



Appeal Decision

Site visit made on 23 October 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2023

Appeal Ref: APP/W1525/W/22/3313244

Land Southwest of Riva Side, Maltings Road, Battlesbridge, Wickford, Essex SS11 7RH

- 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 G Cobbing against the decision of Chelmsford City Council.
 - The application Ref 22/00483/FUL, dated 3 March 2022, was refused by notice dated 24 June 2022.
 - The development is retrospective application for the retention of mobile home for residential occupancy, proposed revisions to existing gates.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity and consistency, I have used the site address as stated on the Council's Decision Notice as opposed to that given on the application form. I am satisfied that no party with an interest in the outcome of the appeal is prejudiced by me taking this approach.
3. As was apparent upon inspection, the proposed revisions to the site's existing entrance gates have already occurred. Thus, apart from amendments intended to the mobile home's exterior, all elements of the development as set out on the application form and/or reflected upon the proposed plans have already occurred. I shall determine the appeal on this basis. For the avoidance of doubt, whilst hardstanding at the site is referred to in the Council's first reason for refusal, my considerations are necessarily focussed upon and limited to the development that has been applied for.
4. Following the receipt of a relevant mitigation payment the Council has confirmed that it no longer wishes to defend its fourth reason for refusing planning permission, which related to effects upon the Blackwater Estuary Special Protection Area (the SPA) and Ramsar site. I shall formulate the appeal's main issues accordingly.

Main Issues

5. The main issues are:
 - Whether or not inappropriate development in the Green Belt;
 - The effect upon the openness of the Green Belt;
 - The effect of the gates upon the character and appearance of the area;

- Whether or not acceptable development, having particular regard to the site's flood zone location; and
- If found to be inappropriate development in the Green Belt, whether or not the 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 development.

Reasons

Whether inappropriate development

6. The site falls within the Metropolitan Green Belt. The National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Various exceptions to development being considered inappropriate are listed within the Framework, but neither the stationing of a mobile home for the purposes of residential occupancy nor the erection of gates are types of development that fall within these listed exceptions.
7. For the above reasons, inappropriate development has occurred in the Green Belt and, in this regard, there is conflict with Policies SS11 and DM6 of the Chelmsford Local Plan (May 2020) (the LP) and the Framework in so far as these policies state that inappropriate development will not be approved except in very special circumstances.

Green Belt openness

8. The mobile home is of modest height and occupies a setback position relative to Maltings Road. It thus has a discreet presence in the street scene. Nevertheless, publicly accessible views of a glimpsed and/or restricted nature are available. It is also important to note that openness in Green Belt terms has a spatial aspect as well as a visual aspect. The mobile home covers a sizeable footprint and is of considerable volume, and its residential occupancy has seemingly led to various ancillary structures/stores and elements of domestic paraphernalia being introduced to external areas. On this basis, I cannot accept any suggestion made that the stationing of a mobile home for the purposes of residential occupancy has led to no material loss of openness.
9. It has been suggested that a mobile home could be brought on to the site without requiring planning permission, provided it did not result in a change of use. However, the mobile home in question is already stationed on the site for the purposes of permanent residential occupation and evidently contains the range of domestic facilities necessary to perform that role. There are also differences fairly associated to how external areas would be utilised when supporting permanent residential occupation as opposed to a day use, with more regular parking and increased domestic paraphernalia and ancillary residential elements fairly anticipated. This is consistent with my own on-site experiences where a range of externally sited domestic items/features were evident in proximity to the mobile home.
10. In terms of the gates, these are features that are readily visible at short range from Maltings Road. Their revised design incorporates slimline metal bars at high-level. Whilst this specification offers some opportunity for obtainable views into and over the site, it remains that most of the installed gates are made up of solid elements that terminate views and result in a material loss of

openness, albeit on a modest and localised basis. I note here that, notwithstanding acceptability in a highway safety sense, it has not been clearly demonstrated (by way of a certificate of lawful development, for example) that gates of directly comparable height and specification could be installed in the same location without planning permission.

11. Moreover, for the above reasons, both the mobile home that is in residential occupancy and the installed gates result in some loss of Green Belt openness. As such, the scheme conflicts with Policies SS11, DM6 and DM10 of the LP and the Framework in so far as these policies set out that the openness and permanence of the Green Belt will be protected.

Gates – character and appearance

12. The area within which the site is located exhibits rural characteristics. Indeed, various paddocks/parcels of often undeveloped land are served by Maltings Road and instances of development along this road tend to be sporadic. Furthermore, the appearance of the area is heavily influenced by the presence of established planting. Nevertheless, owing to the number of different plots in existence along Maltings Road, gated access points can be observed at regular intervals. These are of varying design that sometimes display urban characteristics. In this context, the gates, as revised in terms of their detailed design to provide some open elements, are not experienced as excessively prominent additions to the front of the site and, in character and appearance terms, blend acceptably with their surroundings.
13. Thus, without prejudice to my findings in a Green Belt openness sense, the gates have an acceptable effect upon the character and appearance of the area so as to achieve compliance with Policy DM23 of the LP and the Framework in so far as these policies require development to respond to context and to be compatible with its surroundings.

Flood zone location

14. The site is situated within Flood Zone 3 of the Environment Agency's Flood Map, and thus is at high risk of river or sea flooding. Further, the Council classify the site to comprise part of the functional floodplain which is where water from rivers or the sea has to flow or be stored in times of a flood.
15. As set out in the Planning Practice Guidance (PPG), a mobile home intended for permanent residential use has a flood risk vulnerability classification of 'highly vulnerable'. Highly vulnerable types of development are incompatible with Flood Zone 3 locations meaning there is a strong presumption against permitting the applied for development at the appeal site. This position is consistent with comments provided at application stage by the Environment Agency (the EA) in its role as an important statutory/technical consultee.
16. A Flood Report¹ (the Report) has been submitted by the appellant, which identifies the site to be at low risk of flooding from rivers and the sea. This assessment, as indicated within the Report, takes account of existing flood defences and the condition those defences are in. Such defences, as was apparent upon inspection, include embankments and sluices.

¹ dated 4 June 2019

17. However, the EA's flood zones refer to the probability of river and sea flooding ignoring the presence of defences. Indeed, the permanence and ongoing maintenance of flood defences falling outside of the appellant's control cannot be guaranteed. Furthermore, the Report offers no acknowledgement of the site's Flood Zone 3 location, does not consider the potential suitability and availability of alternative sites, and does not take the form of a comprehensive site-specific flood risk assessment. As such, it offers no robust justification for permitting highly vulnerable development at the appeal site.
18. It has been suggested that the mobile home is situated at the highest part of the site and thus at a location where water levels would be unlikely to rise to. However, an especially steep gradient was not observable upon inspection, and it remains that the mobile home is situated within Flood Zone 3. I acknowledge that the mobile home is sited above ground level and is moveable. However, as set out in the PPG, areas behind flood defences are at particular risk from rapid onset of fast-flowing and deep-water flooding with little or no warning if defences are breached.
19. Moreover, even in the absence of observed flood events at the site in recent years, and the presence of permeable surfacing to promote the effective management of surface water run-off, it has not been clearly demonstrated that the development is safe for the permanent residential occupation of a mobile home. This is due to the risks associated to flooding from rivers and the sea.
20. My attention has been drawn to a mobile home park situated close by at Hawk Hill, Battlesbridge, which I am led to understand falls, at least in part, within Flood Zone 3. Other residential dwellings located to the southern sides of Hawk Hill and Maltings Road have also been referenced. However, I have not been provided with the full details of when and in what particular circumstances planning permissions were previously granted for these other developments. In any event, the existence of established development in Flood Zone 3 does not justify highly vulnerable development in clear breach of the requirements of current policy and guidance.
21. For the above reasons, having particular regard to the site's flood zone location, the development is unacceptable and thus results in harm. There is identifiable conflict with Policies S2 and DM18 of the LP and the Framework in so far as these policies set out that planning permission for all types of development will only be granted where it can be demonstrated that the site is safe from all types of flooding now and for the lifetime of the development.

Other Matter

22. The site lies within the Zone of Influence of the SPA. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have found the development to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. For the avoidance of doubt, even if I had done so and a positive outcome had ensued due to the relevant mitigation payment secured, it would not have affected my overall conclusions on this appeal.

Whether very special circumstances apply

23. As set out above, the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also indicates that substantial weight should be given to any harm identified to the Green Belt.
24. It has been brought to my attention that the appellant has lived in a mobile home in the local area for over 15 years and that he was served with an eviction notice where he had previously been living until October 2021, effectively leaving him homeless at that time. It has been suggested that he has not had the financial capabilities to rent locally, where he has needed to stay because of his work.
25. However, it has not been clearly demonstrated that all potentially viable alternative accommodation options have been thoroughly explored. Indeed, 2013 correspondence with a District Council located elsewhere in the county that seemingly confirms ineligibility to join that Council's Housing Register at that point in time does not provide adequate assurances that robust search efforts have been undertaken. Moreover, despite any effects of the cost-of-living crisis, it has not been comprehensively demonstrated that homelessness would be the only realistic option for the appellant as an alternative to him occupying the mobile home at the appeal site. Thus, a dismissal of the appeal would not unacceptably interfere with the appellant's right to a private and family life and home, and very special circumstances have not been demonstrated based on his personal circumstances and the supporting evidence provided.
26. I have been made aware that the appellant has a vision of living off the land by growing fruit and vegetables and keeping grazing animals. It has also been indicated that maintaining and securing the land has been difficult in the past without a permanent on-site presence. However, it has not been clearly demonstrated that there is an essential need for permanent residential occupation at the site for such purposes. Any potential benefits in a maintenance or security sense thus attract, at most, moderate weight. Furthermore, any reduction in required travel to and from the site brought about by permanent occupancy would offer limited environmental benefits.
27. I have noted the appellant's intention to amend the mobile home's external appearance, via such measures as applying dark-coloured timber cladding consistent with a barn style. Whilst I do not disagree with the suggestion made that the mobile home, once altered, would be cohesive with sporadic development of not dissimilar appearance locally, it must be noted that an absence of harm in a character and appearance sense would weigh neutrally as opposed to in positive favour of the development.
28. A single additional unit of residential accommodation would be regularised should planning permission be granted, and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. However, a single unit would make no clear difference to the overall housing land supply situation locally and is a benefit that attracts limited weight.
29. The scheme's benefits, considered cumulatively, are relatively modest and do not outweigh the substantial harm identified to the Green Belt (including some harm derived from loss of openness), and the additional identified harm

derived from unacceptable development having particular regard to the site's flood zone location, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

30. For the above reasons, the development conflicts with the development plan when read as a whole and material considerations do not lead me to a decision otherwise. Thus, the appeal is dismissed.

Andrew Smith

INSPECTOR