In doing so special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
16. I note the views of the Council's Conservation Officer who raised no objection to the proposal from a heritage perspective. Furthermore, the relationship of the proposal with the setting of the Listed Building did not feature as a reason for refusal on the Council's decision notice. From the evidence before me and

from what I saw on site, I find no reason to disagree with the Council and conclude that the setting of the Listed Building would not be harmed.

Other considerations

17. The Council acknowledges that it cannot demonstrate a 5-year housing land supply. In the circumstances the development plan is not up-to-date and paragraph 11d of the Framework and the so called 'tilted balance' is engaged. Permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. The policies referred to include land designated as Green Belt. The proposal would make a relatively small but important contribution towards meeting the Council's housing requirements.
18. A minor economic benefit would be generated through the development of the site and expenditure in local services by any future occupants. There would also be a modest social contribution if occupants were to use local facilities.
19. The Parish Council consider the land is unattractive with no amenity value. The five purposes of the Green Belt are set out at Paragraph 134 of the Framework. Clearly, whether or not a site is attractive is not the test in establishing the extent of the Green Belt. In any case, the main characteristic of the site is that it is currently open and vegetated and there is nothing fundamentally unattractive about the site that would warrant a departure from Green Belt policy.
20. There is also third-party representation raising concerns that the land is overgrown and attracts vermin, insects and smells which have an impact on the enjoyment of a neighbouring property. Whilst there would be some public benefit that would occur in terms of removing these impacts, I am also mindful that the general upkeep of the land is a private matter and development of the site is not the only means of addressing such issues.
21. There would also be a personal benefit for the appellant. I note that they intend to live in the proposed dwelling with their family as their current living arrangements with relatives are overcrowded and their children attend school in the area.
22. Overall, and taken together, I attach moderate weight to the clear benefits of the proposal identified above.

Planning Balance and Conclusion

23. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. Moreover, I have found that the proposal would be harmful to the openness of the Green Belt. 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. This is a high hurdle for a development proposal to overcome.
24. The development constitutes inappropriate development in the Green Belt. It is by definition harmful to the Green Belt. Moreover, the openness of the appeal site would be permanently depleted. This Green Belt harm is a matter to which I attach substantial weight in decision making terms in line with Paragraph 143 of the Framework.

25. I have found that there would be no material harm to heritage assets. However, a lack of harm does not equate to this being a benefit of the proposal, and accordingly this matter only has a neutral effect on the overall planning balance.
26. For the reasons set out above, I have found that other considerations in favour of the proposal would carry moderate weight in its favour.
27. In conclusion and on balance, the substantial weight to be given to Green Belt harm, is not clearly outweighed by these other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.
28. Consequently, the proposed development would conflict with the Framework insofar as, amongst other things, it seeks to ensure that Green Belts keep land permanently open, and this provides a clear reason for refusing the development proposed in line with paragraph 11(d) (i) of the Framework. For these reasons too, no considerations have been advanced that would justify a decision other than in accordance with the development plan, with which in terms of Policies GB1, GB2 and GB4 of the Local Plan the appeal scheme would clearly conflict.
29. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR