



Appeal Decision

Site visit made on 18 January 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/V1505/W/22/3302322

The Orchard, 8 Clifton Road, Bowers Gifford, Basildon, Essex SS13 2LE

- 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 Laindon Trading LLP against the decision of Basildon Borough Council.
 - The application Ref 22/00318/FULL, dated 2 March 2022, was refused by notice dated 9 May 2022.
 - The development proposed is the construction of 4 detached chalet bungalows, associated garages and parking areas, new garage and driveway for the existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's emerging Local Plan has been withdrawn from examination. Its policies therefore attract no weight in the determination of this appeal.

Main Issues

3. The main issues are:
 - 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

4. The appeal site comprises a large garden plot to the north side of Clifton Road, part occupied by a detached dwelling with garage known as The Orchard. Properties of a varied appearance and scale exist along the rest of Clifton Road, interspersed by parcels of open land. To the north of the site lie open fields. The site is located within the Green Belt.

5. National Green Belt policy in the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 149, is 'limited infilling in villages'¹.
6. The Framework does not define what constitutes either a village or 'limited infilling.' This is a matter of 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. In respect of what constitutes a village, I have had regard to the potential indicators put forward by the appellant and my observations on site.
7. The appellant describes Bowers Gifford as a small village, highlighting the existence of a convenience store and other nearby businesses, accessible by foot. Bus stops are also identified along Pound Lane.
8. Pound Lane is the main road through Bowers Gifford. It is lined by a footway and a coherent and consolidated cluster of properties. It is subject to a 30MPH speed limit and has street lighting along it. It clearly forms a linear settlement, with multiple offshoots accommodating residential development, including that of Clifton Road. Along Pound Lane are a series of bus stops, a church, village shop and a series of other businesses. Although Clifton Road possesses some characteristics that differ from Pound Lane in that it is an unmade private road and is more verdant in nature, it is nonetheless attached to Pound Lane and the wider settlement. For these reasons, I conclude that the appeal site is positioned within a village for the purposes of the Framework.
9. In respect of limited infilling, the appellant sets out that the site forms part of an existing residential curtilage, that there are established properties to the east, south and west, with frontages along Clifton Road, and that the rear boundary is clearly defined, separating it from the adjoining open countryside. The appellant is of the view that the proposed development would reinforce the existing urban edge of development in the area.
10. Nevertheless, the frontage of the appeal site is particularly wide relative to nearby sites, in part consisting of mature vegetation. This, together with the open and verdant nature of the site, forms a definite visual break between The Orchard and its detached garage and Vine Cottage. Mature landscaping to the rear boundary of the site is highly visible from Clifton Road, and the open countryside beyond can be glimpsed between gaps in landscaping.
11. The wide nature of the site, together with the proposed accommodation of four four-bedroom houses along its frontage, cannot in my view be reasonably regarded as 'limited infilling'.
12. Consequently, although I have found the site to reasonably fall within a village setting, overall, the proposed development would not fall within any of the exemptions listed in paragraph 149 of the Framework. I therefore conclude that it would be inappropriate development in the Green Belt. Substantial weight should be given to this harm. There are no relevant development plan policies before me which conflict with this objective.

¹ Paragraph 149 (e)

Openness

13. The Framework indicates that openness is an essential characteristic of the Green Belt. A fundamental aim of Green Belt policy is to keep land permanently open. The openness of the Green Belt 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.
14. In this case, the site is highly visible. The openness of the Green Belt is readily apparent within the immediate area through the existence of mature trees and open parcels of land, including the visible open countryside beyond the site. Nearby properties are typically large, set within large garden plots. This all contributes to a strong, open and verdant character.
15. Notwithstanding the existence of other buildings within the surrounding area, and that the proposed development has been designed with sensitivity to prevailing built forms, materials and detailing, it would nonetheless introduce additional built development to the site where there is currently none. The footprint of the dwellings, their bulk and the accompanying domestic paraphernalia (including parked cars, amenity areas and outbuildings) would all inevitably lead to a loss of openness, both physically and visually.
16. The appellant contends that the proposed development would be screened from the mature vegetation that would be retained, and that it would be seen within the context of established residential development. Nevertheless, Clifton Road is well used. Views can, and would, be obtained of the site from here irrespective of the existing and retained vegetation, particularly from the site entrances.
17. Accordingly, I conclude that despite not conflicting with any of the purposes of the Green Belt, the proposed development would fail to preserve openness. The adverse effects would be moderate.

Other considerations

18. I acknowledge that the site is not designated and is located within a reasonably sustainable location. I also note that the proposed development would meet a number of other planning objectives, including in respect of living conditions and ecology. However, these considerations, and the lack of harm associated with them, are essentially neutral in my assessment of the appeal. I afford this consideration minimal weight.
19. I also acknowledge that there would be some social and economic benefits to the proposed development, including the provision of construction jobs and increased local spend. However, these benefits would inevitably be limited by reason of the scale and nature of the proposed development. I therefore afford this consideration limited weight.
20. I note the appellant's submission of a unilateral undertaking in respect of Essex Coastal Recreational Avoidance and Mitigation Strategy. This is not a matter in dispute between the Council and appellant and does not weigh in favour of allowing the appeal. I afford this consideration minimal weight.
21. The appellant has set out that the use of permitted development rights forms a fallback position and that domestic outbuildings could be built on the site

without the need for planning permission. Nevertheless, I have seen no substantive evidence, such as a successful certificate of lawful development, to convince me that the appellant could reasonably implement a similarly harmful scheme under their PD rights. I therefore afford this consideration only limited weight in favour of allowing the appeal.

22. The Council is currently unable to demonstrate the necessary forward supply of housing sites as required by the Framework. In this regard, the proposal has the potential to generate four additional homes which would make a positive contribution to the current undersupply. This would support the Government's objective of significantly boosting the supply of homes. That is a matter I address subsequently.

Green Belt Balance and conclusion

23. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on openness here. Substantial weight should be given to the 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 considerations.
24. For the reasons given above, the cumulative weight attached to the other considerations does not clearly outweigh the substantial harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development do not exist. The proposed development would not therefore accord with the Green Belt protection aims of the Framework.
25. The lack of a five-year housing supply means that the policies which are most important for determining the proposal are out of date in accordance with paragraph 11.d of the Framework. However, bullet (i) of paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As I have explained above, there would be harm to the Green Belt that would not be clearly outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.
26. I conclude that the appeal is dismissed.

A Price

INSPECTOR