



Appeal Decision

Site visit made on 20 September 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2022

Appeal Ref: APP/X0415/W/21/3283709

Land off Hog Lane, Ashley Green HP5 3PW

- 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 Rutherford Homes Limited against the decision of Buckinghamshire Council.
 - The application Ref PL/20/3760/OA, dated 4 November 2020, was refused by notice dated 30 June 2021.
 - The development proposed is an affordable housing development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form, but I have removed the latter parts which reference the location of the site as this is not a description of development.
3. The proposal seeks outline planning permission, with all matters reserved. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.
4. During the course of the appeal a Unilateral Undertaking was submitted by the appellant (the UU). This relates to affordable housing and biodiversity net gain and I have taken this into account in reaching my decision.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - The effects on local infrastructure and the accessibility of the site to services and facilities;
 - Whether the proposal would deliver an appropriate amount of affordable homes, and;

- Whether any 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 proposal.

Reasons

Whether Inappropriate Development

6. Paragraph 149 of the Framework states that construction of new buildings in the Green Belt should be regarded as inappropriate development and provides a list of exceptions. These exceptions include, at 149f) proposals for limited affordable housing for local community needs under policies set out in the development plan, including policies for rural exception sites.
7. Policy CS9 of the Core Strategy for Chiltern District 2011 (the CS) relates to affordable housing in rural areas and provides conditions which those sites should meet. This includes, among other things, that there should be an identified need and that the development is small-scale, no greater than required to meet the current need.
8. The Framework provides a definition of rural exception sites as 'small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection...'. The Framework goes on to confirm that starter homes, such as those proposed, can form a type of affordable housing.
9. The appellant has submitted a Housing Needs Assessment (HNA) which seeks to demonstrate the level of affordable housing need in the parish of Ashley Green. This includes an assessment of household profiles, housing costs and affordability, as well as results from a survey of households in the parish. The report acknowledges the widespread importance of the delivery of affordable housing for low income households, and the limited range of housing stock available in the parish which makes them unavailable to lower income households and newly formed households. The appellant accepts, however, that the HNA did not give conclusive evidence of a local need for affordable housing in Ashley Green, for reasons including low response rates and the limited size of the survey area.
10. The Council acknowledge there is a wider need for affordable homes across the Chiltern District, and that the Chiltern and South Bucks Housing and Economic Needs Assessment 2019 found that 1,175 households aspired to home ownership. While I appreciate the appellant's concerns for the difficulties of obtaining conclusive data in a small rural community, there is no substantive evidence before me to suggest that this wider District-level need translates to a community need in the locality of the appeal site.
11. For the above reasons it has not been demonstrated that there is an identified local community need for the proposed affordable homes, as required by the development plan policy. Nor is there substantive evidence to suggest that the appeal scheme would conform to the definition of a rural exception site given in the Framework, in terms of addressing the needs of the local community.
12. Furthermore, the UU is incomplete and I cannot be certain that it would take effect, or that those who have signed are all those who need to sign it. An

obligation must be complete before it can take effect. In addition, the UU describes that it would secure an 'affordable housing scheme', rather than securing a quantum of affordable homes. As such, even if a local community need had been identified, the UU would not provide the level of affordable homes required to meet the relevant exception to inappropriate development.

13. I have considered whether this matter could reasonably be dealt with by a negatively worded planning condition. Planning Practice Guidance (PPG) advises that such a condition is unlikely to be appropriate in the majority of cases, other than in exceptional circumstances. Based on the evidence I am not satisfied that such circumstances exist in the case of this appeal and, in any event, this would not adequately address or overcome the above concerns relating to local identified need for the affordable homes.
14. For the above reasons taken together, the development would not fall within the exception to inappropriate development at paragraph 149f) of the Framework. As a consequence, it would constitute inappropriate development in the Green Belt.

Openness

15. Openness of the Green Belt has a spatial aspect as well as a visual aspect. Openness is also open textured and a number of factors can be relevant in its consideration.
16. The appeal site is predominantly open grassland, bound by mature hedgerows and foliage. It sits just outside the village of Ashley Green and adjoins the back of ribbon developments which line Chesham Road and Hog Lane. The openness of the wider area to the north is established by the dispersed pattern of development and predominance of open fields. The open nature of the appeal site contributes towards these qualities of openness.
17. The proposed development would significantly alter the existing sense of openness by erecting new homes with associated access road, areas for parking and vehicle manoeuvres, boundary treatments and domestic paraphernalia that would arise from the residential occupation of each dwelling. These elements would result in a substantial reduction in the spatial aspect of the Green Belt's openness.
18. In terms of visibility, the development would be screened to some extent from wider view points by the surrounding hedgerows, depending on the final building heights and landscaping. However, the development would be visible from the private view points of surrounding buildings and their gardens, as well as from the public footpath which currently crosses the site, and which links to a wider network to the north. While the final layout and soft landscaping attributes of the development are not established, it is likely that the proposed development would also be visible to some degree along the new access from Hogs Lane.
19. While the main visual effects on openness would be mostly limited to these localised views, the effects would nonetheless be significant, particularly in respect of the substantial decrease in the spatial aspect of the Green Belt's openness, which would occur irrespective of how visible the development would be. Taken together, the harm to the openness of the Green Belt would be substantial.

