



Appeal Decision

Site visit made on 5 October 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/W1525/W/22/3307672

56 Well Lane, Stock, Ingatestone, Essex CM4 9LZ

- 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 Nick Callison against the decision of Chelmsford City Council.
 - The application Ref 22/01265/OUT, dated 1 July 2022, was refused by notice dated 1 September 2022.
 - The development proposed is a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the heading above I have removed 'infill' from the description of the development as included on the application form, as it comprises a justification rather than a description.
3. The proposal is in outline for all matters, and I have therefore treated the identified access point into the site as indicative only.

Main Issues

4. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') (2023) and any relevant development plan policies;
 - the effect of the development on the openness of the Green Belt; 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 necessary to justify the proposal.

Reasons

Inappropriate Development in the Green Belt

5. The site is on land defined as Metropolitan Green Belt. It comprises a former horticultural nursery with associated nursery buildings, polytunnels, and hardstanding, and an associated dwelling and garden with a front outbuilding.
6. The Framework identifies at 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. Paragraph 147 states that inappropriate development is, by

definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. The relevant exception at paragraph 149(e) is whether the proposal would comprise limited infilling in a village.

Strategic Policy S11 and Policy DM6 of the Chelmsford Local Plan (LP) (2020) reiterate the Framework's strategic approach to Green Belt. DM6 also identifies exceptions to inappropriate development, with criterion (iv) reflecting the Framework with reference to infilling, and requiring this to be in accordance with Policy DM9. Policy DM9(A) expands on the Framework to require such infilling to comply with 4 criteria. Although the appellant suggests a disconnect with the Framework as Policy DM9(A) pre-dates its most recent revision, the Framework wording within paragraph 149(e) remains as at the LP adoption.

7. Policy DM9(A) criteria (i) requires the site to be within a village. Although located outside the defined settlement of Stock as designated by the LP Policies Map, the Council confirms that for the purposes of Policy DM9, it should be considered as part of the village. In consideration of the existing dwelling beyond on the wider site, and that passers-by or residents are likely to refer to it as in the village as a broad locational description, I agree with this approach.
8. Policy DM9(A)(ii) requires the site to be a small gap in an otherwise built-up frontage. Both sides of Well Lane leading away from the village present a strong and cohesive frontage. Dwellings are on a similar building line, set back behind gardens and driveways which extend up to the carriageway as there are no pavements. This visible frontage on the appeal side ends to the site's north after No. 52. The verdant tree and hedge cover directly bordering the carriageway along the site's frontage then predominantly blocks it and the dwelling at No. 56 on the wider site from view.
9. Along with the narrowing of the lane and in combination with the frontage trees and those further beyond, there is a strong and clear impression of the end of the village and the entrance into the countryside at this point beyond Nos. 52 and 59. That No. 59 comprises built form opposite the site, does not directly relate to this judgement of frontage on the side of the appeal site.
10. The presence of the existing 2 storey dwelling beyond the appeal site therefore does not alter this impression. It has a significant set-back, with 2 low level polytunnel areas to either side, a single storey outbuilding to the front, and a large expanse of frontage hardstanding. In those limited views available of it, the site presents as an agricultural smallholding rather than a continuation of the domestic scale and form of the dwellings to the north. Therefore, I do not find that the appeal site lies within a small gap in an otherwise built-up frontage, and thus its development would not comply with Policy DM9(A)(ii).
11. Policy DM(9)(A)(iii) requires the infilling to be limited so as not to impact unacceptably on the function and purpose of the Green Belt. Paragraph 138 of the Framework identifies these 5 purposes, and while some of these may not be affected, I find that the proposal would at least conflict with the purpose of assisting in safeguarding the countryside from encroachment.
12. Finally, although all matters are reserved, the required visibility splays for access would necessitate clearance of most or all of the site's frontage

vegetation. This removal would therefore have a harmful impact on the intrinsic character and appearance of Well Lane. I note that the Stock Village Design Statement (VDS) (2011) states that natural hedges and trees should be preserved wherever possible. The proposal would therefore conflict with Policy DN9(A)(iii), which requires development to not detract from the existing character or appearance of the area.

13. My finding overall is thus that the proposal would not result in limited infilling under the requirements of the LP Policy DM9, and consequently would conflict with it and with Policies DM6 and S11. It would also therefore not meet the relevant exception under paragraph 149(e) of the Framework, and would be inappropriate development in the Green Belt. It would also conflict with the Stock VDS.

Openness

14. A fundamental aim of Green Belt policy is to keep land permanently open, as set out in the Framework paragraph 137. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects, and is a matter of planning judgement. Spatially, the erection of the dwelling would result in built development and massing where there is presently none. Although the polytunnels and the outbuilding would be removed, and there are existing pathways and hardstanding, their replacement with an increased height and presence of built form would result in a reduction in the site's openness.
15. Visually, the site has a strong character in comprising the rural edge as described above. Notwithstanding the existing built form and vegetation frontage screening, the openness of the Green Belt is evident around the site and the wider countryside. Once developed further, a new dwelling would be clearly visible from the road, and create an urbanising effect and thus some visual harm to this openness. Again, this finding takes into account the removal of the polytunnels and outbuilding, which as subservient to the existing dwelling and within a smallholding setting, are less prominent than a new dwelling would be.
16. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Other Considerations

17. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. A consideration of whether a proposal amounts to infilling is a matter of both fact and planning judgement, with each site to be assessed on its own merits and in its own context. As above, I do not find that the removal of the existing polytunnels or the outbuilding would be a benefit in the wider context of their replacement by other built form. I do not find any conflict with the principles established by the Vision Engineering decision in this regard. I also do not find the submitted appeal decisions to amount to very special circumstances, or to be determinative to my decision in this instance.

Green Belt Balance

18. In summary, due to its effects on openness, the proposal would be inappropriate development in the Green Belt in the terms set out by the Framework. The Framework requires that substantial weight should be given to any harm to the Green Belt, and that inappropriate development should not be approved except in very special circumstances. It goes on to explain that very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. A lack of objections does not equate to a lack of harm.
19. I have found no other considerations in this case that would individually or cumulatively clearly outweigh the harm to the Green Belt and any other harm. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. The proposal would thus conflict with the Green Belt policies in the Framework, and the Chelmsford LP.

Other Matters

20. The site lies within a recreational 'Zone of Influence' for the Essex Coast European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of these protected sites.
21. To this end, the appellant has made a direct financial payment to the Council towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, which the Council has accepted as sufficient mitigation. However, as I have identified above that I am dismissing the appeal on other grounds, I do not need to consider further the implications of the Habitats Regulations, and whether the contribution would adequately mitigate the proposal's effect on the integrity of the protected sites.

Conclusion

22. The proposal would be contrary to the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR