



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: 12 September 2023

Appeal Ref: APP/C1570/W/22/3310189

Land north of Bonningtons, Little Hallingbury CM22 7PH

- 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 Arbora Homes against the decision of Uttlesford District Council.
 - The application Ref UTT/22/1063/FUL, dated 11 April 2022, was refused by notice dated 2 August 2022.
 - The development proposed is construction of 9 residential dwellings and associated development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has raised a concern about a number of appeal decisions that were appended to the appellant's statement of case on the grounds that it considers these to be new evidence which should have been provided at the application stage. The Procedural Guide for Planning Appeals (England) requires the appellant's statement of case to fully support their opinion that the development should be granted planning permission and should be accompanied by all documents to which the statement refers. It is not uncommon for a statement of case to be accompanied by appeal decisions to justify the position of the parties.
3. The Council has had sufficient time, indicated to be around 6 months from when it was first sent the appeal, to review and respond to these documents. I have therefore taken these into account in so far as they are relevant to my decision.

Main Issues

4. 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 and the purposes of including land within it;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the setting of Grade II listed buildings; 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

5. The appeal site is located on the western side of Latchmore Bank from which it is accessed. It is a sizeable irregular area of open pastureland, enclosed on its boundaries by vegetation. The site lies between residential properties and their gardens to the north and south with open farm grazing land to the west. It is outside of but directly adjacent to the defined settlement boundary of Little Hallingbury. It is located within the Metropolitan Green Belt.

Whether inappropriate development

6. 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'.
7. Saved Policy S6 of the Uttlesford Local Plan 2005 (ULP) is concerned with Green Belt. However, as this policy relates to development within the settlement boundary of villages excluded from the Green Belt it would not apply to this appeal. Its relevance is therefore limited to its definition of the extent of Green Belt.
8. There is no dispute that Little Hallingbury is a village. Case law has established that limited infilling is applicable to all villages and not just restricted to sites that fall within settlement boundaries identified in local plans.
9. In order to be infilling, it seems to me that a development proposal must fill a space or gap between two other buildings or structures whether within a continuous built-up frontage or within built development.
10. It has been accepted that the front part of the site lies between Bonningtons to the south and Orchard End to the north and that development between these two properties amounts to infilling. This is reflected in the fact that planning permission¹ has been granted for the erection of four dwellings on this part of the site.
11. The appeal scheme proposes to increase the amount of development expanding the development by an additional five dwellings positioned around a cul-de-sac. This rear part of the site lies between the garden to Orchard End to the north, shares a small part of the site boundary to Bonningtons to the south with a large part of the site adjoining an open field. As such, these additional dwellings would not infill a gap between existing built development.
12. There is additional development along Dell Lane which extends south-west from Latchmore Bank and away from the appeal site. However, these properties are not viewed in the context of this western part of the appeal site as they are separated from it by an area of open paddock. This does not

¹ Council Ref: UTT/22/1049/FUL

therefore alter my conclusions in respect of development on this part of the site not amounting to infill development.

13. The provision of nine dwellings would be a moderately sized development in the context of the limited size of the settlement. It would not therefore be a limited development.
14. I have found that the scheme would comprise development within a village. However, where it extends beyond the frontage development, it would not amount to infill development, nor would a development of this size be limited development within the context of this village. It would not therefore meet the exception set out under criterion (e) of paragraph 149.
15. I therefore conclude that the proposal would be inappropriate development in the Green Belt. It would conflict with national policy to protect Green Belt. In accordance with the Framework, I attach substantial weight to this harm.

Openness of the Green Belt

16. The Framework sets out in paragraph 137 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. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development.
17. The Planning Practice Guidance² 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.
18. In spatial terms, the appeal proposal would introduce built development where there is currently none. This would comprise nine detached dwellings as well as detached garages a new road, driveways and domestic gardens. This would cause a significant loss of openness in spatial terms.
19. Visually, the dwellings along the Latchmore Road frontage would be viewed in the context of adjacent and opposite development and would appear as a continuation of existing development. However, those dwellings to the rear would be viewed from a public footpath running north-west from Dell Lane and along the site's western boundary. Views from this path are currently of undeveloped land with a rural character both within the appeal site and within the field to the west. The proposed dwellings, although designed as single-storey dwellings, would nonetheless be visible from this public viewpoint.
20. It is proposed to enhance the landscape by filling gaps in the existing vegetation along the western boundary of the site with native species to provide a buffer and additional screening. This would provide some enclosure of the site but the development would be visible, particularly during the winter months when trees are not in leaf. Consequently, I find there would be a moderate loss of openness in visual terms.

² Paragraph: 001 Reference ID: 64-001-20190722

21. The proposal would also be permanent in nature and would introduce activities associated with domestic residences, including vehicle comings and goings on a daily basis where there are currently none.
22. The scheme would therefore harm openness spatially, visually and permanently.
23. Paragraph 138 of the Framework sets out five purposes of the Green Belt. The appeal site is included in Parcel 13 of the Council's most recent Green Belt Review 2016 which covers the wider area west of Little Hallingbury up to the urban fringe of the town of Bishop's Stortford. Parcel 13 is considered to make a strong contribution to Green Belt purposes.
24. In terms of Green Belt purposes, I consider that those to which the appeal site could contribute to are (b) to prevent neighbouring towns merging into one another and (c) to assist in safeguarding the countryside from encroachment.
25. In respect of (b), the Green Belt contributes to the gap between Little Hallingbury and Bishop's Stortford. Due to the limited extent of the appeal site and its distance from Bishop's Stortford, development on this site would not lead to any significant merging of these two settlements. However, with regards to (c) safeguarding the countryside from encroachment, the scheme would certainly result in urbanising development that would encroach into the rural landscape and countryside surrounding Little Hallingbury. Although localised in its effect, due to the position of the site and limited number of public viewpoints from which it would be seen, it would nevertheless not accord with this purpose of including land within the Green Belt.
26. Consequently, I conclude that the development would result in 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. It would also undermine this purpose of the Green Belt in assisting in safeguarding the countryside from encroachment.

Character and appearance

27. Development along Latchmore Bank is varied in character with a mix of dwellings of varying ages and designs. The western side of the road is predominantly linear in form. There are no cul-de-sac developments on this side of the road although there are examples within the village including Hallingbury Close to the north-east of the site and Staddles off Dell Lane some distance to the south-west.
28. The approved Latchmore Bank frontage development, that is the four dwellings, would assimilate into the linear development along this street which is varied in style and character.
29. Development within the western part of the site would encroach into the significantly more rural area and setting of the village at the rear of the established built development along Latchmore Bank. It would introduce a cul-de-sac and suburban form of development out of character with the linear pattern of development on the western side of Latchmore Bank.
30. As I have set out in my reasoning above, this would give rise to visual harm to the Green Belt. The urbanising effect of the proposal with its associated comings and goings, formal gardens and domestic paraphernalia, would also

harm the rural character and visual appearance of this location. Whilst I recognise the appeal site does not form part of a valued landscape, it nevertheless forms part of the rural setting of the village which would be harmed by the proposal.

31. A scheme of soft landscaping is proposed and a final scheme could be secured by condition in line with the approach taken by the Council in respect of the approved scheme on the site. This would provide some screening of the site but as I have already set out this would not be entirely effective and the urbanisation of the site would be apparent from the public footpath.
32. The proposal would harm the character and appearance of the area. It would therefore conflict with Policy GEN2 and ENV3 of the ULP which together require development to be compatible in layout to surrounding buildings and safeguards important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings where appropriate and does not permit the loss of visually important spaces unless the need for the development outweighs their amenity value. It would also not comply with the Framework which requires development to be sympathetic to local character.
33. The Council has cited Policy S7 of the ULP in relation to the countryside. The countryside to which this policy applies is defined as all those part of the Plan area beyond the Green Belt that are not within the settlement or other site boundaries. As the entirety of the appeal site lies within the Green Belt, this policy is not applicable in this case.

Setting of listed buildings

34. Directly to the south of the site there is a Grade II listed building, Bonningtons. This is a 17th century, two-storey timber framed house set back from Dell Lane with its main elevation facing south-east and away from the appeal site. On the opposite side of Dell Lane, there is the Grade II listed George Green Cottage, which similarly dates back to the 17th century. It faces north towards Latchmore Bank. On the opposite side of Latchmore Bank, there are two further Grade II listed buildings, The George Public House, dating from the 17th century or earlier and occupying a prominent position facing west and George Green House, an early 19th century red brick dwelling.
35. Together these buildings form an appreciable grouping of historic rural development which would have originally been surrounded by fields and set within a rural landscape. The appeal site lies within their setting. There has been incremental change to the setting of these listed buildings through new housing development which has resulted in a linear form of development, whilst retaining the open land beyond. As undeveloped pastureland, the appeal site has retained its rural character which contributes to the significance of these rural buildings.
36. The approved houses at the front of the site would have the greatest impact on the listed buildings as these would be most prominent within their setting. The extension rearwards from the road with development around a cul-de-sac would be uncharacteristic resulting in the urbanisation of the rural landscape behind the linear development. This would be particularly apparent surrounding Bonningtons. With the retention and enhancement of soft landscaping and hedge planting along the shared boundary, in combination with the single-

storey height of these rear buildings, the visibility of the change to the setting of the listed building would be reduced. Nevertheless, some harm would arise.

37. Consequently, I find that the proposal would fail to preserve the settings of the listed buildings. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed buildings in accordance with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard must be given to the desirability of preserving a listed building or its setting.
38. The harm the proposal would cause to the significance of the listed buildings would be less than substantial and a low level of harm. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.
39. The scheme would deliver nine new dwellings. There would be economic and social benefits associated with these, including those derived during both construction and occupation of the development. It would deliver modest ecological benefits. Development would also be close to the existing settlement although this has few services and facilities and occupants would be reliant on the private car to meet their day to day needs.
40. These combined benefits carry moderate weight in the balance. The harm to the setting of the listed buildings carries great weight, and would not be outweighed by the modest public benefits which would arise from the proposed development.
41. I conclude that the proposal would harm designated heritage assets. It would therefore conflict with Policy ENV2 of the ULP which requires development affecting a listed building to be in keeping with its scale, character and surroundings and that development proposals that adversely affect the setting of a listed building will not be permitted..

Other considerations

42. At the time the appeal was lodged, the Council could only demonstrate a 3.52 year supply of deliverable housing land. Since then, the Council has published an updated housing land supply position statement which sets out it has a 4.89 year supply for the period 1 April 2022 to 31 March 2027. I am told that major appeal decisions have contributed to this. Appeal decisions may contribute to the Council's housing land supply in the future. I acknowledge that a 5 year supply of housing land is a minimum requirement. Nevertheless, the housing supply shortfall is not significant.
43. I recognise that the Council is in special measures under section 62A of the Town and Country Planning Act 1990 (as amended) in respect of its planning function. There is also no dispute that the Council's local plan is out-of-date and this has been a finding of previous Inspectors³. The Council has, however, been granting planning permission outside the development limits with the 2021 Housing Delivery Test showing it delivered 99% of its housing requirement over the 3-year period ending in 2021.

³ APP/C1570/W/19/3242550 Land South of Rush Lane, Elsenham CM22 6TF

44. The appeal scheme would deliver 9 houses, or, taking into account that permission has been granted for 4 dwellings, just 5 additional houses.
45. In support of its position in justifying release of land in the Green Belt to deliver housing, the appellant has referred me to two appeals⁴ where housing development was allowed on unallocated Green Belt land due to the Council's chronic lack of 5 year housing land supply. However, both these appeals were for significantly larger housing schemes, 167 and 100 dwellings respectively. They are not comparable with a scheme of the size of the appeal before me. In any event, the Council now only has a small shortfall in its housing land supply.
46. Set against this, whilst the scheme would make a contribution to the Council's shortfall in housing land supply, its contribution would be limited. The supply of housing in this context carries moderate weight in favour of the scheme.
47. The appellant asserts that the proposal would make effective use of the appeal site which already has permission for 4 dwellings and that this would accord with the Framework's aims in this regard. However, the appeal site does not comprise previously-developed land where alternative uses of land are encouraged by the Framework. The appeal site is a field which provides a functional role as a buffer and transition between the built up area and countryside as well as being part of the Green Belt. Development on the eastern side of the site does not mean it is appropriate on the western side. I therefore give this very little weight.
48. The development would be brought forward relatively quickly, therefore contributing to housing supply within the district. It would also provide a mix of housing including bungalows which would serve the needs of an aging population.
49. The proposal would be in close proximity to the defined village. Additional residents would contribute to the vitality of the rural community with social and economic benefits arising from this. Other economic benefits would be the use of local contractors to deliver the scheme as well as Council tax revenues and New Homes Bonus. However, due to the limited size of the development compared to that already consented, the benefits arising from this would be modest.
50. Sustainable construction and energy efficient housing types would be used in the scheme. It would also provide electric vehicle charging and secure cycle parking to encourage sustainable modes of transport. However, Little Hallingbury has few services and facilities and an infrequent bus service, future occupants would therefore be reliant on cars to access most of their day to day needs. In this regard, it would conflict with Policy GEN1(e) which supports development that encourages movement by means other than driving a car. I therefore attribute limited weight to these benefits.
51. The scheme would deliver some modest ecological enhancements to the site.

The Green Belt Balance

52. 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

⁴ APP/X1925/W/21/3273701 Land south of Heath Lane, Codicote SG4 8YL and APP/X1925/W/21/3273701 Roundhouse Farm, Land off Bullens Green Lane, Colney Heath

that it would cause significant harm to the openness of the Green Belt and undermine one of its five purposes. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.

53. In addition to my finding that the proposed development would be inappropriate development I have identified that it would cause harm to the character and appearance of the area and a low level of less than substantial harm to heritage assets. This weighs heavily against the development.
54. The contribution to housing supply from nine dwellings (five net dwellings) even in the context of a small shortfall in housing land supply and a significantly out of date local plan would carry moderate weight in favour of the proposal. Other positive aspects of the scheme, including the economic and social benefits and the ecological enhancements of the site, taken together also carry moderate weight in favour of the proposal. The proposal would therefore not outweigh the substantial harm to the Green Belt I have identified.
55. Consequently, the very special circumstances necessary to justify the development do not exist. As such the proposed scheme would be contrary to the Framework.
56. The Council cannot demonstrate a 5 year supply of deliverable housing sites and some of its policies are out of date. However, given my conclusions on the harm to the setting of designated heritage assets and the Green Belt, in accordance with footnote 7 to paragraph 11 of the Framework, the tilted balance does not apply.

Conclusion

57. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR