
Appeal Decision

Site visit made on 21 May 2020

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2020

Appeal Ref: APP/B1550/W/19/3242881

Maryon House, Bullwood Hall Lane, Hockley SS5 4TB

- 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 R Todman against the decision of Rochford District Council.
 - The application Ref 19/00549/OUT, dated 18 June 2019, was refused by notice dated 20 November 2019.
 - The development proposed is described as proposed new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is made in outline with all matters reserved. I have had regard to all plans submitted with the planning application and treated these as indicative only.
3. While the Planning Officer's Report identifies which policies of the Rochford District Council Core Strategy (2011) (the CS) and the Rochford District Council Development Management Plan (2014) (the DMP) the proposal is contrary to, these are not clearly set out, as such, in the Decision Notice. Consequently, I have decided this appeal against the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt and its effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area with particular regard to the setting of Whitbreds, South Lodge and the Barn, which are Grade II Listed Buildings; and
 - Whether any 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

Inappropriate development and openness

5. The appeal site is located on the periphery of Hockley in an area identified as Metropolitan Green Belt according to the Local Development Framework

- Allocations Plan (2014) Proposals Map (The Proposals Map). The fundamental aim of the Green Belt policy, according to the Framework, is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. The construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions set out in paragraph 145 of the Framework. Paragraph 146 identifies further forms of development that are not inappropriate.
 7. The appellant hasn't expressly indicated whether he considers the proposed development would not be inappropriate in the terms of the Framework or expressly cite any of the exceptions contained within paragraphs 145 and 146 of the Framework. Nevertheless, the appellant does refer to the proposal as one infill dwelling which, if in a village location, might be said to be an exception and not inappropriate development in the Green Belt under paragraph 145 e).
 8. In addition, if the development would not have a greater impact on the openness of the Green Belt than the existing development or not cause substantial harm to it while re-using previously developed land and contributing to meeting an identified affordable housing need within the area, then the appeal might also be said to be not inappropriate development under paragraph 145 g).
 9. I note that the Framework does not provide a definition of what constitutes being in a village for the purposes of applying paragraph 145. In reaching a conclusion on this issue, I have considered the boundaries of urban areas and the boundaries of the Metropolitan Green Belt set in the Proposals Map. As the case of *Wood*¹ confirms, a village boundary defined in a Local Plan is a relevant consideration, but not necessarily determinative, particularly if it does not accord with an assessment of the extent of the village on the ground.
 10. The appeal site is located quite some distance from the urban centre of Hockley, centred in and around the train station and the shopping area of Spa Road. The site is also some distance away from the edge of the village of Rayleigh. The area immediately surrounding the appeal site is characterised by open green agricultural fields and Hockley Woods, which separate the urban area of Hockley from the urban area of Rayleigh.
 11. As it happens in many cases, there is a significant linear urban sprawl of the surrounding villages along the High Road, nevertheless, the appeal site is located along Bullwood Hall Lane, which is significantly more rural in character, and at some distance from its junction with the High Road. Consequently, the present proposal does not meet the exception criteria set in paragraph 145 e) and therefore cannot be considered as limited infilling in villages.
 12. An essential characteristic of the Green Belt, as set out in paragraph 133 of the Framework, is their openness and permanence. The concept of openness has both a spatial and visual dimension. In a spatial sense, any building on land that was previously free of development will have some impact on the

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

openness of the Green Belt. As the proposal is for a new dwelling, this would be the case with the appeal.

13. Furthermore, from a visual perspective, the proposed new development would result in a substantial increase in the amount of built form on the site and would substantially reduce the existing spatial and visual gap that separates Windrush from Maryon House.
14. Even if I were to conclude that the proposal would cause less than substantial harm to the openness of the Green Belt, from the evidence before me, I have found no reason to believe that the development would re-use previously developed land or contribute to meeting the identified affordable housing needs of the area in the terms of paragraph 145 g). Moreover, it would still have a greater impact on the openness of the Green Belt than the existing built form. Therefore, the proposal would not meet either of the exceptions set out in paragraph 145 g) of the Framework.
15. In conclusion, the proposal would reduce the openness, albeit to a small extent, of the Green Belt. It would also be a form of inappropriate development which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

Character and appearance of the area and the setting of Grade II Listed Buildings

16. The appeal site is located on the northern end of Bullwood Hall Lane in an area dominated by a relatively small cluster of large properties located in spacious plots. Overall, the area does have an open, spacious and verdant feel owing in part to the site's location in the Green Belt and its proximity to Hockley Woods.
17. The present proposal, although in outline with all matters reserved, is accompanied by plans that provide an indication of the type of development the appellant envisages building on the site.
18. The appeal site has a significant slope such that the rear of the site is at a lower level than land facing onto Bullwood Hall Lane. Due to this it is likely that a significant amount of the proposed development would not be visible from the road. Nevertheless, considering the apparently intended substantial scale and bulk of the dwelling, it is likely that it would be clearly visible from the main access road and occupy a significant part of the gap between Maryon House and Windrush. This would detract from the open and green character and appearance of the area.
19. The appeal site is in close proximity to three Grade II Listed Buildings, Whitbreds, South Lodge and the Barn. According to the Historic Buildings and Conservation Advice, historic maps indicate that the appeal site is in land that is likely to have been used for agricultural purposes, associated to Whitbreds. The three Grade II Listed Buildings are a testament of the agricultural past of the area and there lies the significance of the heritage assets.
20. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving its setting.
21. Historic England describes Whitbreds as a 17th Century house or earlier, with 18th, 19th and early 20th Century alterations and additions. It also states that

