The Planning Inspectorate

Appeal Decision

Site visit made on 24 November 2020

by Sarah Colebourne MA, MRTPI

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

Decision date: 17/02/2021

Appeal Ref: APP/H1515/W/20/3252294
Lapwater Hall Sewage Disposal Works, Middle Road, Ingrave, Essex, CM13 3QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
- The appeal is made by Mr A Biglin against the decision of Brentwood Borough Council.
- The application Ref 20/00040/PIP, dated 13 January 2020, was refused by notice dated 2 March 2020.
- The development proposed is an application for permission in principle for the construction of a minimum of 3 to a maximum of 4 dwellings.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Biglin against the decision of Brentwood Borough Council which is the subject of a separate decision.

Procedural Matters

3. The proposal is for permission in principle. The government's Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.

4. The Council's decision referred to only one reason for refusal, that the site does not meet the criteria to grant permission in principle. The Council maintains that reason for refusal but has not provided any evidence in regards to that matter. The Council's decision states that as the site is considered to be previously developed land and is not in Part 2 of its Brownfield Land Register it does not meet the criteria set out in paragraph 004 of the government's PPG on permission in principle. Despite this view, it has not sought to argue that the application was invalid.

5. The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 sets out types of development that are excluded under Article 5B but it does not refer to whether the land has been previously developed and the proposal does not fall within any of the categories of major, habitats, householder or Schedule 1 development. The PPG sets out two routes to

permission in principle and summarises types of development that are excluded from a grant of permission for each route.

6. My interpretation is that it shows that development on land not defined as previously developed *can* be granted permission in principle through the route of an application, rather than through the other route of being entered on a brownfield land register. Importantly, it does not show that previously developed land cannot be granted permission in principle under the route of an application. I agree, therefore, with the appellant that the Council's interpretation of the PPG is erroneous and that the application is valid.

7. The scope of the considerations for permission in principle is limited to location, land use and the amount of development (PPG Paragraph: 012). All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. In its appeal statement the Council introduced additional reasons for refusal of Green Belt, location, flood risk and amount of development. Although I have not been provided with any justification for the introduction of new reasons at this stage, the matters of Green Belt and location to services are relevant to location and flood risk to location and land use. The additional reasons raised by the Council are therefore material to the consideration of this appeal. The appellant has had the opportunity to comment on those matters in his final comments and I am satisfied that his interests have not been prejudiced. I have considered the appeal on this basis.

Main Issue

8. The main issue is therefore whether the site is suitable for residential development, having regard to:-

    - whether the proposed development would amount to inappropriate development in the Green Belt; its effect on the openness of the Green Belt; and if it is inappropriate development, 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; *(location)*
    - the accessibility of the proposed development to services and facilities; *(location)*
    - whether the proposed development would result in unacceptable flood risk; *(location and proposed land use)*
    - the amount of development.

Reasons

Green Belt

9. The development plan includes policies GB1 and GB2 in the Brentwood Replacement Local Plan (2005) (LP) which seek to protect the Green Belt and its openness from inappropriate development. Although they differ in some respects from current national policy in National Planning Policy Framework (the Framework), their objectives are consistent with the Framework which attaches great importance to the Green Belt and its objective of preventing urban sprawl by keeping land permanently open. The Framework identifies one

of the exceptions to inappropriate development as *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: (i) not have a greater impact on the openness of the Green Belt than the existing development'.* Openness has both a spatial and a visual dimension.

10. The appellant says in the Planning Statement that the built development within the application area comprise approximately 4,894 sq m gross floor space with a total volume of approximately 7,520 cu m. I saw at my visit that there are extensive areas of access road, hardstanding, dilapidated buildings and concrete storage towers, tanks and settlement beds within the site. The Council says that the above ground buildings/development total 289 sq m or 1813 cu m but the appellant's figures are the most relevant in assessing the spatial impact because they include concrete surface areas and below ground development. The proposal is to develop the site with up to four detached dwellings totalling some 660 sq m of floorspace, plus 495 sq m of ancillary roads/driveways equating to 5,280 cu m. This would represent a significant reduction spatially in both site cover and volume.

11. The site is well screened by existing trees and hedges along the boundaries of the surrounding land which is also in the ownership of the appellant. From within the site, at my visit I saw that whilst there is some ground cover and vegetation, much of the hardstanding on the site is clearly visible as evidenced also in the appellant's photograph taken in 2018. I disagree therefore with the Council's assertion that the site has 'returned to green' which seems to be based on a photograph taken 20 years ago. The existing built development, at both surface level and above ground, can be seen from an existing access and glimpsed through the existing planting but is not clearly seen from the surrounding area. The reduction in the concrete surface areas and below ground development would therefore increase openness in spatial terms and would be a visual improvement when seen from within the site but would have a limited impact when seen from outside the site.

12. The plans indicate that four dwellings of two and a half storeys sited within large plots would be sited along an internal access road, with an access into the centre of the site from Middle Road. The spread of the dwellings would be greater than that of the existing buildings which are concentrated in the centre of the site. This, together with their greater volume compared to the existing buildings, would have a greater visual impact above ground level, both from within and outside the site despite the existing screening. This would outweigh any benefit resulting from the reduction in surface and below ground development.

13. I conclude then that for these reasons, the proposal would amount to inappropriate development in the Green Belt which carries substantial weight and would harm its openness. It would therefore be contrary to development plan policies GB1 and GB2 as well as to the Framework. I will now consider whether there would be any other harm and in my conclusion I will consider whether or not there are any 'very special circumstances'.