20. The proposal would involve new buildings and structures on land which is currently undeveloped and which forms part of the countryside surrounding Ashley Green. The proposal would therefore also conflict with the purposes of including land within the Green Belt given at paragraph 138 of the Framework through representing encroachment into the countryside.
21. For the reasons given, the proposal would not adhere to Policy CS9 of the CS which gives conditions for affordable housing schemes in rural areas. The proposal would also conflict with Policy GB2 of the Chiltern District Local Plan 1997 (including alterations 2001, consolidated 2007 and 2011) (the CDLP) which lists exceptions to inappropriate development in the Green Belt. However, the conflict with GB2 attracts limited weight given that the policy is inconsistent with the exceptions in the Framework. The development would conflict with the objectives of the Framework for the reasons above.

Character and Appearance

22. Ashley Green is a rural village where the settlement pattern broadly follows the lines of Chesham Road and Hog Lane, plus Two Dells Lane to the south. There are, however, examples of developments behind the main road frontages, for example at Snowhill Cottages, a cul-de-sac on the eastern side of the village. I do not, therefore, find that the erection of housing on the appeal site would cause harm to, or detract from, the established pattern of development in the village.
23. The houses which adjoin the appeal site on Hogs Lane vary in their character and design, but are generally set within spacious and verdant plots with generous set backs from the street. Neighbouring developments to the east on Chesham Road have smaller plot sizes, but continue to include mature landscaping to their front gardens. The Golden Eagle public house on Chesham Road similarly sits within a generous and open plot, formed in part by its car park. Together these attributes contribute to the rural, green and spacious character of the village.
24. Depending on the final quantum of development, the proposed density of development on the site could be higher than that of surrounding developments, and the development could entail a notable uplift in the size of the settlement. However, the visual effects of that development will depend on matters relating to the scale, layout, appearance, and landscaping of the development, which are not established at this time.
25. For these reasons, I do not find conflict with Policy CS20 of the CS nor Policy GC1 of the CDLP which among other things, require development to be of a high standard of design and respect local distinctiveness.

Infrastructure and Accessibility

26. Ashley Green lies between the larger settlements of Berkhamsted to the north and Chesham to the south. These are a short drive from the appeal site and contain a variety of facilities and services as well as further links to public transport networks including the railway and London Underground, as well as routes on the national cycle highway network.
27. Ashley Green benefits from facilities and services including a public house, church, village hall and a community hall including a café. While the village

lacks certain other facilities including schools, shops and medical facilities, these are widely available in the other nearby settlements and surrounding areas. Occupants of the proposed development would be unlikely to visit Chesham or Berkhamsted by foot due to the lack of consistent footpaths and lighting on the main route. However, I observed that there was a bus service which operates through the village multiple times a day. Those bus stops were a short distance from the appeal site and could be accessed via the public right of way and existing roads. For these reasons, while a degree of reliance on the private car would be inevitable within the proposed development, given the above site specific circumstances, the day to day needs of those occupants need not be carried out entirely by car. The Framework also acknowledges at paragraph 105 that while development should be focused in locations that can be made sustainable, opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

28. The Council have drawn my attention to an appeal decision in Derbyshire where some comparable circumstances appear to exist. It is my understanding that the connections of the appeal site to a wider public transport network, differ in this case. The development proposed would not contribute to service and facility provision within Ashley Green. However, I have no evidence of a policy requirement to do so, nor substantive evidence that the existing facilities are stretched or that additional pressure on them would be unacceptable.
29. For the reasons given, the development would not cause harm to existing local infrastructure and would be suitably located for good access to services and facilities. The development would comply with Policy CS4 of the CS which relates to sustainable development principles. It would also adhere to the objectives of Buckinghamshire's Local Transport Plan 4: 2016- 2036, and the Highways Development Management Guidance¹, insofar as they require development to be located to support sustainable transport choices and be well connected to existing infrastructure, services and facilities. I do not find conflict with the objectives of the Framework relating to sustainable transport, nor those of the National Design Guide 2019.

