
Appeal Decision

Site visit made on 4 November 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 26 November 2019

Appeal Ref: APP/W1525/W/19/3235116

Oak Tree Farm, Ingatestone Road, Highwood, Chelmsford, Essex CM1 3QY

- 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 D Hicks against the decision of Chelmsford City Council.
 - The application Ref 19/00259/FUL, dated 11 February 2019, was refused by notice dated 11 April 2019.
 - The development proposed is the erection of an infill chalet dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - Whether the proposal amounts to inappropriate development in the Green Belt and whether there is any other harm to the Green Belt
 - The effects of the proposal on the character of the area
 - Whether there are any other matters which are capable of outweighing the harm to the Green Belt and other harm.

Reasons

Green Belt

3. The appeal relates to part of the garden area of Oak Tree Farm, which is located at the junction of Ingatestone Road with Cock Lane. The appeal site abuts the remainder of the plot of Oak Tree Farm on one side and some barn-like buildings in commercial use on the other side. The site has a frontage onto Cock Lane.
4. Following the initial publication of the National Planning Policy Framework in 2012, the Council undertook a review of its Core Strategy and Development Control Policies DPD (CSDCP). The relevant policies were found sound and the CSDCP was adopted by the Council in 2013. Policy DC1 of the CSDCP states that all new development must preserve the openness of the Green Belt and not conflict with the purposes of including land within it. It adds that planning permission will be refused for new development in the Green Belt except where it is for one of a list of prescribed purposes. This list includes residential infilling in villages in accordance with Policy DC12 and the limited infilling or partial or

- complete redevelopment of previously developed land where it would not have a greater impact on openness than the existing development.
5. In relation to policy DC1 within the CSDCP, this states that, amongst other things, an acceptable exception to the restriction of development in the Green Belt is, at point iii) residential infilling in villages in accordance with Policy DC12. I consider that the site does not fall within a village and agree with the Council's assessment in this regard. I consider that there is no need to go on to assess the proposal in relation to Policy DC12 because, within the Green Belt, Policy DC1 requires that the site should be within a village before going on to consider the criteria within Policy DC12; it is not within a village and so this does not apply. Point vi) of DC1 adds that limited infilling may be acceptable subject to the impact of the proposal on openness and the purposes of the Green Belt. The site is currently open garden, albeit with some domestic paraphernalia, and free from buildings. The proposal would bring about a detached 2 storey dwelling which, in my judgement, would materially and negatively affect the openness of the site. Therefore, the proposal would conflict with Policy DC1.
 6. The Council submitted its draft Chelmsford Local Plan (CLP) to the Secretary of State on 29 June 2018. The Examination hearings took place in November/December 2018 and have now finished. Following this, the Inspector issued a Post Hearing Advice Note advising that the plan could be found sound subject to a number of Main Modifications. Consultation of Main Modifications has now concluded and the responses have been submitted to the Inspector. The Council anticipates that the plan will be adopted by the end of the year. In accordance with paragraph 48 of the NPPF local authorities may give weight to emerging policies as they advance through the stages of plan preparation, subject to the extent of unresolved objections to the relevant policies and their degree of consistency with the Framework.
 7. Emerging Policy CO2 of the CLP sets out the criteria for new buildings in the Green Belt. It states that new buildings will only be accepted where they comply with a list of exceptions. Exceptions include infilling in accordance with Policy CO5 and at part B redevelopment of previously developed land where the proposal would not have a greater impact on the openness of the Green Belt and sets out criteria for this which relate to: i) the size, scale, massing and spread of new development compared to the existing ii) the visual impact of the development compared to the existing iii) the activities/use compared to the existing iv) the location of the site being sustainable and appropriate to the type of development proposed. Emerging Policy CO5 states that permission will only be granted for infilling provided that the site is within a village and, a small gap in an otherwise built up frontage and would not impact upon the function and purpose of the Green Belt.
 8. In relation to infilling as set out in Policy CO2, again, the site is not within a village and so this does not apply. In relation to the development of previously developed land, the proposal would have a material and negative effect on the openness of the site, when compared to the existing use of the site. In my judgement, this means that the proposal would give rise to conflict with this part of emerging Policy CO2. Taking account of the advanced stage towards adoption of the emerging CLP and the fact that it now appears that the relevant policies will be adopted in the form submitted by the Council (including the

Modifications), I consider that a significant degree of weight may be given to these policies.

9. With regards to the contents of the NPPF, paragraph 145 g) is cited by the appellant in support of the appeal. Paragraph 145 lists a number of exceptions to what new buildings may be considered as inappropriate and at g) states that limited infilling or partial or complete redevelopment of previously developed land may be acceptable providing that the proposal does not have a greater impact on the openness of the Green Belt (an additional criteria relates to affordable housing and is not relevant here). In my judgement, the proposal would have a materially greater impact on the openness of the Green Belt by transforming this open garden area to a site accommodating a new dwelling.

Character of the Area

10. The proposed detached dwelling would have accommodation within the first floor level, much of which would be contained within the roof. Rooflights are proposed in the front elevation and a large rear gable and dormers are proposed within the rear. In relation to the ground floor windows and doors, the eaves of the roof appears to be high and results in a disproportionately large gap between the heads of the windows/doors and the eaves. The roof itself is of a shallow pitch. I agree with the Council that it appears squat and out of proportion. The width and height of the front porch and the rear projecting gable, all with differing eaves lines adds to the disharmonious appearance of the proposal.
11. I have taken account of the appellant's representations in this respect, which indicates that the design was arrived at after some negotiations with the Council's officers. Notwithstanding this, what is before me is unacceptable in my judgement and would be a harmful addition to the locality, for the reasons given above. Therefore, the proposal is contrary to Policy DC45 of the CSDCP.

Other Matters

12. The appellant argues that the proposal amounts to sustainable development. The proposal would help to support construction jobs and a new home would result from the proposal; therefore, the proposal could be said to achieve the economic and social elements of sustainable development. However, I have identified harm to the local environment by reason of harm to the Green Belt and to the character of the locality and so I do not consider that, when taken together, the proposal amounts to sustainable development.
13. I have taken careful account of the other matters set out by the appellant. The Council has responded to the contention that other cases have been determined differently and has indicated that, as a result of appeal decisions, they now assess such proposals in a different manner that they did previously.
14. I conclude that the harm to the Green Belt is not clearly outweighed by other considerations. Therefore, the very special circumstances necessary to justify the proposal are not present.

Conclusion

As a result of my findings, as set out above, the appeal is dismissed.

S T Wood

INSPECTOR