



Appeal Decision

Site visit made on 20 April 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 JUNE 2023

Appeal Ref: APP/B5480/W/22/3307017

Land to the South of Copthorne Gardens RM11 3DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Christopher Burton against the decision of the Council of the London Borough of Havering.
 - The application Ref PIP0001.22, dated 27 January 2021, was refused by notice dated 14 March 2022.
 - The development proposed is described in the application form as permission in principle for 5 to 9 self build plots.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Mr Christopher Burton against the Council of the London Borough of Havering and Michelle Wall. These are the subject of separate Decisions.

Preliminary Matters

3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage ('permission in principle') establishes whether a site is suitable in-principle, and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of the subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issues

5. The main issue is whether the site is suitable for the proposed residential development, having regard to its location, the proposed land use and the amount of development, with particular regard to:
 - 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 area;
- The effect of the proposal on the ecological and biodiversity value of the site; and
- If the proposal is inappropriate, 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

Inappropriate development

6. The appeal site is located within the London Metropolitan Green Belt. Policy G2 of The London Plan March 2021 (the London Plan) states that the Green Belt should be protected from inappropriate development and development proposals that would harm the Green Belt should be refused except where very special circumstances exist. This is consistent with the provisions of the Framework in this respect. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
7. Paragraph 149 of the Framework indicates that, other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. This includes (e) limited infilling in villages. The appellant maintains that the site could be considered limited infilling, however they accept that the definition of a village is not met. As such, the parties agree that none of the exceptions in paragraph 149 apply.
8. Policy 3 of the Havering Local Plan 2016-2031 Adopted November 2021 (the Local Plan) supports appropriate development of infill in the borough's sub-urban areas and does not explicitly prohibit development on Green Belt sites. However, it does seek to prioritise non-designated land for housing and must be read in conjunction with other relevant development plan policies and the provisions of the Framework.
9. The appeal proposal would include the construction of new buildings. As it would not benefit from any of the exceptions set out in paragraph 149 of the Framework, it would therefore be inappropriate development in the Green Belt. The proposal would be contrary to Policy G2 of the London Plan, which seeks to protect the Green Belt from inappropriate development. As clearly set out in paragraph 147 of the Framework, the appeal proposal would therefore be, by definition, harmful to the Green Belt.

Effect on openness

10. Openness is an essential characteristic of the Green Belt. The word "openness" in this context is open textured, and several factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. The matters relevant to openness are therefore a matter of planning judgement, and the openness of the Green Belt can have a spatial aspect as well as a visual aspect.

11. The appeal site is located on the edge of an existing built-up area. Copthorne Gardens is a cul-de-sac lined by houses on both sides for part of its length. However, the eastern portion of the street features houses on its northern side only, with the appeal site and Green Belt opposite.
12. The appeal site is free from any built development. Various trees are scattered around its periphery, with several lining the frontage along Copthorne Gardens. Its interior is largely comprised of grassland and an assortment of shrubs and other greenery. I saw at the time of my site visit that the land appeared largely unmaintained and free from human intervention, save for some informal pathways through the grass. It therefore has a natural and open character, that positively contributes to the openness of the Green Belt in this location.
13. I saw that in views from Copthorne Gardens, the site is partially screened by trees and shrubs, however its otherwise open and undeveloped nature can clearly be appreciated. Beyond the site to the south and east is a denser, though relatively small, patch of woodland that gives way to open fields and agricultural land. Public footpaths through these fields provide views towards the site from within the Green Belt. The site remains well screened by tree cover from these vantage points, albeit the deciduous nature of many of the trees in this area will render such screening less effective in winter months.
14. The appeal proposal would inevitably introduce a significant amount of built development into what is currently an open and undeveloped parcel of land. In doing so, it would considerably erode the existing openness of the site in both visual and spatial terms, and the contribution that this makes to that of the wider Green Belt in this area. While the site is privately owned and on the edge of an existing cul-de-sac, it sits on the periphery of a large urban area and the proposal would nonetheless extend development outwards, thereby contributing to urban sprawl and encroachment of the countryside. It would therefore also conflict with the purposes of including land within the Green Belt. Though this would be mitigated to some limited extent by the factors mentioned above, this would unequivocally harm the Green Belt and conflict with the fundamental aim of Green Belt policy.
15. I conclude that the proposal would fail to preserve the openness of the Green Belt and would not check the unrestricted sprawl of large built-up areas or assist in safeguarding the countryside from encroachment. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. The harm identified above therefore weighs heavily against the proposal.

