
Appeal Decision

Site visit made on 25 August 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2022

Appeal Ref: APP/C1570/W/21/3287128

Land south of Lower Road, Little Hallingbury CM22 7PX (550059, 217507)

- 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 T Marsh against the decision of Uttlesford District Council.
 - The application Ref UTT/21/2053/OP, dated 07 June 2021, was refused by notice dated 18 August 2021.
 - The development proposed is described on the application form as: 'Outline planning permission of 1no. dwelling with all matters reserved'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is for outline planning permission with all matters reserved. As such, I have only had regard to the proposed site plan and site layout plan insofar as they are indicative.

Main Issues

3. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
- The effect on the openness of the Green Belt.
- If the proposal 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 required to justify the proposal.

Reasons

Inappropriate Development

4. Saved Local Plan¹ Policy S6 sets out that certain forms of development (including infilling) will be permitted within villages which are excluded from the Green Belt. Little Hallingbury is one such village. However, the appeal site is located outside of the defined development limits of the village and is within the Green Belt. As such, the proposed development would conflict with this policy. However, the policy is not consistent with the wider ranging approach to

¹ Uttlesford Local Plan – Adopted January 2005

development in the Green Belt taken in the Framework. Furthermore, it does not include provision for the application of the 'Very Special Circumstances' test as set out within the Framework.

5. Framework Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, except in certain circumstances
6. Exception 'e' refers to 'limited infilling in villages'. The Framework does not define a 'village'. As a starting point, the appeal site is not located within any settlement boundary as defined within the development plan. However, this is not the determinative factor in considering whether a site is within a village. Indeed, an assessment of the site-specific circumstances is necessary.
7. The appeal site comprises land adjacent to Lower Road which links the two settlements of Little Hallingbury and Wright's Green further south. It is not particularly clear where one settlement gives way to the other. This is compounded by the fact that the Little Hallingbury Village Hall and School appear to be located outside of the development plan defined settlement boundary. Indeed, both are further south than the appeal site.
8. Notwithstanding this, the appeal site comprises part of a large gap between linear residential development to the north and south and it therefore provides some functional separation between the two concentrations of residential development. However, given the surrounding context of linear residential development on the opposite side of Lower Road, the appeal site can be considered to be part of a village in a functional sense. Taking these factors into consideration, the appeal site is within a village for the purposes of applying exception 'e'.
9. The proposed development is for a single dwelling and therefore it is clearly of a scale which is 'limited' within the surrounding context and within the context of exception 'e'.
10. However, the appeal site only comprises a small part of the relatively extensive gap which separates the linear development to the north and that further to the south adjacent to the junction with Sawbridgeworth Road. As a result, a significant gap would remain, comprising open grassland on the site immediately to the south. Furthermore, Sawbridgeworth Road would separate the proposed development from the existing residential development to the south, particularly given the wide nature of the junction with Lower Road. As such, these characteristics result in an extensive physical separation between the appeal site and the dwellings located further to the south. As a result, the proposed development would not comprise 'infilling' within the terms of exception 'e'.
11. The appellant has referred to an appeal decision² allowed on 16th April 2020 for 5 dwellings at a nearby site. However, in that case the Inspector stated in part: *'while I acknowledge that a strip of land to the north of the site has been omitted from the planning boundary, this strip is narrow and is visually part of the agricultural field such that the development to the north appears to bound the site. Therefore, while I acknowledge the length of the site, given the*

² PINS REF: APP/C1570/W/19/3241822

proximity to nearby dwellings along the road, it could be considered as limited infilling’.

12. In the case of the current appeal, a much more substantial area of land, including the adjacent field and relatively wide road junction would separate the proposed development from the residential development to the south. As such, unlike in the case of the allowed proposal referred to by the appellant, the proposed development would not have the appearance of being bound by residential development on both sides. Therefore, this consideration does not alter my conclusions.
13. Exception ‘e’ as set out under Framework Paragraph 149, does not apply to the proposed development. The proposal would therefore be inappropriate development in the Green Belt.

Openness

14. Framework Paragraph 137 states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness involves a consideration of both spatial and visual aspects.
15. The site comprises land which is currently free from development. The planning application form refers to the existing use as ‘agricultural/scrubland’. Indeed, the site has an unmanaged appearance. The appellant is seeking outline planning permission, with all matters reserved. Nonetheless, the development of the site to provide 1 dwelling would inevitably result in a harmful spatial impact upon the openness of the Green Belt. This would result from the addition of a dwelling and the associated residential paraphernalia which would likely be accommodated within the curtilage. As a result, there would be a significant reduction in the spatial openness of the Green Belt.
16. Turning to the visual aspect of openness, the site is predominantly bounded by hedgerows and mature trees, including along the boundary with the highway. However, these trees and hedgerows include several gaps and the site is visible from the highway. Despite the presence of these boundary treatments, the site itself is fairly extensive and contributes significantly to the openness of the Green Belt within the surrounding context of sporadic residential development. Notwithstanding this, the site also slopes down away from the highway, which would help to mitigate the visual impact of the development on the openness of the Green Belt. Taking these considerations into account, whilst I acknowledge that the proposed layout plan is indicative, the evidence before me demonstrates that the provision of 1 dwelling on the appeal site would have a moderate harmful visual impact upon the openness of the Green belt.
17. In summary, the proposed development would result in a significant spatial and moderate visual reduction in the openness of the Green Belt. It would therefore fail to preserve its openness.

Other Considerations

18. Framework Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that ‘very special circumstances’ will not exist unless the potential harm to the Green Belt and any other harm, is clearly outweighed by other considerations.

19. The Council only referred to the alleged harm to the Green Belt within the reason for refusal. However, the Planning Officer report alleges harm in other regards. Nonetheless, given that I am dismissing this appeal on other grounds, it is not necessary to consider these matters further. Even if assuming that there would be compliance with development plan policies in relation to the location of the development and character and appearance, these considerations do not represent a benefit of the proposed development, they are neutral considerations in weighing whether very special circumstances exist. Indeed, that the site has good access to services and facilities is not a benefit of the development, given that the Framework aims to direct residential development to the most sustainable locations in any case.
20. The appellant refers to various Local Plan policies and sub-text which he suggests is supportive of the principle of development. For example, Local Plan Policy H1 and the sub-text at paragraph 6.14. However, these policies do not circumvent the need to consider the effect of the proposal on the Green Belt. In any case, Policy H1 only applies to residential development within the defined settlement boundaries and to other categories of development (none of which are relevant in this case). Again, the fact that there is some support at paragraph 6.14 for 'sensitive infilling of small gaps' outside of development limits, does not override considerations pertaining to the effect of development on the Green Belt.
21. There would be some social and economic benefits associated with the proposed development. These benefits would be realised through the efficient use of land to deliver one additional dwelling to the housing stock, the small increase in the local population to support existing services and the temporary support for construction jobs. These are benefits which are consistent with the economic and social pillars of sustainable development as set out within the Framework.
22. At the time the planning application was determined the Council could only demonstrate a housing land supply of 3.11 years. There is no substantive evidence to suggest that this position has improved since then. This consideration increases the weight to be afforded to social and economic benefits of providing an additional dwelling. Nonetheless, even in this context, given the small scale of the proposal the social and economic benefits associated with the development can only be attributed moderate weight.
23. That the appellant alleges that the land is not generating income at present is not a consideration which weighs in favour of the proposal, given that this is a private matter as opposed to a public consideration. In any case, no substantive evidence has been provided to support this assertion.
24. The fact that the Council has been placed in 'special measures' has no bearing on the main issues pertaining to this appeal.

Planning Balance and Conclusion

25. The scheme would be inappropriate development, which by definition, would be harmful to the Green Belt. There would also be a significant spatial and moderate visual reduction in the openness of the Green Belt as a result of the proposed development. Framework Paragraph 148 states that any harm to the Green Belt should be attributed substantial weight.

26. In conclusion, whilst there are some benefits associated with the proposed development, these are of moderate weight. Indeed, the substantial weight to be given to the Green Belt harm is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist.
27. I have found that Policy S6, which is the most important policy in considering this appeal, is not consistent with the Framework. As such it is out-of-date and Framework Paragraph 11d applies. This paragraph also applies as a result of the Council's HLS shortfall.
28. Framework Paragraph 11d(i) states that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 clarifies that such policies include those relating to the Green Belt.
29. Having regard to the policies contained in the Framework, the proposed development would result in significant harm to the Green Belt. As such, those policies provide a clear reason for refusing the development. As a result, Framework Paragraph 11d(i) does not provide any support for the proposed development and Framework Paragraph 11d(ii) is not engaged.
30. As such, having regard to the development plan as a whole and all other relevant material considerations, the appeal should be dismissed.

Luke Simpson

INSPECTOR