



Appeal Decision

Site visit made on 31 July 2023

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Appeal Ref: APP/C1570/W/22/3309462

Ivy House, Back Lane, Gaston Green, Little Hallingbury, Bishops Stortford, Essex CM22 7QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Keith Shea against the decision of Uttlesford District Council.
 - The application Ref UTT/22/0437/OP, undated application, was refused by notice dated 25 April 2022.
 - The development proposed is the construction of 4 new detached houses on land adjacent to Ivy House.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made in outline with all matters reserved for future determination. I have had regard to the indicative layout for 4 dwellings shown on the submitted drawings in reaching my decision but treated this as illustrative.

Main Issues

3. 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 proposed development on highway safety; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

4. The appeal site is a large, roughly rectangular open field which has been described as a redundant garden associated with Ivy House. It lies at the corner of Back Lane and Old Mill Lane with open fields to its west and a detached house, Parkers to the north. There is dispersed development on the opposite side of both Back Lane and Old Mill Lane. It is located outside the

development limits of Little Hallingbury. It is also within the Metropolitan Green Belt.

Whether inappropriate development

5. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 sets out that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions, one of which is (e) limited infilling in villages. The Framework does not define 'limited', 'infilling' or 'villages'.
6. The appeal site is located with Gaston Green, a small hamlet, comprised of a small cluster of development along Old Mill Lane and Back Lane. This is set away from the main built-up area of Little Hallingbury from which it is separated by open fields. However, a hamlet is not specifically excluded by policy and it seems to me that infill in such a location could be acceptable.
7. The appeal site is relatively wide. It directly adjoins development to the north but is physically separated from other nearby development by both Back Lane and Old Mill Lane, from which it is additionally separated by a strip of grass and a hedge. As such the site is not a gap between buildings within linear development or surrounded by built development to the extent that development of it could be considered to be infill. Even if I am wrong and it were to be infill, a development of four dwellings would not be limited when viewed in the context of the small cluster of built development within close proximity to the site.
8. For these reasons, whilst I accept that the cluster of development would be considered a village for the purposes of the application of criterion (e), the proposal would be neither limited nor infilling.
9. The proposal would not fall under the exception set out under paragraph 149 (e). It would therefore be inappropriate development in the Green Belt.

Openness

10. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development.
11. The Planning Practice Guidance¹ sets out that assessing the impact of a proposal on the openness of the Green Belt requires a judgment based on the circumstances of the case. An assessment of openness is capable of having both spatial and visual aspects; the duration of the development and its remediability; and the degree of activity likely to be generated, such as traffic generation.
12. The appeal site is partially an area of open grassland and partially overgrown with vegetation where a tennis court had occupied part of the site. It is enclosed on three of its boundaries by mature trees and hedgerows but more open along its boundary with Back Lane.

¹ Paragraph: 001 Reference ID: 64-001-20190722

13. The indicative layout shows the provision of four detached two-storey dwellings, a detached garage and a pair of detached garages which would be single-storey with a pitched roof. Whilst the appeal scheme is in outline and I have limited details of the scale, these buildings would physically exist in all three dimensions where there has been no development before. In this regard, even if the buildings were to be moderately sized, the proposal would cause significant harm to the openness of the Green Belt in spatial terms.
14. The proposal would be visible from the public highway along both Old Mill Lane and Back Lane which is also a public right of way (PROW). Whilst some boundary vegetation exists and would be retained, the dwellings would nevertheless be visible from the surrounding area. Furthermore, there would be driveways, parking areas and other domestic paraphernalia. Cumulatively, there would be significant harm to the openness of the Green Belt in visual terms.
15. The development would be permanent in nature. It would also give rise to day-to-day comings and goings associated with domestic dwellings. For all these reasons, taken together, I find the proposal would cause significant harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. I give significant weight to that harm.

Highway safety

16. Whilst access is a reserved matter, the indicative drawing shows a new access would be formed onto Back Lane. This is an unmade, private road with a narrow carriageway and no footway. A PROW runs along the lane. Back Lane joins onto Old Mill Lane which is public highway but similarly narrow. Old Mill Lane is a no through road that takes access from Sawbridgeworth Road. It leads onto a private road and a further public footpath.
17. The red line of the appeal site does not include the section of Back Lane from the site access to Old Mill Lane. Connectivity to the public highway would be at the junction of Back Lane with Old Mill Lane with connectivity to the wider road network from the junction of Old Mill Lane with Sawbridgeworth Road.
18. Back Lane currently serves four dwellings. The proposal would increase this by a further four. Based on its experience, the highway authority considers that traffic generation from the proposal would range from 6 to 8 vehicle movements a day. This would equate to an additional 24 to 32 daily vehicle movements. The appellant has indicated a lower level of 20 weekday movements per day and a further 16 over the weekend. I have no conclusive evidence to support either view. Nevertheless, in either scenario, this would represent an intensification in the use of both road junctions.
19. Sawbridgeworth Road is subject to a speed limit of 30 miles per hour (mph). The County Council, as highway authority, has confirmed that, in the absence of any signed speed limit, the same speed limit would apply to Old Mill Lane.
20. Manual for Streets (MfS) and Manual for Streets 2 (MfS2) set out nationally accepted standards for visibility. For a 30mph road, a visibility splay of 2.4m back from the junction and 43m either side of the junction would be required. This has been confirmed by the highway authority and not disputed by the appellant. No speed data has been submitted to indicate a lower visibility splay would be appropriate. The visibility splays would be required at both the

junction of Back Lane with Old Mill Lane and at the junction of Old Mill Lane with Sawbridgeworth Road.

