



Appeal Decision

Site visit made on 12 April 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/W1525/W/23/3330063

Larkrise Cottage, Cock Lane, Highwood, Chelmsford, Essex CM1 3RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Catherine Ann Shirley against the decision of Chelmsford City Council.
 - The application Ref is 23/00851/OUT.
 - The development proposed is the demolition of existing garage and construction of new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council is not defending reason for refusal 3 on the basis that it can be satisfactorily addressed through the reserved matters. I see no reasons to disagree, and this is reflected in my main issues below.
3. Whilst I have used the shorter description of the proposed development from the Council's decision notice in the banner heading above, I have had regard to the longer description in the planning application form.
4. Details of the scale and layout of the proposed development were submitted during determination of the planning application and are dealt with at this outline stage. The access, appearance and landscaping of the proposed development are reserved for future consideration. This is the basis on which I have considered the appeal proposal.
5. The Council Officer's report indicates that the appeal site lies within the zone of influence of the Blackwater Estuary Special Protection Area (SPA) and Ramsar site, which is a European site of nature conservation importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 as amended ("the Regulations"). I will return to this matter later in my decision.
6. The Government published a recently revised National Planning Policy Framework ("the Framework") and all references in this decision relate to the revised document. I am satisfied that the parties will not be prejudiced by the changes to the national policy context as there are no changes relevant to the substance of this appeal.

Main Issues

7. The main issues in this appeal are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework.
- The effect of the proposed development on the openness of the Green Belt.
- Whether the proposed dwelling would be in an appropriate location for new housing, with particular regard to the Council's settlement strategy and accessibility to facilities and services.
- If the proposal is inappropriate development, 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 it.

Reasons

Whether inappropriate development

8. Policies S1 and S11 of the Chelmsford Local Plan, Adopted May 2020 ("the CLP"), seek to protect the openness and permanence of the Green Belt. They state that inappropriate development will not be approved except in very special circumstances. Exceptions to inappropriate development in the Green Belt, as set out in CLP Policies DM6 and DM9, include new infill buildings and the re-development of previously developed land where a proposal would not have a greater impact on the openness of the Green Belt. Also included are replacement buildings where the new building is not materially larger than the one it replaces. These exceptions are consistent with those set out in Framework Paragraphs 154.d), 154.e) and 154.g).
9. The proposal would constitute the infilling of a relatively small gap between existing buildings in an otherwise continuous row on the north side of Cock Lane. As such, it would constitute limited infilling. However, CLP Policy DM9 limits infilling in the Green Belt to sites within villages, consistent with Framework Paragraph 154.e). Whether a site is within a village is matter of judgement based on a site's particular characteristics and its context when assessed 'on the ground'. The supporting text of the CLP indicates that a village is a consolidated group of residential properties and usually, although not exclusively, with some form of community facility or focus.
10. The appeal site is set within a cluster of buildings, mostly arranged in the vicinity of the junction of Cock Lane with Ingatestone Road. I saw that the cluster was surrounded by countryside of open fields and a scattered pattern of buildings. Despite the presence of a few formal road name signs in the area, there were no obviously identifiable features or clear boundaries that would identify the cluster as within a village.
11. There was no identifiable community facility or focus within the cluster. The services, facilities or amenities which might usually, but not exclusively, be expected to characterise a village are absent from within the cluster of buildings or around it. Whilst not all villages have facilities or services, their absence from the area of the appeal site, together with the modest size of the

cluster, is not indicative of it being a village. I note that an Inspector¹ reached a similar conclusion in respect of an appeal at Oak Tree Farm to the west of the appeal site at the junction of Ingatstone Road with Cock Lane.

12. Consequently, based on my experiences at the site visit and the evidence before me, I find that the proposed dwelling would not be located within a village and therefore it would not constitute limited infilling in a village, contrary to CLP Policies DM6 and DM9. Therefore, it would be inappropriate development in the Green Belt.
13. There is no mechanism to secure the proposed dwelling as Affordable housing within the definition in the Framework's glossary and therefore the proposal could not comply with the exception in Framework Paragraph 154.f). Even if I was to assess the proposal under Framework Paragraph 154.d), the proposed dwelling would be materially larger in terms of its height, footprint and overall massing than the existing building to be replaced. Therefore, it would not accord with the exceptions under CLP Policy DM6.

Openness

14. In spatial terms, a dwelling of the scale and layout proposed would mostly occupy space on the appeal site between the existing building and the western boundary where no building currently exists. As such, it would inevitably reduce the openness of the Green Belt and result in a more intensive use of the site by a separate household.
15. In views from Cock Lane, the proposed dwelling would be seen as part of the established row of buildings, including several commercial buildings to the north and west, and a large building adjacent to the site. It would also be partly obscured by trees on the site frontage, including evergreen species. Nonetheless, the built form of a dwelling of the scale proposed would be clearly visible in close distance views from Cock Lane, where its scale and massing would cause a loss of visual openness in the Green Belt, albeit to a relatively modest and localised extent.
16. A dwelling of the scale proposed would be considerably larger than the existing building on the appeal site in terms of its footprint, height and massing. As such, it would have a greater impact on the openness of the Green Belt than the existing development and would not meet the exception in CLP Policy DM6 Part B or Framework Paragraph 154.g). Therefore, it would also be inappropriate under this exception, even if located on previously developed land and taking account of any use of the site as domestic storage.
17. There is no mechanism to secure the proposed dwelling as Affordable housing within the definition in the Framework's glossary and I have limited substantive evidence to suggest that it would meet an identified need within the Council's area. As such, the proposal would not comply with the second limb of the exception in Framework Paragraph 154.g).