Character and appearance

16. The areas to the north and west of the appeal site are characterised by a mix and variety of house types and bungalows. In the wider area, dwellings and plot sizes vary considerably, as do the age and appearance of many houses. Despite its suburban nature, the proximity of the area to the Green Belt gives it a verdant and more spacious character in places. As a constituent part of the Green Belt, the appeal site therefore contributes positively to the character and appearance of the area as a whole.
17. Along Copthorne Gardens, the semi-detached and terraced dwellings are of a similar age and style to one another. Due to its asymmetrical layout, the more urban entrance to the street from the junction quickly gives way to a more

transitional street scene. The appeal site on the southern side of the street introduces extensive greenery and opens up the street as it leads into the Green Belt beyond, in contrast to the 3-storey terraced dwellings opposite.

18. While the full details of the scheme are not before me, the proposal would inevitably add a significant amount of built development to an area that is currently undeveloped and open. This would erode the transitional characteristics of the street, introducing buildings where there is currently vegetation and open spaces. It would by its nature introduce a greater sense of enclosure to the open field and street scene, creating a less permeable boundary to the Green Belt beyond. For the appeal site itself, as above, the scheme would result in the loss of its prevailing open and natural character, to the detriment of the character and appearance of the area and Green Belt.
19. I have had regard to the indicative 3D visualisations provided by the appellant, which demonstrate that the proposal could be laid out as a continuation of the existing built development on the southern side of the street. This would provide greater symmetry in the extent of built development on both sides.
20. However, the arrangement of existing house types along the street is somewhat asymmetrical, with the eastern part of the street distinguishable from the western part, and the southern side from the northern side. As a row of self-build homes, the proposal is also likely to diverge from the design of the other dwellings further. The extent to which the proposal would appear as a natural or logical continuation, rather than a discrete addition, is therefore diminished. I also do not consider the site could reasonably be described as filling a gap given there is no development to the south or east.
21. Furthermore, there are other examples of dwellings featuring frontages overlooking the Green Belt or other open or undeveloped areas locally. Likewise, there are examples where openings in the street scene allow views of the Green Belt to permeate. The nature of the current street scene is therefore not particularly incongruous or uncharacteristic of the area.
22. I therefore conclude that the proposal would harm the character and appearance of the site and surrounding area. It would conflict with Paragraph 130 of the Framework in respect of its aim of ensuring developments add to the overall quality of the area and are sympathetic to local character, including landscape setting.
23. Though not explicitly referred to in the Council's reason for refusal, the proposal would also be contrary to Policy 26 of the Local Plan, which seeks to ensure development proposals are informed by respect and complement the distinctive qualities, character and geographical features of the local area, and respect, reinforce and complement the local streetscene.

Ecology and biodiversity

24. The Council maintain that the site is covered by 2 Tree Preservation Orders (TPO) and describe it as seemingly rich in wildlife, which is corroborated anecdotally by the comments of interested parties. From the evidence before me, it would appear that the site was recently subject to removal of a tree(s) and other habitat. The Council contend that the provision of housing would undermine the subsequent natural restoration of the land, and this would have a significant impact upon its ecological and biodiversity value.

25. Given the nature of the application however only limited details of the appeal proposal are required at this stage. Detailed information concerning the ecological and biodiversity value of the site, and the effect of the proposal with respect to these matters, is therefore not before me. However, this would be required at the Technical Details Consent stage. The unauthorised removal of TPO trees would however be a separate legal matter. Likewise, the scope of the TPO and its validity are outside the remit of this appeal.
26. On the basis of the evidence before me, I have no reason to disagree that a scheme could be devised that would protect or enhance the ecological or biodiversity value of the site, including replacement planting and landscaping as part of any TDC.
27. I therefore cannot conclude that the proposal in principle would be harmful in this respect. At this stage, I have therefore not identified any conflict with Policies 27 and 30 of the Local Plan, Chapter 8 of the London Plan or Paragraphs 174 and 180 of the Framework. These policies, among other provisions, seek to ensure proposals incorporate a detailed and high-quality landscape scheme, protect and enhance the natural environment and seek to increase the quantity and quality of biodiversity.

Other considerations

28. The Council has set out that the updated Housing Delivery Test (HDT) result for 2021, which accounts for the adoption of the Havering Local Plan, indicates 78% of the Borough's housing requirement was delivered. The appellant contends the Council's housing target for 21/22 was unrealistic, however the 2022 results are not before me.
29. Notwithstanding this, I recognise that the urban area is somewhat constrained in terms of developable land, and the Council accept that Havering cannot currently demonstrate a 5-Year Housing Land Supply (5YHLS). The Council indicate they are committed to an update to the Local Plan to address the lack of a 5YHLS and the Local Plan Inspector ultimately found the Local Plan sound.
30. The proposal would contribute to the Borough's housing supply and delivery and, due to the lack of a 5YHLS, the provision of any additional housing would weigh in favour of the proposal. The proposal would provide a temporary boost in employment during construction, and additional residents may also contribute to the local economy and vitality of the community. However, these benefits would be modest given the small scale and context of the development. Overall, I therefore apportion moderate weight to them.
31. The appeal proposal also seeks to provide self-build plots. The appellant maintains that the Council has provided no self-build plots since 2016 and the Borough now has a significant shortfall, based on the Council's self-build register. The appellant also contends that while self-build plots may be allocated in a new Site Specific Allocations Local Plan, as set out in Policy 3 of the Local Plan, this is several years from fruition.
32. The Council consider that actual demand for plots is lower than the self-build register suggests, and they are in the process of introducing eligibility criteria to provide a more accurate understanding of demand. However, they concede that insufficient self-build plots have been granted to meet demand.

33. Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) requires that enough serviced plots of land be granted planning permission to meet the demand for self-build and custom housebuilding in the authority's area which arises in each base period. The evidence before me suggests there is a significant undersupply of self-build plots, even when interpreting the register data more cautiously. In this circumstance, where insufficient permissions have been given to meet demand in accordance with this statutory duty, this would also weigh in favour of the proposal.
34. The PPG indicates that, in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing.
35. The appeal is for permission in principle only, and the details before me are limited. It is indicated that there will be an element of individualism to the design of each property, though an element of control will be required with regards to the final size and finish. It would be the intention of the appellant to provide a 'Design Guide' to set out design parameters. However, the PPG indicates that planning obligations cannot be secured at the permission in principle stage and there is no mechanism before me, such as an executed legal agreement, that would guarantee the scheme would meet the definition of a development for self-build or custom build homes. In view of the above, the potential for the scheme to provide self-build plots carries limited weight.
36. The appellant contends that the properties built here would most probably be 3+ bed family homes. The evidence provided indicates there is a need for additional family homes in the Borough. This would again weigh in favour of the scheme. However, as above, final details are not before me and there is no mechanism to ensure the dwellings would come forward in a form that would address the identified housing need. I therefore afford this limited weight.
37. My attention is drawn to various other appeal decisions, which are referred to in support of this appeal, though the full details of each are not before me. None are within Havering, and several are not located within the Green Belt. Those examples that are in the Green Belt relate to development benefitting from the exceptions in the Framework or included additional factors that weighed in their favour. Additionally, those proposals in which the provision of self-build plots was a decisive factor were subject to legal agreements to secure them as such. These are therefore not directly comparable to the appeal case, and this does not lead me to a different conclusion on the main issues.
38. While the proposal may comply with other parts of the development plan or national policy, and self-build initiatives are supported in principle by Policy 3 of the Local Plan, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.

Planning Balance and Conclusion

39. The appeal proposal comprises inappropriate development that is harmful to the Green Belt. It would harm the openness of the Green Belt and conflict with the purposes of including land within the Green Belt. I give this harm

substantial weight as required by the Framework. I have also found harm in respect of the effect of the proposal on the character and appearance of the area.

40. Against the substantial harm, I have considered the other considerations put before me in favour of the scheme. However, I do not find that these considerations individually or cumulatively clearly outweigh the substantial weight I have afforded to the Green Belt harm, and other harm, arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.
41. The identified harm renders the proposal contrary to the requirements of the Council's Development Plan policies, and conflicts with the provisions of the Framework. I have identified no harm or development plan conflict in respect of ecology and biodiversity matters at this stage however this would be a neutral consideration.
42. Paragraph 11(d) of the Framework indicates that the presumption in favour of sustainable development is engaged where the policies which are most important for determining the application are deemed out-of-date. This includes, for proposals involving the provision of housing, situations where the local planning authority cannot demonstrate a 5YHLS, such as in this case.
43. Paragraph 11(d) stipulates that planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 of the Framework confirms that such policies include those relating to land designated as Green Belt. As set out above, I consider that the Green Belt policies within the Framework provide a clear reason for refusing the development proposed, and therefore the proposal does not benefit from the presumption in favour of sustainable development in this instance.
44. The proposal conflicts with the development plan and the Framework, taken as a whole, and I have found no material considerations that indicate it should be determined other than in accordance with the development plan. Consequently, I conclude that the site is not suitable for residential development, having regard to its location, the proposed land use and the amount of development, and the appeal should be dismissed.

Ryan Cowley

INSPECTOR