



Appeal Decision

Site visit made on 3 March 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/B1550/W/22/3304163

Valentine Cottage, Ethelbert Road, Ashingdon, Essex SS4 3JS

- 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 Miss Suzie Leigh against the decision of Rochford District Council.
 - The application Ref 22/00416/FUL, dated 20 April 2022, was refused by notice dated 20 July 2022.
 - The development is described as 'Proposed new dwelling and associated development'.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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;
 - The effect on openness and the purpose of the Green Belt; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by any other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. The site is located within the Metropolitan Green Belt. The Framework identifies at paragraph 137 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework confirms that new buildings are inappropriate in the Green Belt unless it is one of the exceptions listed.
4. Rochford District Council Local Development Framework Core Strategy (2011) (CS) Policy GB1 sets out that Green Belt land will be prioritised for protection based on how well it helps achieve the purposes of the Green Belt. This is not entirely consistent with the Framework which confirms at paragraph 147 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This reduces the weight to be attached to this policy.

5. Paragraph 149 e) of the Framework sets out that limited infilling in villages is one such exception. The parties are in dispute as to whether Ashingdon is a village. Both have referred to case law¹ and accept that it is a matter of planning judgement as to whether a site falls within a village. There is no definition of village in the Framework.
6. While Ashingdon is linked with Rochford in the settlement hierarchy, I have not been provided with any maps or diagrams demonstrating the extent of the settlements or the differentiation between them. Irrespective of this, the dwellings accessed from Ethelbert Road and the surrounding streets are clearly separated from the continuously developed settlement at and around Rochford.
7. The pattern of development around Ethelbert Road and surrounding streets is dispersed. Typically, there are dwellings in rows, with expanses of open land separating one row of housing from the next. The road is not made, and there is not a footpath connecting to Canewdon Road. It does not have the form or appearance of a village, but rather that of a detached enclave of dispersed groups of dwellings. This leads me to the conclusion that the site is not located within a village for the purposes of paragraph 149 of the Framework.
8. Ashingdon being a civil parish and the existence of a Parish Council does not provide any definitive support as to whether Ashingdon is a village. No evidence has been placed before me of the historic development or the more general history of Ashingdon that would support me reaching a different conclusion on this matter.
9. As a single dwelling, the proposal is limited. The site is located between two dwellings which front onto Ethelbert Road, as part of a longer row of dwellings. Some of these dwellings are quite substantial in scale. I am therefore satisfied that the proposed development would represent limited infilling. However, all aspects of exception e) in paragraph 149 must be met for a proposed development to benefit from it. As the appeal site is not within a village, the proposal does not comprise development to which exception 149 e) of the Framework applies.
10. I acknowledge a different conclusion was reached in another decision² which was assessed against the same exception. However this was in a different settlement in a different authority, nor do I have full details of the nature of that site. In any event, each decision must be taken on its own merits, and a different finding in another location would not alter my assessment of this site, the surrounding area and conclusion with regard to paragraph 149 e) of the Framework.
11. The Council has also considered the proposal against exception g) of Paragraph 149 of the Framework. This is a conditional exception which, as it relates to this appeal, allows for the redevelopment of previously developed land subject to it not having a greater impact on the openness of the green belt than the existing development. As part of a domestic garden, the site would constitute previously developed land. Given my findings above in respect of limited infilling and that the appeal site comprises garden land outside of a built-up area, it is necessary to assess the effect of the proposal on the openness of the

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

² APP/V1505/W/21/3278853 allowed 6 April 2022

Green Belt before I can determine whether the proposal falls within this exception. This is considered below.

Openness and purpose

12. Paragraph 137 of the Framework states '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'. Openness is the absence of development and can have spatial as well as visual aspects.
13. Paragraph 138 of the Framework sets out the five purposes of the Green Belt, one of which is to assist in safeguarding the countryside from encroachment.
14. The appeal proposes the erection of a dwelling on a side garden. While I observed a small structure on the site and some typical domestic paraphernalia, the proposed dwelling would be considerably larger in scale. This would inevitably result in a loss of both visual and spatial openness to the Green Belt.
15. The appellant acknowledges that the development would result in some loss of openness to the site but that this would not materially affect the openness of the wider Green Belt. This is not a distinction made in the Framework. While I consider that the harm to the openness of the Green Belt would be limited due to the single storey nature of the development, its proposed position between two existing properties and the limited vantage points from which it would be visible, it would nonetheless cause harm. In accordance with paragraphs 147 and 148 of the Framework, I give substantial weight to this.
16. Given the position of the dwelling, set between two existing dwellings with a similar relationship to the road and surrounding countryside as those dwellings, I do not consider that the proposal would result in encroachment into the countryside. However this would amount to a lack of harm and would therefore be a neutral factor in the determination of this appeal.

Conclusion on whether inappropriate development in the Green Belt

17. Given my findings above, the proposal would not comprise limited infilling in villages and because of the loss of openness that would result, it would not fall within the exception set out in paragraph 149 g) of the Framework. For these reasons, when considered as a whole, the appeal proposal would constitute inappropriate development in the Green Belt as it would not meet any of the exceptions set out in paragraph 149 of the Framework and would therefore be contrary to CS Policy GB1. Paragraph 147 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other considerations

18. There is no dispute between the main parties with respect to the effect on the character and appearance of the area, living conditions of occupiers of both the existing dwellings and that proposed, protected species or flood risk. The highway safety implications of the proposal would be acceptable. Suitable provision for tree protection, drainage and bin storage could be secured by condition. These would be expected of any well designed development and would be neutral factors in the overall planning balance.

19. The site is not an important open space in that it does not provide a community benefit or a visual focus in the street scene. There are no surrounding heritage assets which would be affected by the proposal. No adverse effect on landscape character has been identified and I saw nothing at my site visit that would lead me to a different conclusion. However, these factors demonstrate a lack of harm, leading them to be neutral in the determination of this appeal.
20. There is no evidence before me to suggest that the Council cannot demonstrate a five year supply of deliverable housing land. Nonetheless, an additional dwelling would contribute to the supply of housing and would be a benefit of the proposal.
21. I have found that the proposal would constitute inappropriate development in the Green Belt and would be harmful to openness and the purposes of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to this. 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.

Other Matters

22. The site falls within the scope of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy which addresses the effects of recreational disturbance on coastal Habitats Sites. However there is no need for me to consider the implications further because the proposed development is unacceptable for the reasons I have set out above.

Conclusion

23. The proposed development conflicts with the development plan and the Framework taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

J Downs

INSPECTOR