The Planning Inspectorate

Appeal Decision

Site visit made on 18 August 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2020

Appeal Ref: APP/B1550/W/20/3249237
Land adjacent to Clifton, Church Road, Hockley SS5 4SS

- 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 Mrs Susan Moore against the decision of Rochford District Council.
- The application Ref 19/00793/OUT, dated 29 August 2019, was refused by notice dated 3 March 2020.
- The development proposed is a new dwelling on the site.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is in outline with all matters reserved for future consideration. Drawings showing indicative elevations and a possible layout for the development were submitted with the application, and I have considered them on this basis.

Main Issues

3. The main issues are:

   - whether or not the proposal would be inappropriate development in the Green Belt;
   - the effect of the proposal on the openness of the Green Belt;
   - the effect of the proposal on the character and appearance of the area; and
   - the effect of the proposal on biodiversity.

Reasons

Green Belt

Whether or not the proposal would be inappropriate development

4. The appeal site is a plot of undeveloped land positioned in-between detached dwellings known as 'Highfield Lodge' and 'Clifton'. This proposal seeks outline permission to construct a new detached dwelling at this site. The National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless for one of a limited number of specified exceptions. One such exception is at paragraph 145(e) of the Framework which is for limited infilling in villages. Policy GB1 of

the Rochford Local Development Framework Core Strategy (CS) similarly seeks to protect the Green Belt.

5. The appeal site is outside of the settlement boundary of the large village of Hockley as defined by the development plan and is therefore within the countryside for the purposes of planning policy. However, neither the development plan nor the Framework defines the term 'village'. Relevant case law[1] also shows that the village boundary defined on a proposals map should not be determinative where it does not accord with the assessment of the extent of the village on the ground.

6. Church Road is a long road that extends north from the settlement boundary of the village and into open countryside. Towards its junction with Folly Lane to the south, the street is characterised by detached dwellings set on both sides of the carriageway. There are also footpaths along certain parts of it. This gives this section of Church Road a suburban feel and a visual connection to the village. However, moving further north to the part of the street in which the appeal site is located, the carriageway becomes narrower and there are no pedestrian footpaths along it. Development becomes less dense and there are large open fields along the western side of the carriageway. This, together with a notable increase in verdant character, gives this section of the street a rural feel.

7. Taking all of the above into account, and as the large housing development to the east is not readily apparent, I found that the appeal site is within a part of the street that has a greater visual connection to the surrounding countryside, rather than the more densely developed settlement to the south. As such, I am not persuaded that it falls within the village. The proposed development would therefore not constitute limited infilling within a village, failing the exception identified at paragraph 145(e) of the Framework.

8. My attention has been drawn to a development of five detached houses granted to the south of 'Windfield'. From the evidence, this site was part of a planned extension to Hockley and was therefore removed from the Green Belt. This is also true for the 70 units granted to the east of the appeal site. Such developments are therefore not directly comparable to the appeal scheme, which I have assessed on its own merits in any event. Furthermore, in the absence of details about how new detached properties to the west of the site were assessed, they carry only limited weight in my decision.

9. For the reasons given, the proposal would not fall within any of the exceptions outlined in the Framework and would be inappropriate development in the Green Belt, which is by definition, harmful. It would also conflict with Policy GB1 of the CS.

Openness

10. The Framework states that the most important characteristics of Green Belts are their openness and their permanence. Openness has both spatial and visual aspects. In the context of the adjacent buildings, the openness of this area has already been affected to a degree. Nevertheless, the proposal would add a considerable amount of built physical presence to the site, including a detached dwelling, its associated residential paraphernalia and hardstanding. This would

[1] *Julian Wood v SSCLG and Gravesham Borough Council* [2014] EWHC 683 (Admin).

be visible from certain vantage points along Church Road as well as from neighbouring properties. Consequently, the proposal would give rise to a modest loss of openness to the Green Belt in both a spatial and visual sense.

Character and Appearance

11. As discussed above, the appeal site falls within a part of Church Road that has a rural character. Although overgrown, the site accommodates a number of established trees and its verdant, undeveloped, nature contributes positively to this character.

12. The proposal would introduce a significant amount of urban form to the site and would result in the loss of a number of trees. It would therefore encroach urban development into the countryside and would erode the rural character of this part of the street. In addition, in the absence of detailed arboricultural information, I cannot be certain that the scheme would not result in the removal of, or harm to, trees that are of significant amenity value to the area. On the evidence before me, I am not persuaded that a scheme that would integrate effectively with its surroundings could be achieved through reserved matters applications.

13. For these reasons, I conclude that the proposal would harm the character and appearance of the area. It would conflict with Policy DM25 of the Local Development Framework Development Management Plan (DMP). Amongst other things, this seeks to conserve and enhance exiting trees given that they provide environmental benefits. For development that would adversely affect existing trees, indirectly or directly, it also requires appropriate justification and mitigation.

Biodiversity

14. The Council raises concern in terms of the impact of the proposal upon a habitat for protected species. The established trees and other vegetation at the site could provide such a habitat and I have no evidence to the contrary. In the absence of detailed surveys, I cannot ascertain the potential impact of the proposal in this regard, or conclude as to the merits of any potentially essential avoidance, compensation or mitigation. It would not be appropriate to leave such considerations to reserved matters applications. Accordingly, I cannot be certain that the proposal would not conflict with Policy DM27 of the DMP insofar as it seeks to protect species and habitats.

Other Considerations

European Sites

15. From the evidence, the appeal site is within the Zone of Influence for one or more protected European sites. Natural England has provided revised advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. In this instance, the Council is seeking financial contributions to fund strategic mitigation measures in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

16. In any event, the Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European site, must consider mitigation within the framework of an Appropriate

Assessment (AA) rather than at the screening stage[2]. As the competent authority, if I had been minded to allow the appeal it would have therefore been necessary for me to go back to the parties to seek further information in order to undertake an AA for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Social and Economic Factors

17. The Government is seeking to significantly boost the supply of housing. However, whilst in a fairly accessible location, the development for a single dwelling at the site would make only a minimal contribution to the Council's housing stock. Similarly, the economic benefits associated with it would also be minimal. In this context, I give limited weight to these social and economic benefits.

Other Matters

18. The appellant's concerns regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

19. The proposal would be acceptable in some respects. For example, it would not harm the living conditions of the occupants of surrounding properties and would not prejudice highway safety. However, these are requirements of the development plan and are therefore neutral factors in my decision.

Planning Balance and Conclusion

20. I have found the proposal to be inappropriate development within the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that 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.

21. The other considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and harm to openness, and the additional harm to the character and appearance of the area and biodiversity. Consequently, the very special circumstances necessary to justify the development do not exist. The Council's land supply position is unclear. However, even if it cannot not demonstrate a five year supply of deliverable housing land, the application of policies in the Framework that protect assets of particular importance (in this case land designated as Green Belt) provides a clear reason for refusing the development proposed. As such, the presumption in favour of sustainable development identified at paragraph 11 of the Framework would not apply.

22. For the reasons set out above, the proposal would conflict with the development plan when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken otherwise. Having considered all other relevant matters raised, I therefore conclude that the appeal should be dismissed.

M Heron INSPECTOR

[2] People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244