
Appeal Decision

Site visit made on 26 October 2021

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal Ref: APP/M1595/W/21/3273747

The Red House, Brentwood Road, New Orsett, Essex RM16 3BP

- 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 Robert Rouse against the decision of Thurrock Borough Council.
 - The application Ref 20/00454/OUT, dated 24 July 2020, was refused by notice dated 26 October 2020.
 - The development proposed is a retirement home (up to 52 bedrooms-Use Class C3) for the over 55's including, dentist (Use Class D1) of up to 70 square metres (sqm) floorspace and underground car park.
-

Preliminary matters

1. The application was submitted in outline with matters of layout, landscape, access, appearance and scale reserved and I have considered the appeal accordingly.
2. The Council considered the application on the basis of up to 41 self-contained units with a maximum of 52 bedrooms. The Design and Access Statement refers to 52 bedrooms with up to 52 dwellings. The number of flats proposed on the indicative plans is 41 (7 x studio flats, 23 x 1B flats and 11 x 2B flats). I have considered the appeal on the basis of 41 dwellings with the potential for 52.

Decision

3. The appeal is dismissed.

Main Issues

4. The main issues are as follows:
 - Whether the proposed development would be inappropriate development in the Metropolitan Green Belt having regard to the revised NPPF of 2021 and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on the highway network;
 - Whether the proposed contribution towards affordable housing is acceptable; and

- If inappropriate development in the Green Belt, 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 required to justify the proposal.

Reasons

Policy background

5. The development plan for the area includes the Thurrock Local Development Plan Framework (DPF) incorporating the Core Strategy and Policies for the Management of Development Plan Document, as amended and adopted in January 2015. The replacement Thurrock Local Plan is proceeding towards adoption but has not reached a stage at which it can be given any significant weight.
6. The National Planning Policy Framework (NPPF) was revised in July 2021. DPF policies need to be understood in the context of the latest guidance. I have taken account of it in this decision.

The site and its surroundings

7. Red House is a relatively large 20th century brick dwelling of conventional design, set in a large plot. A computer service and retail sales outlet operates from an extension to the house on the north side and this activity is augmented by a number of shipping containers used for storage. The site lies off the A128 about 400 metres south of its junction with the dual carriageway A13. It is relatively isolated, being about 1.73 kilometres (km) away from Orsett village to the north on the opposite side of the A13, and a similar distance from local facilities in the nearest settlement at Chadwell St Mary to the south. There is a sizeable, mostly recent estate of houses at Southfields approximately half a km to the north east, but there are no shops and few services here.
8. Immediately adjoining the appeal site to the south is Orsett Golf Course. Across the A128 to the west is an operative sand and gravel quarry. Land to the east and north of the appeal site between it and Southfields comprises the disused Orsett Camp Quarry, now largely covered by local indigenous flora and scrub. Seen from the east, existing and previous quarrying activity has left the appeal site and Red House appearing prominent in the landscape.

Whether inappropriate development in the Green Belt and openness

9. The site comprises previously developed land according to the definition in the Annex 2 to the NPPF. The existing house would be demolished and replaced with a substantially larger structure. As such, it would not fall within the exception at criteria (d) of paragraph 149 of the NPPF that might be considered not inappropriate. Notwithstanding the outline nature of the application and the illustrative drawings showing a distinctive plan form, the provision of at least 41 dwellings with a dental surgery in place of the existing single dwelling would inevitably have a significantly greater impact on openness. In considering this matter I have taken into account the limited overall height of the proposal, but its footprint, width and bulk would be substantial.
10. The area is dominated by the golf course on one side and by wide areas of open arable land or former quarrying land with few trees. In this context, the increased volume of accommodation in this isolated spot would be starkly

visible from all directions. It has not been shown how the visual bulk of the proposed accommodation could be effectively mitigated. The trees which surround the garden boundary are of largely unmaintained and overgrown hedging species such as leylandii and could not be relied upon to provide any effective screening in the long term. Any new planting would take a long time to mature. Acoustic fencing would add to the impression of significant built form. Moreover the close proximity of windows to the boundary is likely to lead to pressure to remove trees and boundary planting.