North Lodge, South Lodge and the Barn were originally part of Whitbreds Estate. South Lodge is a 19th Century timber framed and pebble dashed lodge cottage, formally with a thatched roof, now corrugated asbestos. The barn is estimated to be a 18th Century barn, timber framed and weatherboarded now with a corrugated asbestos clad roof.

22. Although the land has been developed and therefore this historic use and association has been greatly diluted through time, considering the proposal's proximity to these listed buildings, particularly the Barn, the size and bulk of the proposed development and its likely impact on the open and green character of the area, the present proposal would further intrude upon key views, particularly across from the Barn into the open green landscape. As such, the development proposal would lead to a direct and harmful effect to the significance of the designated heritage asset.
23. Due to their location, the proposed development would not be easily perceived from the North Lodge or the South Lodge and would not intrude upon key views. As such, the development proposal would lead to a direct and harmful effect to the significance of the designated heritage asset.
24. When considered alongside the character of the area, the surrounding area and the scale of the development, the harm would be less than substantial. The Framework requires that, where a development proposal leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
25. No specific public benefits have been brought to my attention in relation to the proposed development, albeit I recognise there would be some public benefit in terms of improving housing stock and that the investment would be of some benefit to the local economy. However, as any such public benefits would be very modest given the small scale of the development, these would be substantially outweighed by the relatively significant harm arising, bearing in mind the importance and protection given to designated heritage assets by statute and national planning policy.
26. In conclusion, I find that the proposed development would cause harm to the character and appearance of the area, fail to preserve the setting of a Listed Building and therefore harm the significance of designated heritage assets. As such, the present proposal would be in conflict with the Framework, particularly paragraphs 127, 192 and 194.

Other considerations and whether very special circumstances exist

27. The Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt, by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.
28. I have found that the appeal scheme would amount to inappropriate development and the Framework requires that substantial weight is given to such harm. It would also reduce openness in the Green Belt. Furthermore, considering the submitted indicative drawings, it would also cause harm to the

character and appearance of the area and the setting of Listed Buildings, particularly the Barn, which I am required to give special regard to.

29. The benefits of the proposed development primarily relate to its contribution to the housing supply, those associated with the construction process and the spending potential of future occupants. Nonetheless, given that the Framework indicates that substantial weight should be given to the identified Green Belt harm, in terms of it being inappropriate development and its effect on openness, any benefits would be comfortably outweighed by that harm, particularly bearing in mind the modest scale of the development proposed.
30. I have also found further harm in respect to the development's effect on the character and appearance of the area, including the effect on the significance of listed buildings, which also weighs against the appeal scheme. Therefore, the very special circumstances necessary to justify the development are not present.

Other Matters

31. The appellant has drawn my attention to other planning decisions, particularly a large development for 70 new dwellings further away from the High Road and still along Bullwood Hall Lane. However, I do not have full details of the nature of the proposal or the circumstances and material considerations that were relevant to its determination. Consequently, I cannot be sure that these are wholly representative of the circumstances in this appeal and, in any case, I must determine this appeal on its own merits.
32. In addition, the appellant has also drawn my attention to recent approval for the conversion of a barn into a residential dwelling, directly opposite Maryon House. Although I can appreciate the relationship the applicant is trying to establish, the conversion of an existing barn into a residential dwelling is very different from the appeal scheme. Furthermore, as per the development in Bullwood Hall Lane, I do not have full details of the nature of the proposal or the circumstances and material considerations that were relevant to its determination.
33. The appellant also claimed that advice from the Council was not all that could have been, and should have been, and no written response was provided following pre-planning advice. Although this is not disputed by the Council, I must nevertheless make my decision based on the planning merits of the appeal, and my decision stands as set out above.
34. The appeal site falls within the "Zone of Influence" for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. It is my duty, as the competent authority, to consider whether the proposed development would constitute a likely significant effect on the sensitive interest features of the designated site or sites as set out within Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017.
35. It is anticipated that, without mitigation, new residential developments in this area and of this scale could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.

36. Therefore, by virtue of its protected status, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (CHSR) would be required were I minded to allow the appeal. Nevertheless, as the appeal is to be dismissed for other reasons, no further consideration is required on this matter as there is no prospect of planning permission being granted.

Conclusion

37. For the reasons given above, I conclude that the appeal should be dismissed.

Andre Pinto

INSPECTOR