Affordable Housing

30. Policy CS8 of the CS sets a target of 40% affordable dwellings in new developments containing 15 or more dwellings and allows for evidence to be provided if it is not viable to do so. Annex 2 of the Framework confirms that starter homes constitute a form of affordable housing and the appellant states intent to deliver this form of housing.
31. However, as above, while the UU includes a mechanism to ensure this matter is addressed in the future, there is not adequate certainty in the obligation to ensure that a policy compliant level of affordable homes would be provided and the UU in its current form would not take effect. Accordingly, the proposal would conflict with policies CS8, CS10 and CS11 of the CS which together relate to the delivery of affordable homes in the District.

Other Considerations

¹ Highways Development Management Guidance: Managing the Transport and Travel Impacts of New Developments 2018

32. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
33. I have found that the development proposed would cause harm through inappropriateness and cause significant harm to the openness of the Green Belt. I am required to give substantial weight to this harm, in line with paragraph 148 of the Framework.
34. While the delivery of affordable homes could constitute a benefit of the scheme, given the concerns for the UU, and as it is not certain that the appeal would secure a set or policy compliant level, this weighs against the development.
35. The Council does not have a five year land supply for housing in the Chiltern area of Buckinghamshire Council. No figures of the level of supply have been provided, however in one of the appeal decisions provided by the Council² the Inspector found the Council had a 4.18 year supply at that time.
36. The CS reports that, based on the South East Plan 2009, a housing allocation of 2,900 dwellings was set for the Chiltern District between 2006 and 2026. In terms of delivery, the appellant states that the Chiltern area delivered 132% of required units in 2018 and 89% in 2020. These figures are not disputed by the Council, however, there is no substantive evidence before me regarding the delivery of housing within the District more recently to support the contention that delivery continues to decline. I also acknowledge, however, that a significant proportion of the District lies within the designated Green Belt, and that this places a heavy restriction on the availability of land for housing.
37. The proposal would make a notable contribution towards the local housing supply, as well as making a positive contribution to the national objective to boost the supply of homes, detailed in the Framework. This weighs in favour of the development, particularly given the identified shortfall in the housing land supply. In addition, the site is readily available for the delivery of the proposed homes and paragraph 69 of the Framework acknowledges the important contribution that such sites can make to meeting the housing requirement of an area. Taken together and in light of the scale of the proposal, I give the delivery of the proposed housing moderate weight.
38. In addition, the development would bring economic benefits in terms of construction jobs and ongoing local expenditure by new residents. The delivery of different types of housing within Ashley Green may also provide a greater social mix to the population of the village and contribute to its vibrancy. I give these benefits moderate weight.
39. The UU would assist in ensuring that biodiversity net gain was secured as part of the development. Based on the evidence before me, I am not satisfied that this requirement meets the tests for a planning obligation given in the Framework and the PPG. However, the development may bring about environmental benefits, including landscaping and biodiversity enhancements, and may encompass strong energy efficiency credentials. Details of these

² APP/X0415/W/20/3265964

measures do not form part of the appeal before me, and they are neutral in my assessment rather than benefits.

40. While the benefit of new housing and associated economic benefits attract some weight in favour of the development, taken together, the weight of the other considerations in this instance would not be sufficient to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.

Other Matters

41. The application of policies in the Framework that relate to the protection of the Green Belt provide a clear reason for refusing the development proposed. Therefore, in accordance with paragraph 11d)i) of the Framework, the presumption in favour of sustainable development does not apply to the appeal scheme.
42. The appellant has drawn my attention to two appeal decisions relating to affordable housing in the Green Belt at Colney Heath³ as well as an appeal at Croxley Green⁴. Based on the evidence, the balance of considerations carried out by the Inspectors was materially different, for example due to the difference in the Council's housing delivery and land supply, as well as the quantum of housing and affordable housing proposed, including self build housing in the case of Colney Heath. The balance of considerations in those instances was therefore very different to those of the appeal before me and do not provide reason to alter my judgement.
43. The appeal site is located within the zone of influence in relation to the Chiltern Beechwoods Special Area of Conservation (SAC). As I am dismissing the appeal on other matters, this is not a matter I need to consider further.
44. The appeal site shares a boundary with the grade II listed building of the Golden Eagle public house to the east. This is a modest sized building set within grounds including a substantial hard surfaced car park and a garden with seating area to the rear. Given the intervening distance between the appeal site and the building, and its clear demarcation from the appeal site by a boundary of vegetation and fencing, the appeal site does not form a part of its setting or significance and its setting would be preserved by the appeal scheme.

Conclusion

45. For the reasons set out above, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR

³ APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

⁴ APP/P1940/W/21/3280443