



Appeal Decision

Hearing held on 2 November 2022

Site visit made on 2 November 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/W1525/W/21/3270451

**Land at junction of Ongar Road West and Highwood Road, Writtle
Chelmsford, Essex, CM1 3NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lee against the decision of Chelmsford City Council.
 - The application Ref 20/00908/FUL, dated 15 June 2020, was refused by notice dated 7 September 2020.
 - The development proposed is replacement of stable building with residential mobile home.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing stable building, replacement with 1 No. residential mobile home with provision for 2 no. parking spaces at Land at junction of Ongar Road West and Highwood Road, Writtle, Chelmsford, Essex, CM1 3NT in accordance with the terms of the application, Ref 20/00908/FUL, dated 15 June 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form the description has been confirmed as the one that the Council used to deal with the proposal and I have therefore used this in my formal decision.
3. The Council's decision notice does not refer to any development plan policies, however at the hearing it was confirmed that policies S11 and DM10 of the Chelmsford Local Plan would be relevant to the consideration of the appeal.

Main Issue

4. The Council's decision notice makes reference to harm to the character and appearance of the wider rural setting as part of a single reason for refusal. The submitted statement of common ground confirms that there is one reason for refusal and that of the matters in dispute the impact on the character and appearance of the area was not one of them. This was further explored as part of the hearing and the Council confirmed it had not identified any conflict with policies relating to character and appearance, albeit it was relevant to its arguments on openness.

5. Paragraphs 149 and 150 of the National Planning Framework (the Framework) establish that buildings and other forms of development would be inappropriate unless they meet a listed number of exceptions. Paragraph 150 (e) considers changes of use, such as the proposed use of the appeal site. Such development would not be inappropriate development provided that it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
6. Therefore, the main issue is whether or not the proposal would be inappropriate development in the Green Belt; including its effect on openness having regard to paragraph 150 (e) of the Framework and any relevant development plan policies.

Reasons

7. The appeal site is situated in the Metropolitan Green Belt, as defined by the Chelmsford Local Plan, adopted in May 2020 (the LP). The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The LP was examined under the 2012 Framework under transitional arrangements. The policies within the Local Plan are considered with reference to the 2012 Framework.
9. Policy S11 of the LP states that the openness and permanence of the Green Belt will be protected and that inappropriate development will not be approved except in very special circumstances.
10. Policy DM10 of the LP sets out the Council's policy for changes of use of land and buildings and engineering operations in the Green Belt, Green Wedge and Rural Area. However, under Part A of the policy which deals with Green Belt, a change of use of land is not considered, as this exception was introduced in the later version of the Framework.
11. The Writtle Neighbourhood Plan was adopted in December 2021 and I have been directed to Appendix 1 of this document. This sets out design principles and codes and in particular that the open countryside should be maintained as distinct and separate from the village of Writtle and that in particular future development should not detract from Writtle as a distinct settlement within the Green Belt.
12. The five purposes of including land within the Green Belt are identified at paragraph 138 of the Framework. Of those, the Council agrees that the development would not result in encroachment of development into the countryside and that there is no identified conflict with the five purposes.
13. Having regard to whether openness would be preserved, it is acknowledged that the exceptions set out within paragraphs 150 are generally considered to be acceptable in principle and any new development under these exceptions would erode openness to some degree, but this in itself would not always fail to preserve openness. The parties agreed that there is no preclusion to development under this exception.

14. The appeal site is enclosed by hedging and inward views are confined to those glimpsed through the hedging. The stable building is sited close to the boundary of the site and the combination of the road, hedge and existing neighbouring buildings and the limited visibility creates a strong sense of containment. Glimpsed views of the site are possible through the existing hedgerow, however these views are dominated by the existing stable building.
15. Beyond the appeal site is a neighbouring traveller site, set back from the road and contained within its own defined site. To the rear of the site is the car park and buildings associated with the neighbouring garden centre. The physical circumstances of the site, which is bordered on two sides by other development is not within the open countryside.
16. The site has an established use for the keeping of horses and the site currently contains a stable block which was granted planning permission in 2017. At the time of my visit the stable block was in situ and in a reasonable state of repair, but there were no horses present on the site and the paddocks were overgrown.
17. The stable is an L-shaped building containing four stables, a tack room, hay store and toilet. The Council have set out that it measures 12.3m by 19.4m along its longest edge and has an eaves height of 2.4m and ridge height of 3.7m. When granting it planning permission the Council set out that its low ridge height, low key design and appearance together with the presence of existing boundary vegetation would limit its impact on the Green Belt and the wider area.
18. Whilst there is no direct reference to the impact of the stable building on openness the officer concludes that the building would constitute suitable facilities for outdoor sport, outdoor recreation within the Green Belt and would not be inappropriate development.
19. The proposed mobile home has been considered on the basis of the appellant's dimensions of 12m by 6m with a footprint of approximately 74 square metres and would have a ridge height of 3.6m. The Council have calculated that this represents a 30 percent decrease in built form compared with the existing stable. However, regard must be had to the definition of a caravan as set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, which defines a caravan as measuring up to 20m in length, 6.8m in width and 3.05m in height (measured internally) and therefore any resultant structure may be larger than that set out by the appellant.
20. Given the particular circumstances of the site and the extent of development which has already taken place on the site, which has been considered to preserve openness, the parties agree that the proposed siting of the caravan would not represent an encroachment upon the countryside and the Council have agreed that the development is not visually intrusive. However, it has been put to me that it would fail to preserve openness on the basis that the visual impact arising from permanent occupation of the site is different from that of an intermittent stable use.

