



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: 25 May 2023

Appeal Ref: APP/D1590/W/22/3295406

New Wick Farm, Wakering Road, Southend-On-Sea SS3 0QA

- 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 Paul Bailey against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/02139/FUL, dated 22 October 2021, was refused by notice dated 21 December 2021.
 - The development proposed is described as 'demolition of an agricultural style building comprising Demolition Contractors Yard, and E (g) Class Use as a Gymnasium to allow for the erection of 3no. dwellings with associated parking'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework) including the effect upon the openness of the Green Belt;
 - the effect of the proposal on the supply of employment land;
 - the effect of the proposal on the character and appearance of the area; 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

Green Belt

3. The site is located within the 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 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework confirms that new buildings are inappropriate in the Green Belt unless it is one of the exceptions listed.
4. CS Policy CP4 seeks, relevant to this issue, to maintain the function and open character of a sustainable Green Belt. CS Policy KP1 confirms the Green Belt

will be maintained around the urban area. While it is not the same in terms of detailed considerations, the overarching policy approach seeks to protect the Green Belt in a manner broadly consistent with the Framework.

5. Paragraph 149 g) of the Framework, 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. It is not in dispute that the site is previously developed land.
6. The existing building on the site has a simple form. While of a considerable mass, the visual impact of this is minimised by the sloping roof rising from a low eaves height. While there is no dispute that the floorspace and volume of the proposed development would be less than that of the existing development, the proposed dwellings would appear more imposing due to their clearly two storey nature. This would be exacerbated by the length of the proposed dwellings, the siting of the garages beyond the rear gardens and the proposed boundary treatments. Although the articulation on the dwellings has been designed to reduce the mass of the buildings, the additional complexity increases its visual impact. The spaces between the properties would not be sufficient to mitigate this harmful effect on the openness of the Green Belt.
7. The submitted plans do not specify existing or proposed ground levels so it may be that groundworks would be necessary to ensure that the ridge height of the proposed dwellings would be no higher than that of the existing building. However, they would appear taller as a result of any reduced ground levels and the visual impact I have identified above would remain.
8. The external storage and parking associated with the existing use does add visual clutter to the site. While it is to be anticipated that there would be domestic paraphernalia around the proposed dwellings, it is unlikely that it would be as prominent within the site or at the same scale as the present visual clutter. Increased landscaping and a reduction in activity associated with the use of the site would not alter my assessment of the effect on openness as they would not constitute development. However for the reasons given above, I consider that the proposed development would have a greater impact on the openness of the Green Belt than the existing development.
9. 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.
10. The Council's decision notice refers to CS Policy KP2 which relates to development principles. I find this is not directly relevant to this main issue.

Employment land

11. Southend-on-Sea Core Strategy adopted December 2007 (CS) Policy CP1 is clear that planning permission will not normally be granted for development that involves the loss of employment land. Development Management Document adopted July 2015 (DMD) Policy DM11 sets out the circumstances in which the loss of employment land will be permitted.

12. CS Policy CP1 only permits the loss of employment land and premises where it would contribute to the regeneration of the economy in other ways including significant enhancement of the environment, amenity and condition of the local area. DMD Policy DM11 also requires it to be demonstrated that an alternative use or mix of uses will give greater potential benefits to the community and environment than continued employment use.
13. There is no evidence before me to demonstrate it would no longer be effective or viable for employment use at the site to continue. While the site is not in B2 or B8 use, nonetheless, no evidence of any unacceptable environmental problems has been put forward.
14. Housing development can confer economic benefits from employment and increased spend during the construction period and then spending by future occupiers. I do not have a detailed assessment before me, but it is likely any such benefits would be limited given the small scale of the development. For reasons that will be set out later in this decision, the proposed development would result in only limited benefits to the community. No significant enhancement of the environment, amenity or condition of the local area has been put forward. It has therefore not been clearly demonstrated that these would be greater than the benefits of retaining the existing employment use on the site.
15. It has been put to me that recent changes to The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and The Town and Country Planning (Use Classes) Order 1987 have rendered DMD Policy DM11 out of date, at least in part and that the now greater flexibility of uses available to the part of the building being used as a gym reduces the relevance of the policy. However, part 5 of DMD Policy DM11, being the most relevant to this proposal, does not appear to place restrictions on particular types of employment use and, while it may apply to less development than when it was adopted, is still relevant to this proposal. In any case, the employment use in this case is a sui generis use and therefore does not benefit from the permitted development rights outlined for Class E buildings. The change in the legislative framework does not therefore result in the policy being out of date insofar as it relates to this proposal and so I attach full weight to the conflict with it.
16. I therefore consider that the development would have an unacceptable effect on the supply of employment land. It would be contrary to CS Policy CP1 and DMD Policy DM11 which seek to retain employment land.
17. The Council's decision notice refers to a number of policies. CS Policies KP1 and KP2, and DMD Policy DM10 which relate respectively to the spatial strategy, development principles and employment sectors. I find none of these are directly relevant to this main issue.