Accessibility to services and facilities

14. The Council's emerging Local Plan identifies Ingrave as a Category 3 settlement and suitable for brownfield redevelopment opportunities. The emerging policies, however, carry only limited weight due to their status and in any case,

the site's location is some distance and separated from the built area of Ingrave. Paragraph 78 of the Framework states that housing in rural areas should be located to enhance and maintain the vitality of rural communities. In paragraph 91 it seeks to ensure that places are safe and accessible and in paragraph 110 it encourages priority to pedestrian and cycle movements and, so far as possible, to public transport use.

15. The appeal site is located some 1.2km from the northern edge of Ingrave, a village close to Brentwood. It is separated from the village by open countryside. Between the site and the village there are a few scattered dwellings along Middle Road. The Council says that the location of the site is some 2.6km from the nearest convenience store and some 1.8 km from the nearest bus route.

16. Whilst I have noted the lack of accident data referred to in the appellant's Site Access Appraisal, Middle Road is a private road classed as a public right of way bridleway. It is a narrow single track lane and has no footways or street lighting. I saw that there are several informal passing places and also that it is a pleasant and very well used route for recreational walking. I have also noted that there are other footpaths in the vicinity of the site providing access to Brentwood and other settlements. Although the site would make a contribution towards the vitality of local services, the location of the site is unlikely to encourage walking or cycling for day to day travel for schools, food shopping or employment and future residents would be largely reliant on the use of private vehicles to access those services due to the lack of footways and alternative modes of transport. I have noted that the previous use of the site would have generated some vehicular movements but that use has now ceased and I give that argument little weight.

17. The appellant has referred to permissions for housing at Mountnessing which he says are a similar distance from services. That may be so but those permissions were for much larger developments. I have not been made aware of the particular circumstances of those cases, including what weight was given to the need for housing and am unable to make direct comparisons with this case that would alter my findings.

18. The site's location in relation to services and facilities therefore also carries significant weight against the proposal and it would be contrary to the Framework in this respect.

Flood risk

19. The appeal site lies within Flood Zones 3a/3b/2. The overall aim of national policy in the Framework and the Technical Guidance to the Planning Practice Guidance (PPG) on flood risk is to steer new development to areas with the lowest probability of flooding through application of the sequential test to assess if there are any reasonably available alternative sites and where necessary the exception test.

20. The Council considers that flood risk is a relevant consideration under the matter of land use and says that the Local Led Flood Authority and Environment Agency (EA) advice was that insufficient information regarding the sequential or exception tests was received to confirm if the development would be acceptable. Whilst the EA had said that permission in principle could be appropriate and the appellant considers that flood risk is a matter for the

Technical Details stage, I agree with the Council that the application of the tests required in the PPG is necessary at this stage to establish if the location and land use of the site is acceptable.

21. Although a flood report has been provided which identifies that the site is located outside of the modelled 1 in 100 year (plus climate change) flood extents with predicted low depth flooding under two of the sensitivity scenarios tested, it does not constitute a detailed Flood Risk Assessment and without the information sought in the PPG, I conclude that the proposal would lead to an unacceptable flood risk, contrary to the Framework.

Amount of development

22. The Council's LP policy H14 seeks to ensure that proposals have a density of no less than 30 dwellings per hectare unless the special character of the site determines that it would be inappropriate. In this case, the rural location of the site and its location within the Green Belt are important considerations and the requirement for a higher density of development would be inappropriate. If the proposal were acceptable in other respects, the density proposed of three to four dwellings on slightly less than 1 ha would be acceptable and I find that no harm would be caused in these terms.

Other considerations

23. My findings in regard to the Green Belt above show that whilst the proposal would remove significant areas of development above and below ground level including dilapidated buildings, when seen from outside the site the existing buildings are not visually intrusive and the greater spread and the amount of new buildings would result in some visual intrusion. In the context of this site, the immediate area can be said to include both the site itself and its setting when seen from Middle Road. As the proposal does not include the re-use of redundant buildings and would not significantly enhance its immediate setting, it would be contrary to paragraph 79 of the Framework and this matter does not weigh in favour of the proposal.

24. Paragraph 59 of the Framework places emphasis on the need to boost the supply and variety of new homes. The Council accepts that it does not have a five year housing land supply and it is clear that the proposed development would make a modest contribution to the significant shortage of housing in the area, given the extent of the Green Belt and the stage of the emerging Local Plan. However, as it is only for four dwellings this would be only a modest benefit.

Conclusion

25. The Framework advises that inappropriate development should not be approved except in very special circumstances. These 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. The substantial harm caused by reason of inappropriateness and the harm to openness carries substantial weight against the proposal. In addition to the substantial Green Belt harm, there would also be significant harm in terms of flood risk and accessibility to services and facilities. The absence of harm in terms of the amount of development is a neutral factor in the balance. The other consideration weighing in favour of the development, the modest contribution

to the need for housing, does not amount to the very special circumstances necessary to justify the development in Green Belt terms. I conclude, therefore, that the site is unsuitable for residential development in terms of its location and the proposed land use. The proposal would conflict with the development plan and the Framework as a whole and there are no other material considerations that warrant determining the appeal otherwise. The appeal is dismissed.

Sarah Colebourne

Inspector