21. The existing lawful use and accompanying structures provide the pre-existing context against which the appeal scheme must be assessed. As such, I am not persuaded that the residential occupation of the site with a single pitch would be more intensive than the current use of the site as a stable. The keeping of horses on the site would involve twice daily visits to provide care and these comings and goings, in terms of vehicular movements, would be similar to those associated with the residential occupation of the site.
22. The keeping of horses also includes associated paraphernalia, and whilst some items could be stored within the stable, the planning permission granted for the stable did not include any conditions restricting external storage or the parking of horseboxes or trailers and therefore the use of the site could intensify in terms of associated paraphernalia.
23. Therefore, the use of the site for residential purposes, even with the associated domestic paraphernalia outlined by the Council, such as washing lines and play equipment, would not be harmful to openness, having regard to the lawful use of the site for the keeping of horses, the defined site area for the proposed pitch and the overall reduction in the built form on the site.
24. In conclusion, there would be a reduction in the built form within the site and given the visually contained nature of the site there would be no perception of change and therefore the development would preserve the openness of the Green Belt.
25. The proposed development is not, therefore, inappropriate development when judged against the Framework and it complies with policies S11 and DM10 of the LP and does not conflict with the Writtle Neighbourhood Plan and the purposes of including land in the Green Belt.

Other Matters

26. I have had regard to an earlier dismissed appeal on the wider site¹ which was for a change of use of land to 4 Gypsy/Traveller pitches comprising 4 mobile homes, 4 touring caravans, hardstanding and associated works. The Inspector found harm to the character and appearance of the area and that by occupying what was an area of grassed paddock, harm to the openness of the Green Belt.
27. However, that proposal retained the existing stable block and extended development across the depth of the existing paddock and involved a greater scale of development. Therefore, I am satisfied that the distinction between the schemes mean that my findings are not inconsistent with those of the previous decision.
28. Whilst the parties have referred to the proposed occupiers' status as gypsies and travellers, that has not been a determining factor in my assessment and it has not been necessary for me to give further regard to such matters. This decision reflects the application of the general planning principles as set out in the development plan and Framework, and I am satisfied that any status of the occupiers would have no bearing on the conclusions I have reached in this instance and therefore upon the outcome of this appeal.

¹ APP/W5125/W/18/3217804 Land at the junction of Ongar Road West and Highwood Road, Writtle

29. I have also taken into account the matters raised in the representations received from third parties, including issues such as highway safety, precedent for further development and lack of clarity over waste. Concern has also been raised relating to the impact on the village and heritage. The Parish Council have also suggested that if the stables are no longer required then they should be demolished.
30. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees in regard of highway matters. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Conditions

31. The Council has suggested conditions which I have considered against the advice in the Framework and Planning Practice Guidance. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is carried out in accordance with the approved plan to provide certainty. This plan also details the necessary parking spaces, amenity area and boundary treatment.
32. As the proposal has been considered to preserve openness on the basis of a single pitch and the siting of a single caravan it is necessary to control this and that the caravan must accord with the relevant definition as set out in the Caravan Sites Act.
33. It is necessary in the interests of safeguarding the character and appearance of the area, and the living conditions of neighbours and occupiers, to limit the size of vehicles and to require details of external lighting, foul and surface water drainage and landscaping, and to prevent commercial activity.
34. Whilst conditions restricting the future use of permitted development rights will not often pass the test of reasonableness or necessity, in this instance it is necessary to remove permitted development rights for works that could cumulatively or individually fail to preserve the openness of the Green Belt.
35. As I have found that the development is not inappropriate development in the Green Belt, no further consideration of the personal circumstances of the appellant, including their possible status as Gypsies and Travellers, is necessary and therefore I have not imposed conditions restricting the sites occupancy.

Conclusion

36. I therefore conclude that the proposal would accord with the development plan as a whole and, as other material considerations do not indicate a decision to the contrary, that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr A Murdoch BA MA MSc MRTPI PhD – Murdoch Planning Limited
Mrs S Boland BA (Hons) PG Dip LA CMLI Influence Environmental Ltd
Mr B Lee

FOR THE LOCAL PLANNING AUTHORITY:

Ms K Dougal – Planning Manager
Mrs K Mathieson

INTERESTED PARTIES:

Councillor Tim Roper – Chelmsford City Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Photographs of Drakes Lane Site dated 28 October 2022
2. Paragraph 90 of the National Planning Policy Framework 2012
3. Commentary to Version 7 of the Planning Encyclopaedia in so far as its relevance to paragraph 150 (e) of the Framework.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Prior to first occupation of the site, the caravan shall be sited and amenity area, boundary treatment and parking spaces provided in accordance with plan no. TDA.2263.03 – Proposed site plan.
- 3) There shall be no more than 1 pitch on the site and no more than 1 caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed on the site at any time.
- 4) No caravan shall be brought onto the site until details of
 - Foul and surface water drainage; and
 - External lighting (including location, design, illuminance levels and light spill).
 - Soft landscaping works (including maintenance)
 - Schedule of demolition of the stable.have been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The development shall be carried out in accordance with the approved details and implementation programme.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), Schedule 2, Part 1, Class E and Part 2, Class A, no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plan shall be erected on the site.

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