21. Visibility at the junction of Back Lane from a setback of 2.4m is currently 11m to the west. It is very limited. Whilst the speed and volume of traffic along Old Mill Lane may not be particularly high, there would be limited intervisibility between vehicles until they are very close to each other. Due to the narrowness of Old Mill Lane, there would be limited space to take evasive action in the event of a car emerging from Back Lane whilst one is approaching from the west. This would increase the risk of collision between road users which would be harmful to highway safety.
22. To the east, the visibility splay extends to the junction with Sawbridgeworth Road. I have not been provided with a measured distance to this junction. As vehicles approaching from this direction would be turning into Old Mill Lane, they are likely to be moving slowly. Given the speed of traffic in this direction, I consider that there would be sufficient visibility to enable both approaching and emerging vehicles to see each other.
23. Where Old Mill Lane joins Sawbridgeworth Road there is good visibility to the north but restricted visibility to the south due to a nearby garden hedge and a bend in the road. Furthermore, drivers wishing to turn into Old Mill Lane would have to wait for any emerging vehicles from this road to exit before turning in as the road width is too narrow to accommodate two vehicles side by side. This would increase the risk of collision between road users.
24. The submissions from the appellant have not referred to the PROW. It is therefore not clear that these are matters which have been fully considered. Nevertheless, it seems to me that the intensification of the use of Back Lane by vehicular traffic could increase the risk of conflict between different users of the road.
25. I appreciate that the circumstances that give rise to conflict between road users currently exist. However, the proposal would intensify the use of the junctions and the volume of traffic along a PROW which would increase the risk of conflict.
26. The appellant has indicated that he would be willing to enter into a section 106 agreement under the Town and Country Planning Act 1990 (as amended) to secure improvements to the junction of Back Lane and Old Mill Lane, including possible widening of the carriageway as well as upgrading the roadway surface to an approved Highways standard. Whilst this could potentially mitigate some of the harm that would arise, the issues around the junction of Old Mill Lane and Sawbridgeworth Road would not be addressed. Moreover, it appears that the land required for improving visibility to the west along Old Mill Lane does not fall under the ownership of the appellant. It is therefore not clear how these improvements could be achieved. I therefore give this limited weight.
27. In the context of highway safety, I have also been referred to an approval for the conversion of a church to a school, 10m from the appeal site. I am told this was granted in 2019 although I have been provided with very few details and I am unable to draw any conclusions from this.

28. My attention has been drawn to other developments and businesses which generate traffic within the area. However, these are existing circumstances and do not justify increasing the use of these junctions which are substandard.
29. For the reasons set out above, I cannot be satisfied that the scheme would not increase the risk of conflict between road users which would be harmful to highway safety. I therefore find that it would conflict with Policy GEN1 of the Uttlesford Local Plan 2005 (ULP) which requires development to be designed so they do not compromise road safety; and the Framework that requires safe and suitable access to the site to be achieved for all users. It would also conflict with Essex County Council's Development Management Policies 2011 (adopted as Supplementary Guidance) which aim to protect the safety of all highway users and seek to improve existing substandard accesses.

Other considerations

30. The Council cannot currently demonstrate a five year supply of deliverable housing land. The provision of four houses would make a small contribution to this. It would also make a contribution to the local economy, both through the construction and subsequent occupation of the development.
31. It has been suggested that there is a shortage of family dwellings within the District. I have no substantive evidence of this, nevertheless, I accept that the scheme would contribute to the supply of family sized housing.
32. The appellant considers a more logical Green Belt boundary would exclude the appeal site. However, the Green Belt boundary has been established through the local plan process. It is not the role of individual planning applications to redefine the extent of the Green Belt.
33. Whilst the appeal site may have been used for domestic purposes and form part of Ivy House, this not exclude it from assessment as Green Belt.
34. The scheme proposes to minimise its environmental impacts through various measures including grey water usage, rainwater harvesting, installation of solar panels and battery back-ups, insulation in excess of Building Regulation requirements and use of salvageable and eco-friendly materials. Whilst these would be positive aspects of the proposal, they are neutral factors in the balance.
35. It is not proposed to fell any trees as part of the development. However, that is a neutral factor in the balance.
36. The appellant considers the Council did not engage fully during the application process. He has indicated that he would have reduced the number of dwellings proposed but had no opportunity for these discussions. However, these are essentially procedural matters and do not affect the merits of the case.

The Green Belt Balance

37. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause significant harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.

38. In addition to my finding that the proposed development would be inappropriate development I have identified that it would harm highway safety. This weighs very heavily against the development.
39. The proposal would make a small contribution to housing supply and the provision of family sized housing. There would be some limited economic and social benefits from the construction and occupation of the dwelling. Together these would carry moderate weight and would not outweigh the substantial harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
40. As such the proposed development would be contrary to the Framework which sets out that the Green Belt should be protected against inappropriate development.
41. Policies S6 and H3 of the ULP are cited in the decision notice. Policy S6 sets out that infilling and limited development compatible with the character of the settlement and its setting will be permitted within certain villages which are excluded from the Green Belt. This includes Little Hallingbury. The policy does not relate to infill development outside settlement boundaries. Similarly, Policy H3 relates to new houses within development limits. As the appeal site lies outside the defined development limit of Little Hallingbury neither of these policies are relevant to the proposal before me.

Conclusion

42. As no very special circumstances exist to justify inappropriate development in the Green Belt this provides a clear reason for refusing the proposed development. Therefore, although the Council cannot demonstrate a five year supply of deliverable housing sites, the presumption in favour of sustainable development does not apply.
43. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR