



Appeal Decision

Site visit made on 23 January 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 12th February 2024

Appeal Ref: APP/H1515/W/23/3320030

Land at Spital Lane, Brentwood, Essex

- 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 Punch Partnerships (PGRP) Limited, against the decision of Brentwood Borough Council.
 - The application Ref 21/02125/FUL, dated 25 November 2021, was refused by notice dated 7 October 2022.
 - The development proposed is erection of 12 affordable apartments, including new vehicular access and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The appeal is accompanied by a Section 106 unilateral undertaking, which provides for the entire development to be restricted to affordable housing, as defined in Annex 2 of the National Planning Policy Framework (the NPPF).

Main issues

3. Based on the submissions before me, the main issues in the appeal appear to me to be as follows:
 - whether the appeal proposal would constitute 'inappropriate development' in terms of green belt policy;
 - if so, whether the development would also cause harm to the green belt's openness or purposes;
 - whether the development would meet a need for affordable housing, and accord with relevant national policies relating to such housing in rural areas;
 - whether any harm to the green belt, and any other harm, would be clearly outweighed by other considerations, so as to amount to the 'very special circumstances' needed to justify such development in the green belt.

Reasons for decision

'Inappropriateness'

4. It is not in dispute that the appeal site is located within an area of green belt (GB), as defined in the Brentwood Local Plan (the BLP), adopted in March 2022. BLP Policy MG02 states that the GB is to be preserved from inappropriate development, so that it continues to maintain its openness and serve its key functions. In addition, permission for inappropriate development

is not to be granted except in very special circumstances; and all proposals in the GB are to be assessed in accordance with national planning policy.

5. The relevant national policies are contained in the National Planning Policy Framework (the NPPF). Paragraph 152 states that inappropriate development is harmful to the GB, by definition. Paragraph 153 requires that any harm to the GB is given substantial weight; very special circumstances will only exist where the harm to the GB, and any other harm, is clearly outweighed by other considerations. Paragraph 154 makes clear that new buildings are to be regarded as inappropriate, unless they fall within one of a limited range of exceptions. One of these, at sub-paragraph 154(f), is *"limited affordable housing for local community needs, under policies set out in the development plan (including policies for rural exception sites)"*.
6. In the present case I agree, firstly, that the scale of the appeal proposal could be regarded as 'limited'. Secondly, I am satisfied that the legal undertaking that has been entered into guarantees that the proposed apartments at the appeal site would be reserved in perpetuity for occupation only as affordable housing. In addition, if permission were to be granted, I see no reason why the detailed arrangements could not be controlled by condition; these could include the tenure split, and a cascade mechanism giving priority to applicants with a connection to South Weald ward, in which the site is located. The appeal proposal would therefore be capable of providing limited affordable housing, and of being directed towards meeting local community needs. To this extent, I agree that the development would accord with some elements of the exception to GB policies provided by NPPF sub-paragraph 154(f).
7. However, the wording of that sub-paragraph also makes it clear that the exception is intended for schemes which fall within the terms of relevant local policies, as may be provided for in the development plan for the area. In the case of Brentwood, it is common ground that the BLP contains no policy for rural exception sites, and no other relevant policies permissive of affordable housing outside settlement boundaries. I note the appellants' view that this approach is excessively restrictive. However, that is a matter for the local plan examination process, and in this case the BLP has been through that process only recently, and was evidently found sound. In any event, this argument does not change my view, that the exception in NPPF sub-paragraph 154(f) is clearly intended to be used primarily to support local plan policies, where such policies exist. It follows that, where there are no relevant local policies, the exception is not applicable.
8. I fully accept that, if the proposed development can be shown to meet a community need for affordable housing, this may be a material consideration in the final planning balance, and I will therefore return to this question later in my decision. However, that is a separate issue from whether the scheme constitutes inappropriate development.
9. I conclude that, for the reasons explained above, the development now proposed does not fall within the exception provided within NPPF sub-paragraph 154(f). Consequently, as the scheme would involve new buildings, it would be 'inappropriate development' in terms of GB policies, and thus contrary to BLP Policy MG02. As such, as advised by NPPF paragraphs 152 and 153, the development would be harmful to the GB by definition, and the harm thus caused carries substantial weight in my decision.

Other harm to the green belt

10. The proposed development would introduce a large new building, access roadway, and hard surfaced parking area onto a site which is currently undeveloped grazing land. These built features would be clearly visible from Spital Lane. As such, the scheme would result in the loss of the greater part of the site's present openness.
11. The development would encroach on what is now in visual terms clearly part of the countryside, resulting in the site becoming urbanised, and thus would fail to restrict the sprawl of the existing large built-up area. In these respects, the development would conflict with the purposes of GBs, as set out at NPPF paragraph 143.
12. In accordance with NPPF paragraph 153, substantial weight attaches to these additional harms to the GB, in addition to the harm by reason of inappropriateness.

Affordable housing needs and policies

13. The appellants' Housing Needs Survey, carried out by post in October 2021, found 16 households in South Weald ward who stated that they were likely to wish to move to other accommodation within the area, either now or in the future. Of these, 10 households appear to have expressed a preference for some form of affordable tenure, either as affordable renting, shared equity, or discounted purchase. Nine of the 16 are said to have had household incomes of £1,666 per month or less, with less than half of this being available for housing costs. Most of these households had savings of less than £2,000. These findings appear to indicate some level of local need for affordable housing, linked to the South Weald ward area.
14. Perhaps inevitably, given the nature of the appellants' survey, there are some gaps and weaknesses in the data. The response rate was only 10% of those surveyed. The accuracy of the responses cannot be confirmed. The tabulations provided necessarily preclude a fine-grained analysis of individual needs and circumstances. There is therefore no certainty that all of the ten households who self-identified as seeking affordable accommodation would necessarily qualify in a formal application process. Only two claimed to be already on any official waiting list, and even these are disputed by the Council.
15. But nevertheless, from the evidence available, it seems to me that the appellants' survey is the most up-to-date and inclusive source of information for South Weald ward at the present time. The Council does not appear to have carried out any comparable surveys since the Strategic Housing Market Assessment (the SHMA), in 2016. Reliance is placed on the existing waiting lists, but these cannot be guaranteed to be comprehensive. On balance, it seems likely that the appellants' survey is a reasonably accurate reflection of local need. Although the scale of the potential demand identified through the survey is slightly less than the number of dwellings now proposed, it seems probable that some additional needs will have gone unrecorded, due to the low response rate. In the light of all the available evidence, it seems to me that a local need for affordable housing in South Weald ward has been adequately demonstrated, and that the scale of the current appeal proposal relates fairly closely to the likely level of that need.

16. The scheme would not fall within the NPPF's definition of 'community-led', and therefore does not benefit from the support that NPPF paragraph 73 gives to such developments on exception sites. And in any event, having regard to footnote 38 and the associated footnote 7, it seems to me that paragraph 73 will rarely, if ever, be applicable to sites in GBs. But nevertheless, NPPF paragraph 82 gives general support to housing developments in rural areas that reflect local needs. Whilst this paragraph makes reference to community-led schemes and exception sites, there is nothing to suggest that it is intended to be limited to only those types of proposal. Based on the survey evidence summarised above, it seems to me that the present appeal proposal falls broadly within the range which paragraph 82 is designed to encourage.
17. I note all the other arguments made by the Council. The appeal site is on the edge of Brentwood town, and is arguably less rural in nature than a site closer to the centre of South Weald village, or in the more rural parts of the ward. Similarly, the South Weald ward boundary overlaps with the urban area, and therefore the survey data will reflect the needs of both the rural and urban parts of the ward. A development in this type of location would do relatively little to foster village life or vitality. In this respect, better locations in South Weald ward might have been available. The mix of dwelling types and sizes in the appeal scheme does not directly align with survey participants' expressed preferences. There is no evidence that BLP Policy H05, which requires 35% affordable housing in developments of over 10 dwellings, will fail to meet the district's needs, derived from the SHMA. Some of these other affordable dwellings are expected to be delivered on allocated sites within South Weald ward itself. I see some merit in some of these arguments. However, none seems to me to invalidate the results of the appellants' survey, which appear to show a level of need for affordable housing within the local area, exceeding the levels implied by the SHMA or BLP policies.
18. In the light of all the above matters, I am satisfied that the development now proposed would help to meet an identified need for affordable housing in the area. This would be a significant benefit to the local community in South Weald ward. And although the scheme would not fully accord with national policy on exception sites, it would help to provide for local needs within a mainly rural area, as encouraged by NPPF paragraph 82. But even so, these are considerations that have to be weighed against the harm that would be caused to the green belt, having regard also to the advice that the NPPF gives as to how that balance should be struck.

Whether 'very special circumstances' exist

19. On the one hand, for the reasons already set out in this decision, the proposed scheme would cause harm to the green belt. This harm would arise due to the development's 'inappropriateness' in policy terms, and also due to its adverse effect on openness, and its conflict with the GB purposes of resisting urban sprawl and encroachment into the countryside. As already noted, national policy requires that these harms carry substantial weight.
20. On the other hand, the development would provide 12 affordable apartments of varying sizes, helping to meet the identified needs of the surrounding rural and urban area. The benefits of such a development to the local community would clearly be significant.

21. However, NPPF paragraph 153 makes it clear that, for 'very special circumstances' to exist, the combined weight of the harms to the GB must be clearly outweighed by other considerations. In other words, for inappropriate development to be permitted in the green belt it is necessary for the benefits of the scheme to be shown to outweigh the harm, not merely on balance, but 'clearly'.
22. In the present case, despite the significant benefits that would arise from the provision of affordable housing, I find that the harm to the GB, with the substantial weight that such harm must carry, is not clearly outweighed. The necessary 'very special circumstances' have therefore not been demonstrated.

Conclusion

23. In the absence of very special circumstances, the proposed scheme clearly conflicts with BLP Policy MG02, and thus with the development plan as a whole. This conflict is not outweighed by any other considerations. For these reasons, I conclude that the appeal must fail. I have given consideration to all the other matters raised, but none alters this conclusion. The appeal is therefore dismissed.

J Felgate

INSPECTOR