



Appeal Decision

Site visit made on 6 October 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Appeal Ref: APP/V1505/W/22/3309566

Land to south of Southlands Road, Crays Hill CM11 2XB

- 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 Jordan Nichols against the decision of Basildon Borough Council.
- The application Ref 22/00391/FULL, dated 11 March 2022, was refused by notice dated 31 August 2022.
- The development proposed is the erection of a three-bedroomed chalet bungalow.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development provided on the application form included that it is infill. I have removed this from the description above as it comprises a justification rather than a description. To provide accuracy, I have also clarified above that the site is south of Southlands Road.
3. The Council withdrew its Emerging Local Plan (ELP) in March 2022. The relevant Development Plan therefore comprises the Basildon District Local Plan Saved Policies (LPSP) (2007), and the Local Plan Proposals Map (1998).

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 development.

Reasons

Inappropriate Development in the Green Belt

5. The site is an overgrown plot of land on Southlands Road, to the rear and side of the gardens of dwellings fronting Gardiners Lane North. Paddocks and dwellings within spacious plots lie further along Southlands Road. The proposal is for a chalet bungalow, with a side drive and detached garage.

6. The Framework paragraph 137 identifies 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 (VSC).
7. Policy BAS GB1 of the LPSP identifies the Green Belt extent, but does not provide detailed policy criteria for the assessment of development. For such an assessment, the Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. The appellant suggests the relevant exception is paragraph 149(e), comprising limited infilling in a village.
8. The previous appeal on the site¹ concluded that it does not form part of the village, and would thus not fall within this exception. This was primarily due to the pattern of development in this area being quite loose, including Southlands Road's location relative to the main built-up area of Crays Hill, and the number of dwellings in the street.
9. The appellant identifies that the previous Inspector did not have sight of the Green Belt Infill Policy Topic Paper (2017), also known as the Plotlands Study ('the Study'). This is a detailed Council policy document prepared for the ELP. It aimed to consider where infilling could occur in line with the Framework, if a local policy were required, and if so, what requirements were needed to ensure that any infill development would only be exceptionally permitted so as not to impact on the openness of the Green Belt and be suitably in character with the area.
10. However, the Study does not establish that a plotlands designation indicates that a site is part of a village. It is also under review following the ELP withdrawal. From the evidence before me and my site visit, whereby there is a clear impression of countryside on both sides upon leaving Crays Hill before the further loose pocket of built form, I therefore see no reason to take a different view to the previous Inspector.
11. As such, whether or not the proposed development could be classed as infilling, it is not within a village and so I find that it would not meet the exception under paragraph 149(e) of the Framework. It would be inappropriate development in the Green Belt, and would conflict with Section 13 of the Framework, and the LPSP Policy BAS GB1.

Openness

12. I accept the appellant's position that the proposal would not conflict with the 5 purposes of the Green Belt identified by the Framework paragraph 138. However, paragraph 137 also sets out that a fundamental aim of Green Belt policy is to keep land permanently open. 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 and its domestic paraphernalia would result in built development and massing where there is presently none, and therefore unavoidably result in a reduction in the openness of the site.

¹ APP/V1505/W/20/3255498

13. Visually, the scale, layout and appearance of the proposal is the same as that under the dismissed appeal. The site is clearly visible from Gardiner's Lane North and along Southlands Road, which has a semi-rural character of open space and wide sky views. Notwithstanding the presence of neighbouring dwellings, the openness of the Green Belt is evident around the property and this wider area. In this regard I find, as did the previous Inspector, that the dwelling would have a small harmful effect on openness. The proposal 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

14. The parties agree that the Council cannot demonstrate a 5 year housing land supply. In this situation, relevant policies for the supply of housing are not deemed up-to-date and the Framework paragraph 11d falls to be considered. This indicates that planning permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework, including those relating to land designated as Green Belt, indicate that development should be restricted. I have already found above that the Framework Green Belt policies indicate that development should be restricted. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development as a material consideration, as outlined at the Framework paragraph 11.
15. However, the benefits of the proposal, including its contribution to the housing supply, may still comprise VSC such as to outweigh the harm caused to the Green Belt. The ELP withdrawal does not indicate a material progress in terms of housing delivery, and the appellant highlights the Basildon housing delivery test of only 41%. However, I find the provision of a single dwelling on the appeal site would make an extremely small contribution to this shortfall. There would also be very small social and economic benefits from local construction, and the occupiers increasing local expenditure and demand for local services. I give a very small amount of weight to the benefits of a new dwelling in this location.
16. The appellant also suggests that the site's LPSP plotlands designation and the Study contributes towards VSC. I accept that the Study appears to be a detailed and considered document. However, I have not been presented with the Council's reasons for its ELP withdrawal, and therefore cannot be certain whether the Study's plotlands policy approach may have been one of those reasons. The Council notes that the Study was never examined, and that it is under review as part of preparations for a new Local Plan. I have no certainty as to the future policy approach for current plotlands areas, or that the appeal site would be included if plotlands were taken forwards as a general principle. I therefore find this does not comprise VSC.
17. The appellant suggests that the site is likely to become overgrown, may be subject to trespass and fly-tipping, and being very close to residential properties may cause fear and concern as to its future prospects. I am not aware that fly tipping is a problem, but this issue could in any case be resolved in other ways. An overgrown site does not appear to me to be a significant problem in this location. Its maintenance obligation is only a private matter.

Other Matters

18. 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. The Council requires the appellant to make a contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy. 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 such a contribution would adequately mitigate the proposal's effect on the integrity of the protected sites.

Green Belt Balance

19. 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 VSC. It goes on to explain that VSC 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.
20. The appellant suggests that despite being only one dwelling, its benefits including its contribution to the housing supply would be proportionate to the site and its impact on the Green Belt. They also suggest that based on the Vision Engineering judgement, the overall situation and a relatively limited Green Belt harm would in itself contribute towards VSC in combination with the benefits.
21. However, I have found no other considerations in this case that would individually or cumulatively clearly outweigh the harm to the Green Belt. 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 in the LPSP.

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