11. The assessment of any impact on openness does not necessarily depend upon a development not being visible or by being screened (though this is a material consideration). The illustrative drawings indicate a scheme with some highly stylistic features together with a long monotonous elevation which would draw the eye. Acknowledging that the development could contribute to the supply of affordable housing, which is needed in the borough, the extent of the change in sheer bulk would nevertheless amount to encroachment and substantial harm to the openness of the Green Belt. Accordingly, the criteria set out at sub-paragraph (g) of paragraph 149 would not be satisfied. I conclude that the proposed development would be inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt. Substantial weight attaches to any harm.

The highway impact

12. There are no footways immediately outside the site but it is proposed that a pedestrian link could be established with an existing footway in Welling Road about 80 metres to the north. This would not provide access to any shops or essential services but would help future residents to reach a local bus route on the A1013 Stanford Road. I agree that the verge is sufficiently wide for this to take place. Agreement with the Highways Authority would be necessary and if I was otherwise minded to allow the appeal, a Grampian style condition could ensure that a footway link is in place before occupation.
13. However the majority of residents of the future development would need to use cars for most journeys and there would be an increase in traffic associated with servicing the scheme, which is outside any settlement. It is unclear how many additional vehicles would need to access the A128 Brentwood Road, which is classified as a Level 1 Distributor. However it benefits from adequate sightlines (which could be retained by condition) and also has three nearby junctions with the A13, Welling Road and the Golf Club, and a site access, all of which would tend to suggest that passing drivers would be likely to be exercising a degree of caution in this location. The junction with the A13 has been significantly upgraded. The addition of approximately 40-72 vehicle movements a day¹ as suggested by the appellant would in my view be unlikely to lead to a residual cumulative impact on this A road or its junction with the A13 that would be severe. There would be no conflict with the aims of policy PMD9 of the DPF or the guidance in the NPPF.

¹ Estimated figures vary. The appellant considers 100 movements a day in or out are generated by the existing business

Affordable housing

14. Policy CSTP2 seeks a minimum provision of 35% of the total number of residential units to be provided as affordable housing with a target of 70% of those being social rented accommodation.
15. A signed and dated Unilateral Undertaking (UU) has been submitted which would have the effect of providing 40% of the dwellings as affordable housing, as well as making a financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy, the provision of a commercial unit to be utilised as a dental surgery; and a restriction on occupation to those over 55 and their spouse or co-habiting partner. The provision in respect of affordable housing would exceed the Council's policy requirements. The provisions of the UU are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. They meet the tests set out in paragraph 57 of the NPPF and Regulation 122 of the CIL Regulations (2010). I conclude that the requirements of Regulation 123 and Planning Policy Guidance (PPG) have also been satisfied and the UU attracts significant weight.

Very special circumstances and conclusion

16. The Council cannot provide a 5 year supply of housing land and the shortfall lies somewhere around 2.5 years. In these circumstances, paragraph 11(d) of the NPPF indicates that when the policies which are most important for determining an application are out-of-date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Development plan policies in the DPF are out of date and unlikely to be replaced in the near future.
17. The development would make a meaningful contribution to housing supply and meeting the need for affordable housing. This attracts very significant weight. The provision of a dental surgery attracts moderate weight. Benefits in terms of employment and economic activity attract little weight, as a similar development in a more sustainable location would have the same benefit. There are no 'eco-friendly' benefits that can be given weight at the outline stage and in any case, these could also apply to a site in or near a settlement. The location of this site has significant drawbacks in this sense as it would require future occupants and their visitors to use motor vehicles for many journeys, notwithstanding the transport requirements of staff and servicing, which would not minimise waste and pollution or assist in moving to a low carbon economy. A travel plan could be beneficial but would not in itself overcome the intrinsic disadvantages of the location. The scheme would fail to address the environmental objective of sustainable development as set out in the NPPF.
18. Importantly, NPPF policies on protecting Green Belt land comprise one of the exceptions of particular importance listed in footnote 7 to paragraph 11. Substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by way of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. I have found no harm in terms of the

impact on highways but this does not confer an advantage to the scheme. The benefits in terms of new housing, though much needed, fall far short of the harm caused by the extent of the proposed increase in footprint and bulk of the replacement building which would be inappropriate development in the Green Belt and moreover would have a noticeable and dramatic impact on openness. The disadvantages of the location add further to this harm. No very special circumstances exist that would justify the proposal.

19. I have given consideration to the case at Waterworks, High Road (ref 20/00623/FUL) but the circumstances are different especially in terms of the volume and bulk of built development proposed.

20. For all the above reasons, the appeal should be dismissed.

Paul Jackson

INSPECTOR