



Appeal Decision

Site visit made on 19 January 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 APRIL 2023

Appeal Ref: APP/B5480/W/22/3296278

418 Upminster Road North, Rainham RM13 9ES

- 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 Mulvie against the decision of the Council of the London Borough of Havering.
 - The application Ref P1399.21, dated 13 July 2021, was refused by notice dated 4 October 2021.
 - The development proposed is described as seven single storey detached dwellinghouses for people over the age of 55 and 65.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Havering Local Plan 2016-2031 (the HLP) was adopted by the Council in November 2021, replacing the Core Strategy and Development Control Policies Development Plan Document adopted in 2008 and the Policies contained in the Romford Area Action Plan Development Plan Document also adopted in 2008. The appellant is aware of the new plan and policies and have had the opportunity to comment through their appeal submissions.
3. During the course of the appeal proceedings, the appellant submitted a signed and dated legal agreement pursuant to section 106 of the Town and Country Planning Act 1990. In effect, this restricts the age of the future occupants of the development and provides a financial contribution towards traffic calming measures and signage in the vicinity of the site. Subsequently, the Council has confirmed that this would overcome its third and fourth reasons for refusal. Therefore, my assessment is confined to the Council's remaining reasons for refusal.
4. The description of development set out on the Council's decision notice differs to that given on the application form, and different wording is also provided by the appellant on the appeal form. I have not been provided with any confirmation that a revised description was agreed prior to the determination of the planning application. Therefore, I have adopted the description of development set out by the appellant on the application form, as this was the basis upon which planning permission was sought.
5. As part of the appeal submission, the appellant has put forward an alternative scheme¹ with a revised layout and a reduction in the number of residential

¹ Site Layout Plan PSLP1:500S, dated 13 February 2022

units to six. While the Council have had sight of this revised scheme, I am mindful that the appeal process should not be used to evolve a scheme to overcome the Local Planning Authority's (LPA) reasons for refusal and instead a fresh planning application should usually be made².

6. Whilst, in certain circumstances, a proposal can be amended through revised plans during an appeal, in line with the Wheatcroft principles³, it is my view in this case that the appeal must be determined on the basis of the plans as originally submitted to the LPA, and upon which it based its decision. To do otherwise could prejudice the interests of statutory consultees and interested third parties, who have not been consulted on the revised scheme and who may have observations to make. Therefore, I have determined the appeal on the basis of the plans which accompanied the original planning application.

Main Issues

7. 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 of the proposal on the character and appearance of the surrounding area; and
- Whether any 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

Whether inappropriate development

8. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy G2 of the London Plan 2021 (LP) is broadly consistent with the approach of the Framework, in that there is a presumption against proposals which conflict with the purposes of the Green Belt and maintaining its openness.
9. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. These exceptions include limited infilling in villages and the limited infilling or the partial or complete redevelopment of previously developed land. The appellant contends that the proposal would infill an area of land as an extension to the village envelope. Nevertheless, in making this claim the appellant accepts that the site is not located within a village, and from my own site observations I note that the site consists of an open, undeveloped paddock that is largely surrounded by countryside, separating it from the nearby settlement of Rainham.

² Annexe M of the Procedural Guide Planning Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

³ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

10. Therefore, I consider the site to be located in the open countryside and, despite the presence of a small stable building, it could not reasonably be described as previously developed land. Consequently, the proposal would not meet any of the exceptions set out in paragraph 149 of the Framework.
11. For these reasons, the proposal would be inappropriate development in the Green Belt, by definition this is harmful and the proposal would conflict with Policy G2 of the LP and the objectives of the Framework.

Openness

12. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The appeal site occupies a prominent roadside location visible from public vantage points, and given its green, open, undeveloped characteristics, it makes a significant contribution to the openness of the Green Belt.
13. Openness has both spatial and visual aspects and the proposal would introduce a substantial quantum of residential development on to a site which, other than the modest stables and outbuildings, is generally open and free from any significant permanent development. Therefore, the introduction of built form, as proposed, would have an adverse impact on the openness of the Green Belt in spatial terms.
14. The proposed dwellings would be sited close together and would be considerably larger and of a greater bulk and site coverage, than any built development that currently exists on the appeal site. This would be particularly evident in views experienced from the approach along the adjacent public highway. As such, given the variation between the existing and proposed I conclude in visual terms, that the scheme would have a harmful effect on the openness of the Green Belt.
15. Overall, I find that the proposal would lead to a significant loss of Green Belt openness and would therefore conflict with the fundamental aim of Green Belt Policy, as set out above. The proposal would therefore conflict with the Framework and LP Policy G2.

Character and appearance

16. The character and appearance of the surrounding area has a transitional nature, as development becomes more sporadic as one moves away from the built-up environment of Rainham. The area is generally made up of agricultural fields, reinforcing the essential rural character of the area. As undeveloped paddock land, the appeal site positively reinforces, the rural characteristics of the area.
17. The proposal would provide seven high quality bespoke designed residential units to meet specific requirements for older persons. The units would be adaptable and include eco-friendly enhancements, with a modern style and appearance. However, the development on the adjoining land is of a more traditional vernacular and consists of a small terrace of two-storey properties. Whilst it is acknowledged that the proposal would be lower-level development, the layout of the units would not reflect the predominantly linear pattern of residential development in this part of Upminster Road North. The detached dwellings would occupy an excessive portion of the site, and would be clearly

visible from public vantage points, which would unacceptably draw the eye to their squat nature.

18. Furthermore, the introduction of further residential units, and the extent of built form proposed, would also result in the suburbanisation of the appeal site. This would include the creation of residential curtilages and with an inevitable future pressure for associated outbuildings such as sheds and other domestic paraphernalia. In this context the design would not be sympathetic and would cause harm to the largely undeveloped rural character of the area.
19. Consequently, the proposal would cause harm to the character and appearance of the area. This would conflict with Policy 26 of the HLP insofar as it would not respect or compliment the distinctive qualities, identity and character of the site and local area, nor would it reinforce the local streetscene. The proposal would also fail to accord with the Framework insofar as it seeks to achieve well-designed places and to ensure that new development is sympathetic to local character.

Other considerations

20. As set out above, the development constitutes inappropriate development in the Green Belt. I have also found that it would be harmful to the openness of the Green Belt, harm which carries substantial weight. The Framework is clear that 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.
21. It is common ground between the Council and the appellant that the proposal would meet a need in the area for older persons accommodation. The appellant also highlights the difficulties in supplying and retaining suitable sites for older person accommodation. This is predicated on the shortage of single storey bungalows in the area, which are better able to tailor spaces towards the needs of older residents. Therefore, this is a matter to which I attribute significant weight.
22. The proposal would also be beneficial in terms of meeting the wider housing needs of the area. This includes the indirect effect of providing accommodation that has the potential to free up family housing elsewhere in the area. Particularly given that the Council is unable to demonstrate a 5-year supply of deliverable housing sites. As such, this also attracts significant weight.
23. The proposal would result in some small social and economic benefits, including the support future occupiers would give to local businesses and services. The proposal also benefits from an innovative design and eco-friendly enhancements. The sufficiently sized units would also be in an accessible location. To these benefits I apportion modest weight given the limited scale and nature of the proposed development.
24. The appellant also highlights that no objections have been received from neighbouring residents and 4 letters of support have been received for the proposal. Whilst these considerations are important, nevertheless, these representations do not overcome the harm I have found in this case.
25. I have taken into account the signed legal agreement, but this does not alter my conclusions on the main issues in this case. I have already attributed

positive weight to this on the basis that the proposal would secure much needed accommodation for older people.

Planning balance and conclusion

26. The proposal would constitute inappropriate development in the terms set out by the Framework and would result in harm to the openness of the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. In addition, I have also found harm to the character and appearance of the area. The development is therefore contrary to the above cited policies of both the development plan and the Framework.
27. It is common ground that the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites and therefore the policies most important for determining the application are considered to be out-of-date. However, as I have found harm to the Green Belt, paragraph 11.d) i. of the Framework applies and, therefore, the application of policies in relation to the protection of the Green Belt provide a clear reason for refusing the development. Accordingly, the presumption in favour of sustainable development does not apply.
28. Overall, for the reasons set out above I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, I conclude that the appeal is dismissed.

Robert Naylor

INSPECTOR