



Appeal Decision

Site visit made on 14 September 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/W1525/W/21/3287737

The Old Bakehouse, 46 Heath Road, Ramsden Heath, Essex CM11 1HS

- 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 Steve Drury of Rooff Residential Ltd against the decision of Chelmsford City Council.
 - The application Ref 21/00986/PIP, dated 11 May 2021, was refused by notice dated 17 June 2021.
 - The development proposed is described on the application form as 'application for permission in principle for the erection of 3no new dwellings (with retention of existing dwellinghouse on site with amended curtilage)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for Permission in Principle for residential development. This consent route has two stages. The first stage establishes whether a site is suitable in principle. The second stage forms the technical details consent, where the detailed development proposals are assessed. The appeal relates to the first stage and therefore I have considered only the principle of the scheme.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted.

Main Issues

4. The main issues are whether the site is suitable for residential development, having regard to its location, land use and amount of development, with particular regard to:
 - whether the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - if the development is inappropriate development, the effect of the proposed development on the openness of the Green Belt; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Whether Inappropriate Development and Openness

5. The appeal site comprises a large garden plot to the north side of Heath Road, occupied by a detached dwelling known as the Old Bakehouse. To the east of the site lie residential properties and a telephone exchange. To the west of the site lies the Nags Head, together with car park and beer garden. To the north of the site lie open fields.
6. In strategic locational terms and having regard to access to nearby services and facilities within Ramsden Heath, notwithstanding the consideration of any effects on the Green Belt or amount of development here, the site is an appropriate location for residential development. Similarly, the proposed land use is for residential purposes which, given the site's existing and surrounding land uses, is clearly compatible, again notwithstanding consideration of other matters.
7. Notwithstanding the above, the site is within the Green Belt. Policies S11, DM6 and DM9 of the Chelmsford Local Plan (LP, 2020) broadly conform to the general thrust of national Green Belt policy, setting out that the openness and permanence of the Green Belt will be protected and inappropriate development will normally be refused whilst supporting the limited infill development within villages. In a similar manner to the LP policies referenced above, Paragraph 147 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved 'except in very special circumstances'. One exception to that position is the limited infilling in villages¹.
8. There is no dispute between the main parties in respect of the appeal site falling within a village. I have no reason to disagree with these findings.
9. The terms 'limited' and 'infilling' are not defined within the Framework, however LP Policy DM9 makes reference to, in such circumstances, a site needing to: form a small gap in an otherwise built-up frontage; that any infilling is limited so as not to impact unacceptably on the function and purpose of the Green Belt; and that the development does not detract from the existing character or appearance of the area. Whilst this goes somewhat further than the text within the Framework, I do not consider the additional detail to be contrary to the general thrust of national policy. Instead, it acts to assist in the assessment of limited infilling.
10. The supporting text to Policy DM9 sets out that a gap is normally regarded as small if it is capable of accommodating no more than one property, or in some special circumstances, more than one. Moreover, any gaps which positively contribute to the setting of a village will be protected.
11. The appellant contends that the policy does not provide a metric definition of a small gap and that there is no upper limit on the number of units an infill site can accommodate. However, the policy cannot set out every eventuality. Ultimately, using the guidance within Policy DM9, whether or not a proposed development constitutes limited infilling is a question of fact and planning judgement for the decision maker, having regard to the nature and amount of development, the location of the appeal site and its relationship to existing adjoining development. I acknowledge that the layout of the site should not be

¹ Paragraph 149 (e)

assumed. Nevertheless, the application was submitted for residential development of a minimum and maximum figure of 3 dwellings and has been considered on this basis.

12. The frontage of the appeal site is wide, in part consisting of mature landscaping, which also extends some distance to the rear. The verdant nature of the site, with its high boundary landscaping, forms a definite visual break between the Old Bakehouse and the next building to the west, the Nags Head public house. This contributes positively to the character and appearance of the surrounding area from which it can be seen. Moreover, it marks a point where the character of the road begins to transition from village to countryside. This is emphasised by the lack of footway on the northern side of Heath Road and given that the appeal property and those properties to the east of the site do not front traditionally or consistently onto Heath Road. I concur with the Council that the street scene here could reasonably be described as sporadic.
13. From that perspective the appeal site does not form part of an obvious built-up frontage or continuous ribbon of development, as required by Policy DM9. The appellant contends that the site, including where the hedgerow is present, is read as being residential in character. In respect of the hedgerow, I disagree for the reasons above. The wide frontage of the site, together with the proposed development of three dwellings within the site cannot, in my view, be reasonably regarded as a small gap for the purposes of 'limited infilling'.
14. I note comments that the character of the area, and the contribution the verdant appearance of the site makes to it, could be maintained by setting one or more of the dwellings back from the frontage. Thus, ensuring the retention of trees and hedging and provide gaps in the streetscene. However, to do so effectively, whilst still providing 3 dwellings, would necessitate significant development behind the site's immediate frontage. Although I note the overall size of the site could accommodate this, because it extends some distance to the rear, this nonetheless reinforces my view that the site does not comprise a small gap in the frontage and the development proposed would not comprise limited infilling within it.
15. Although technical details are reserved, with considerations limited to location, land use and the amount of development, openness is a fundamental characteristic of the Green Belt. In my view, openness has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
16. I note the comments stating that openness cannot be accurately assessed at the in principle stage. Nevertheless, I have set out above why I consider there to be harm to openness based on the development on three dwellings. The proposed development of three dwellings would undoubtedly introduce built development and massing to a site where there is currently none, irrespective of the fact that some of the site would likely be used as garden space for the new dwellings. The footprint of the dwellings, their likely bulk and the accompanying paraphernalia, including parking and amenity areas, would all inevitably lead to a loss of openness, both physically and visually. Given the location of the site adjacent to Heath Road, any development here would appear overly prominent when viewed from the roadside and adjoining properties. The fact that the existing garden plot within which the dwellings

would be located is already in domestic use, features mature trees and landscaping which may be retained and is surrounded on three sides by development, does not change this effect on openness.

17. For the foregoing reasons, I conclude that the proposed development would not fall into any of the exceptions listed in paragraph 149 of the Framework and would form inappropriate development in the Green Belt. Substantial weight should be given to this harm. The proposed development would fail to preserve openness, although in the light of mitigating factors, in particular the residential character of the wider area, adverse effects to openness would fairly be described as moderate. It follows that the proposed development would be contrary to the relevant provisions of LP Policies S11, DM6 and DM9 which in summary together seek to protect the Green Belt from inappropriate development and to protect its openness and permanence.

Other Considerations

18. I note the comments of the appellant in respect of the length of the reason for refusal, that the scheme would not be liable for Community Infrastructure Levy payments and that there is an error in respect of the Green Belt status of the site within the Council's submitted appeal documentation. I also note the appellants comments in respect of the site falling within a village, that there would be no risk of sprawl or merging with other towns and that the site does not impact on an historic town. Nevertheless, none of those matters change my conclusion on the main issues or outweigh the harm identified and the conflict with the development plan. These considerations would not weigh in favour of the proposed development.
19. I acknowledge that the proposed development would provide three new dwellings, located in a reasonably sustainable position, with access to the village services and facilities and would contribute towards housing need in the area. There would also be temporary economic benefits during the construction phase, together with long term social and economic benefits through increased support for local shops and services in the area. However, these benefits would inevitably be relatively limited due to the scale of the proposed development. Moreover, the Council can demonstrate a five year housing land supply. I attach moderate weight to these considerations.
20. My attention has been drawn to 63-65 Heath Road², positioned on the opposite side of Heath Road. Whilst I have had regard to this case, and there are some similarities in terms of strategic location, I have limited information before me in terms of the size of that site relative to the appeal site and its former appearance. However, I note that the scheme included fewer dwellings than are proposed within the appeal case, that built form existed to the rear of the site and that it was determined under a previous local plan. I also noted on my site visit that the character and built form of the southern side of Heath Road is different to that of the north. From that perspective, I do not consider the two sites to be directly comparable. Nonetheless, I have considered the proposed development based on the evidence before me and my observations on site. The existence of that nearby site does not alter my consideration of the appeal or the conclusions which I have made. I attach limited weight to these considerations.

² 17/01909/FUL and 19/01237/FUL.

Green Belt Balance

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be allowed except in very special circumstances. In addition, there are moderate impacts on openness here. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other conservations.
22. Cumulatively, I attach no more than moderate weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt.
23. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. The proposed development would not therefore accord with the Green Belt aims of LP Policies S11, DM6 or DM9, or the Framework, as set out above.

Conclusion

24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

A Price

INSPECTOR