Character and appearance

18. The site is bounded by built development to two sides and fields to the other two. There is substantial landscaping separating the site from the commercial premises to the rear. As a result, there is limited built context to directly inform the design of the proposed dwellings.
19. Notwithstanding my findings with respect to the Green Belt, the position of the proposed dwellings would not be unduly prominent in relation to the

neighbouring dwellings. Nor would they appear incongruous with regard to their relationship those to dwellings and the access road. There would be reasonable separation between the proposed dwellings.

20. Given the limited surrounding context, the elongated form of the dwellings would not be inherently harmful. While long, the elevations all include features of interest. This is encouraged in the Southend-on-Sea Design and Townscape Guide 2009 Supplementary Planning Document (SPD). The site is capable of accommodating the proposed layout and I do not find it to be contrived in a manner which has an adverse effect on the character and appearance of the area.
21. The dwellings are individually designed. A degree of cohesiveness would be achieved through linking design features such as window style and materials. The proposed dwellings would have a substantially different appearance to that of the adjacent dwellings which have a simple appearance. However, the site is not prominent in the street scene due to its location away from the main road. Opportunities in which it would be viewed alongside the neighbouring dwellings would be relatively limited and the site is not in a sensitive area in this respect. While they would be clearly larger than those adjacent properties, this would not harm the character and appearance of the wider area given the limited built context against which it would be viewed. For the same reason, I do not find that the use of a crown roof would be harmful.
22. The obscure glazed windows, while on the principal elevation of the dwelling, would face toward the neighbouring residential properties. They would be relatively small features in the overall scale of the elevation and would be neutral features.
23. I therefore conclude the development would have an acceptable effect on the character and appearance of the area. This would be in accordance with CS Policies KP2 and CP4, and DMP Policies DM1 and DM3 which taken together promote high quality design that respects the nature, character and context of its surroundings. This would also reflect the advice in the SPD, the Framework and National Design Guide that development should be of a high quality which takes account of its context.

Other considerations

24. It is not in dispute that the Council area has a low proportion of detached and family sized accommodation. The proposal would provide three detached dwellings which could accommodate a family. This is a benefit of the proposal, particularly in an area such as Southend where its constrained nature contributes to the challenges of delivering housing as evidenced by the fact that the Council cannot demonstrate a five year supply of deliverable housing land and that the Council did not meet the requirements of the housing delivery test. While the GB adds to the constraints and challenges of delivering housing, this site is within the GB and the proposed development must be considered in that context. I therefore attach moderate weight to the benefits arising from this proposal.
25. It may be that part of the building could benefit from permitted development rights to be converted to a dwelling under Schedule 2 Part 3 Class MA of the GPDO. However any such right would be subject to the conditions and limitations of that Class, and there is no substantive evidence before me as to

whether the proposal would accord with these. Moreover, it may well be that such a proposal would not be inappropriate development in the GB, so the potential for such an alternative would not give rise to comparable effects. I therefore attach limited weight to the prospect of this development taking place.

Other matters

26. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building (LB) or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Lawn Cottage is a Grade II LB less than 50m to the north of the appeal site. There is no dispute between the main parties that the proposed development would not affect its setting due to the intervening development and landscaping. I did not observe anything at my site visit that would lead me to a different conclusion.

Green Belt Balance

27. I have found that the proposal would constitute inappropriate development in the Green Belt and paragraph 148 of the Framework states that substantial weight should be given to this. The Framework clarifies that inappropriate development should only be permitted in very special circumstances and that such will not exist unless the potential harm to the GB is by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.
28. There would also be harm to the supply of employment land within the area. A lack of harm to the character and appearance of the area would be a neutral matter. For the reasons given, I find that the other considerations in this case do not clearly outweigh the harms that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Planning Balance

29. The harm to the GB and employment land would result in a conflict with the development plan when read as a whole. My ultimate finding in respect of the GB and lack of very special circumstances also means that there are policies in the Framework that provide a clear reason for refusing the development proposed. Therefore, under Paragraph 11d)i of the Framework, the proposal does not benefit from the presumption in favour of sustainable development.
30. The site is located within the zone of influence for one or more habitats sites which are subject to pressure from recreational disturbance. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the habitats sites. However given my findings on the case overall, no pathways to significant adverse effects on habitats sites would arise from my decision. A finding that the proposal would not have an adverse effect on the integrity of the habitats sites, with or without any mitigation, would be at best a neutral matter.

Conclusion

31. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, 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