Whether an appropriate location for housing

18. The appeal site is located outside of any defined settlement boundary and therefore lies within the countryside for planning purposes. Travel between it and the larger settlements where the services and facilities likely to be visited

¹ APP/W1525/W/19/3235116

frequently by future occupiers are located, would be along relatively narrow rural roads often subject to the national speed limit of 60mph and largely devoid of footpaths or streetlights. The evidence indicates that the closest bus stop to the appeal site which provides a somewhat limited service on a route between Ongar and Chelmsford, is some 900 metres away.

19. I observed relatively frequent vehicle movements along Ingatestone Road. Whilst only a snapshot in time, these traffic conditions, together with the nature of the roads and the distances to services and facilities, including the nearest bus stops, are likely to discourage future occupiers of the proposed dwelling from making journeys by walking, cycling or public transport. Occupiers of the proposed development are therefore expected to be heavily reliant upon private vehicles to meet most, if not all, of their travel needs.
20. Opportunities to maximise sustainable travel between urban and rural areas vary. Residents in rural areas are comparably more reliant on car journeys to access services and facilities. However, these factors do not justify new residential development in locations where occupiers would be heavily reliant on travel by car, with few opportunities for sustainable travel.
21. The proposal would therefore conflict with the Council's settlement strategy in CLP Policy S1 of locating development at well-connected and sustainable locations to help reduce the need to travel and encourage the use of non-car modes. Even though an electric charging point could be secured by condition, it would not be reasonable to require future occupiers of the proposed dwelling to travel by zero-emission vehicle to eliminate transport related carbon emissions.
22. Consequently, although not isolated in terms of Framework Paragraph 84, the proposed development would not be in an appropriate location for new housing, with particular regard to the Council's settlement strategy and accessibility to local facilities and services, in conflict with the requirements of CLP Policy S1, which are set out above.

Other considerations

23. The intended future occupier of the proposed dwelling has a disability and mobility issues, and currently resides with the appellant in the adjacent dwelling at Larkrise Cottage. The evidence suggests that this property is on the market for sale and once sold would leave the intended future occupier of the dwelling with a requirement for housing suitable to meet their needs within an area that has been home for a number of years, and close to family members in Chelmsford.
24. The evidence suggests that a dwelling of the scale and layout proposed could be fully accessible for wheelchairs in accordance with Document Part M4(3) of the Building Regulations. Therefore, it would address the health and well-being needs of the intended future occupier, consistent with elements of Framework Paragraph 96, and be capable of meeting the standards of accessible and adaptable buildings in the Council's Making Places Supplementary Planning Document, 2021.
25. The Council has a vision to address the housing needs of all Chelmsford residents. The CLP recognises that there is a demand across the authority's area for housing to meet the needs of older people and adults with disabilities. The proposal would align with the aim of encouraging Specialist Residential

Accommodation (SRA) on small sites in the Council's area as set out in the Planning Obligations SPD, and CLP Policy DM1. Although the Annual Monitoring Report 2021-2022 suggests no SRA units have been delivered since the CLP's adoption, the evidence suggests this is because no qualifying schemes of 100 or more have been determined.

26. The proposal would therefore contribute to meeting the housing needs of different groups, including in rural areas, in accordance with Framework Paragraphs 63 and 82, and improving the lives of those with disabilities, including boosting the supply of housing for disabled people as set out in the National Disability Strategy 2021 and Disability Action Plan 2023-2024.
27. The weight to be accorded to an appellant's health conditions are dependent upon the specific facts of each case. In the Skipton appeal² the family's need for a bungalow, which was supported by evidence from medical professionals, including an analysis of alternative accommodation to a new bungalow, was given substantial weight. By comparison, I have relatively limited information about the nature of the intended future occupier's health condition or the availability of suitable alternative accommodation in the area, including in the City of Chelmsford where the intended future occupier's family reside.
28. For these reasons, there appear to be significant material differences between the Skipton appeal and the appeal before me. Therefore, the Skipton appeal is of limited weight and relevance to my considerations in this appeal. Nonetheless, taking account of all the above, the provision of a wheelchair accessible dwelling suitable for the intended future occupier's health needs, and potentially those of an older person or an adult with disabilities, as per the demand acknowledged in the CLP, would weigh significantly in its favour.
29. The proposed dwelling would make a small contribution to the supply of a smaller homes in accordance with the Council's Strategic Housing Market Assessment. It would reuse a small area of brownfield land and deliver social benefits through providing a home for a household. Economic benefits associated with the construction and occupation of the dwelling, including future residents supporting businesses and services in the rural economy, would also accrue. The proposal could deliver a net gain in biodiversity, including utilising the land in the appellant's control that extends to the rear. However, the benefits attributed to a single dwelling in respect of the above factors would be small and of limited weight in its favour.
30. I acknowledge the intention for the proposal to be a self-build or custom build project. However, there is no mechanism in place to secure the dwelling as such and therefore limited weight attaches to these factors.
31. The scale and layout of the proposed dwelling would not harm the character and appearance of the area, the living conditions of nearby occupiers of land or buildings and would cause no harm to highway safety. No third parties have raised any objection to the proposal. However, an absence of harm in these respects is neutral and does not weigh positively in its favour.
32. The planning permissions granted by the Council for dwellings at Homelee, Briggs Cottage and the Willows, pre-date adoption of the CLP. As such, they were approved under a different local planning policy context and are of limited

² APP/T2350/W/15/3129411

relevance and weight to my considerations in this appeal. I am not bound by the previous decisions of the Council in any case. The Council's decision to grant planning permission to regularise commercial uses to the west of the appeal relates to a different type of development and is of limited relevance and weight to my considerations in this appeal.

33. The appeal in Writtle³ allowed a replacement dwelling and was therefore materially different in nature to the appeal before me. It would have been determined on its individual merits following a site specific assessment of its effect on openness. As such, the Writtle appeal is of limited relevance and weight to my conclusions on the main issues.

Other Matters

34. The evidence indicates that the appellant has paid the requisite financial contribution to the Council to mitigate any adverse impacts of the appeal development on the SPA. Given my findings on the main issues above, it is unnecessary for me as the Competent Authority under the Regulations to consider the proposal's potential effects on the SPA, as to do so would not alter the outcome of this appeal.
35. I have had regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which includes having due regard to the need to eliminate unlawful discrimination and to advance equality of opportunity between persons who share a relevant protected characteristic (which includes age and disability) and persons who do not share it, and foster good relations between people who share a protected characteristic and persons who do not share it.
36. The evidence suggests that the intended future occupier of the proposed dwelling would be reliant on the private car and food deliveries wherever they lived due to a disability and mobility issues. However, to my mind CLP Policy S1 does not require the decision maker to assess an intended future occupier's capability of walking, cycling or accessing public transport to reach services and facilities. As such, when applied to the facts of this case, this Policy does not create inequality of opportunity to obtain a planning permission for a dwelling on the appeal site between persons who share the relevant protected characteristic and those that do not share it. On this basis, my conclusion on the third main issue would not fail to advance equality of opportunity or otherwise conflict with the aims of the PSED.
37. Dismissing this appeal could lead to the intended future occupier of the proposed dwelling being unable to find a suitable home to meet their personal circumstances, either locally close to family or further away. This would have negative effects on the intended future occupier of the proposed dwelling and engages the PSED. However, as set out above, I have limited evidence on the intended future occupier's health conditions and no substantive evidence to demonstrate that no suitable or available accommodation within the area is available to meet their health requirements. Furthermore, whilst the proposed dwelling could be fully accessible for wheelchairs in accordance with Document Part M4(3) of the Building Regulations, it would nonetheless be a market dwelling and it would be unreasonable given the lasting permanence of the

³ APP/W1525/W/20/3258695

proposed dwelling and the necessary financial investment in its construction, to impose a condition restricting occupation solely to the intended future occupier.

38. In having due regard to the PSED, the adverse effects of dismissing this appeal on a person with protected characteristics would, in this instance, be proportionate when balanced against the well-established and legitimate planning purposes of Green Belt policy and locating development at well-connected and sustainable locations, in accordance with the Council's development plan.

Green Belt Balance

39. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. I must therefore give substantial weight to the proposal's harmful effect on the Green Belt. Furthermore, the dwelling would not be in an appropriate location for new housing contrary to CLP Policy S1, and this adds further significant weight against the proposal.
40. Even if the same substantial weight as in the Skipton appeal was afforded to the personal circumstances of the intended future occupier of the proposed dwelling, the other considerations in this appeal would not outweigh the totality of the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal would be contrary to CLP Policies S11, DM6 and DM9, the requirements of which are set out above.
41. Under Footnote 7 to Paragraph 11.d)i. of the Framework, the appeal proposal's adverse effect on the Green Belt would provide a clear refusal reason. Therefore, even if the Council was unable to demonstrate a 5 year supply of housing land and/or the policies most important for determining the application were out of date, the proposal does not benefit from the Framework's presumption in favour of sustainable development.

Conclusion

42. The proposal would therefore conflict with CLP Policies S1, S11, DM6 and DM9 and with the Framework. This results in conflict with the development plan, when read as a whole. The material considerations are not of sufficient weight to indicate that a decision should be taken other than in accordance with that plan. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR