



Appeal Decision

Site visit made on 10 January 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/B1550/W/23/3319339

Penclawdd, Clements Hall Lane, Hawkwell, Essex SS5 4DT

- 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 Gwyn Thomas of Soliaccio Limited against the decision of Rochford District Council.
 - The application Ref 22/01078/FUL, dated 8 November 2022, was refused by notice dated 25 January 2023.
 - The development proposed is a 3-bedroom detached new-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. The main parties have been given the opportunity to comment on this version, and in reaching my decision I have taken account of those comments that were received. For the avoidance of doubt, where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - Whether 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 required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Metropolitan Green Belt (Green Belt) beyond the defined settlement boundary limits of Hawkwell.
5. Paragraph 154 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate subject to a number of identified exceptions. One such exception, 154(e), is limited infilling in villages.

6. Neither the Development Plan nor the Framework defines the term 'village'. It is therefore a matter of judgement for the decision maker. The boundary of a village defined in a local plan may not be determinative for the purpose of identifying a village.
7. In this case, the defined settlement limit coincides with a distinct change in character. The development within the defined settlement to the appeal site is a more densely built environment. This contrasts with the sporadic and more spacious form of development along Clements Hall Lane. Furthermore, unlike the roads within the settlement, Clements Hall Lane is a narrow, unsurfaced road, with no footway. Such factors, together with its verdant quality, gives Clements Hall Lane a rural character that is distinctly different to that of the defined settlement.
8. Accordingly, I find that the appeal site is not within a village. Therefore, even if I found that the development would constitute 'limited infilling' it would not fall within the exception set out at paragraph 154(e) of the Framework.
9. A further exception, at paragraph 154(g)(i), allows for the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
10. The appeal site forms part of the domestic curtilage of a property that is outside of the settlement and, thus, is not located within a built-up area. As held in *Dartford BC v SSCLG* [2017] EWCA Civ 141, it therefore falls within the definition of previously developed land as set out in annex 2 of the Framework. Consequently, my conclusions as to the effect on openness will determine whether the proposal falls within the exception set out at paragraph 154(g)(i).
11. The proposal is a detached dwelling with a large area for vehicle manoeuvring and parking to the front. In comparison with the appeal site, which is an open garden that is devoid of buildings, the bulk and massing of the development would result in a spatial loss of openness. Furthermore, the proposed dwelling, associated hardstanding and domestic paraphernalia would collectively represent a substantial increase in the bulk of development at the site which would be visible from Clements Hall Lane. The appeal proposal would therefore also result in a visual loss of openness. Accordingly, the proposal would have a greater impact on the openness of the Green Belt and would not fall within the exception that is set out at paragraph 154(g)(i) of the Framework.
12. For the reasons given above, the proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would conflict with the Framework as it would fail to assist in safeguarding the countryside from encroachment and would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Other Considerations

13. The proposed development would be a more effective use of land, that would assist in boosting the housing supply in a location which has some accessibility to services and facilities by means other than the private vehicle. In addition, there would be economic and social benefits resulting from the construction and occupation of the dwelling. However, given the limited scale of the

development, as there would only be a gain of one dwelling, such benefits only carry moderate weight.

14. The development is acceptable in respect of its design and scale and therefore would not harm the character and appearance of the area. However, the absence of harm is a neutral factor and not a matter to be weighed in favour of the proposal.

Green belt balance

15. I have concluded that the appeal scheme would be inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found harm to the openness of the Green Belt. The Framework, at paragraph 153, states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
16. The other considerations I have identified are of moderate weight in favour of the proposal. Consequently, these considerations, along with all other matters identified in the evidence, do not clearly outweigh the substantial weight to be given to the identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

Other Matters

17. The site falls within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Zone of Influence for one or more of the European designated sites. If the circumstances leading to the grant of planning permission had been present, I would have considered the implications further, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issues above, I have not found it necessary to consider such matters any further as this would not alter the outcome of the appeal.
18. I have had regard to the matters raised by interested parties, including the concerns about damage to the unmade road, implications for highway safety, loss of greenery, impact on wildlife, and the impact of development on the living conditions of adjoining residents. However, as I have found harm in relation to the main issues, I have not pursued these matters further.

Conclusion

19. The proposed development conflicts with the development plan and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
20. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR