



Appeal Decision

Site visit made on 7 January 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Appeal Ref: APP/M1595/W/19/3235740

Silver Springs, High Road, Fobbing SS17 9HN

- 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 Smart Planning against the decision of Thurrock Borough Council.
 - The application Ref 19/00267/FUL, dated 18 February 2019, was refused by notice dated 7 June 2019.
 - The development proposed is demolition of Inglefield, part single/part two storey front, side and rear extensions with front balcony to Silver Springs and construction of six detached houses to rear with associated access road, landscaping and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of proposed development shown on the Council's decision notice and the appellant's appeal form is more precise than that shown on the planning application form. I have therefore used this description in the banner heading and determined the appeal on this basis.

Main Issues

3. The main issues in this case are:
 - Whether the proposal 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; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. The Framework in paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 of the Framework makes it clear that new buildings are inappropriate development, subject to a limited number of exceptions.

5. Policy PMD6 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development Adopted January 2015 ('CS') states, amongst other things, that where an established frontage of residential development exists in the Green Belt, planning permission will be granted, subject to compliance with all other relevant policies, for new dwellings on genuine infill plots and the extension of existing dwellings located on the existing frontage only. The existing dwelling is located within an Established Residential Frontage ('ERF'), which predominantly consists of detached dwellings positioned in a linear arrangement. Given the location of the existing dwelling within an ERF, the proposed extensions to the dwelling would accord with Policy PMD6.
6. However, the proposed detached 2 storey dwellings; access road; and parking spaces would extend considerably to the rear of the established residential frontage. The appeal scheme therefore would not constitute infill development. As such, it is not supported by Policy PMD6 of the CS.
7. Although the appeal proposal contains different elements including the proposed extensions to Silver Springs which in themselves, the Council considers that they would be acceptable, it has been put forward as a single scheme and I have determined it on that basis. As such the main parties agree that the proposed development, which includes new buildings as a whole, would be inappropriate development in the Green Belt. I see no reason to take a different view.

Openness

8. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
9. Notwithstanding the demolition of Inglefield, the proposed development would significantly increase the amount of built form on the appeal site. It would replace predominantly open and green residential gardens with 6 detached 2-storey dwellings, parking spaces and an access road. Overall the proposal would therefore have a significantly greater spatial impact on the openness of the Green Belt than currently exists.
10. Whilst there is a neighbouring development of 9 dwellings under construction to the north at Thames View Farm, the appeal proposal would visually and spatially encroach into the countryside to the west. Consequently, the proposed development would, by virtue of its permanence and size, have a significantly greater impact on openness than the existing development.

Other considerations and the Green Belt Balance

11. The proposal would be inappropriate development, which would, by definition, be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework indicates that very special circumstances will not exist unless the potential harm to the Green Belt by

reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

12. It is not disputed that the Council is unable to demonstrate a 5 year Housing Land Supply (HLS). According to the evidence before me, the Council has an HLS of between 2.5 to 2.7 years, which represents a significant shortfall. In the context of the shortfall, the proposed development would make a limited net contribution of 5 dwellings towards housing supply which weighs in favour of the proposal.
13. The appellant draws attention to the fact that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly as indicated in paragraph 68 of the Framework. Moreover, the appeal site is within an existing settlement.
14. The appellant has submitted a Unilateral Undertaking (UU) which covenants to make a "housing payment" of £200,000 to the Council. The appellant's statement asserts that this would provide affordable housing. However, it has not been explained how the contribution amount has been calculated or how it would be used to provide affordable housing. Given that the planning obligation is a unilateral undertaking rather than a planning agreement, it does not include a Council covenant that it will use the contribution to provide affordable housing. The Council indicates that the amount put forward would only deliver one affordable dwelling.
15. There are no Development Plan policies that, for a development of 6 dwellings, require financial contributions towards the provision of affordable housing. Although the UU has been submitted I am not satisfied that it meets the statutory tests in Regulation 122 of The Community Infrastructure Levy Regulations 2010, as amended. In particular, the requirement that the planning obligation is necessary to make the development acceptable in planning terms and it is directly related to the development.
16. I have had regard to the appellant's statement that the proposed development would provide high quality homes, which would help retain business executives in the area. There is no substantive evidence before me to show that, compared to other kinds of housing, there is a greater need in the borough for the size and type of dwellings that are proposed or that there is a need for such dwellings in this location.
17. The appellant's statement advances the ecological enhancements of the proposal. Nevertheless, the proposed development would replace a residential garden with a significant increase in built form, parking spaces and an access road. The provision of bird/bat boxes, additional hedgerows and flower planting would provide limited ecological enhancement.
18. I have had regard to the planning permission¹ at Thames View Farm for the erection of 9 dwellings. Whilst full details of that case are not before me, the site-specific circumstances are different to the appeal scheme. The site at Thames View Farm was identified as a potential housing site in the Thurrock Local Development Framework Site Specific Allocations and Policies Local Plan Further Issues and Options Technical Appendices January 2013, which was afforded some weight in the committee report of the planning application.

¹ Ref 15/00766/FUL, dated 20 November 2015

Based on the evidence before me, the appeal site is not included within any adopted or emerging Development Plan housing allocations. Accordingly, the circumstances of the appeal proposal are materially different to those at Thames View Farm.

19. I acknowledge the appellant's statement that it would be possible to erect a number of outbuildings incidental to the enjoyment of the dwelling house, covering 50% of the curtilage without requiring planning permission. Be that as it may, given the limitations and restrictions in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 as amended, this would not have the same impact on the openness of the Green Belt as the appeal proposal.
20. The proposed development would make a limited net contribution of 5 dwellings towards housing supply on a small site within a settlement and has the potential to deliver limited ecological enhancement. The appeal proposal would significantly harm the openness of the Green Belt and would encroach into the countryside.
21. Taken together, I find that the other considerations in favour of the appeal scheme would not clearly outweigh the harm to the Green Belt by reason of inappropriateness and its impact on openness. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
22. The proposed development would therefore be contrary to Policy PMD6 of the CS, which sets out the basis for granting permission for new development in the Green Belt. It would also conflict with Chapter 13 (Protecting Green Belt land) of the Framework, which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other Matters

23. The officer's report states that the proposed development would be within the zone of influence of the Thames Estuary and Marshes Special Protection Area (SPA). As I am dismissing this appeal for the reasons given above, I need not consider the effect of the proposal on the SPA.
24. I have had regard to the concerns raised by local residents, which, in addition to the above main issues, relate to: lack of infrastructure; traffic; noise; loss of privacy; loss of light; and, impact on ecology. However, as I find the proposed development unacceptable for other reasons, these considerations would not alter my decision.

Conclusion

25. For the above reasons, and having had regard to all other matters, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR