



Appeal Decision

Site visit made on 16 July 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/B1550/W/23/3328612

Woodfield Farm, Woodfield Bungalow, Apton Hall Road, Rochford SS4 3RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Adam Whiting (ILFD Holdings Ltd) against the decision of Rochford District Council.
 - The application Ref is 23/00364/FUL.
 - The development proposed is to demolish all existing buildings and sub-divide the plot to allow for the construction of 7 new build detached houses with shared access road to private parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It is noted that the appellant's statement makes several references to the appeal site being located on Brays Lane. However, as outlined in the address above, the appeal site is located on Apton Hall Road and I have considered the appeal on this basis.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies;
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on the living conditions of the occupiers of the neighbouring dwelling, Windmill Cottage, with regard to loss of privacy;
 - the effect of the proposed development on highway safety;
 - the effect of the proposed development on biodiversity;
 - the effect of the proposed development on flood risk; and
 - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other consideration so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether it is inappropriate development

4. The appeal site is occupied by a single storey dwelling and four large agricultural style buildings along with several smaller buildings. There is hardstanding between these buildings providing access from the adjacent road. The dwelling is currently occupied and the buildings on the site appear to be used for storage and distribution purposes. The surrounding area is rural in nature, with several residential properties and agricultural buildings set out sporadically and separated by large open fields. The appeal site is also located within the Green Belt. The proposed development would replace all the existing buildings on the appeal site with seven two-storey, detached dwellings with an access road and parking to the front and large gardens to the rear.
5. Paragraph 154 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Under the first section of paragraph 154 (g), these exceptions include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continued use which would not have a greater impact on the openness of the Green Belt than the existing development. The appellant indicates that the appeal site is previously developed land and the proposal would therefore fall under this exception.
6. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
7. The appellant states that the proposed development would result in a 1840m² reduction in built form across the appeal site, with the rear of the site being largely opened up to provide large gardens for the proposed dwellings. There would also be a reduction in internal floorspace. For this reason, the proposed development would not have a spatial impact on the openness of the Green Belt. However, as two-storey dwellings, some with additional rooms in the roof, the proposed dwellings to the front of the appeal site would be significantly greater in height than any of the existing buildings on the appeal site. Although there is well established hedging between the site and the road, due to their scale, the proposed dwellings would still be highly visible from surrounding viewpoints. Therefore, the proposal would significantly reduce the visual openness of the Green Belt.
8. Previously developed land is described in the Framework as land which is or was occupied by a permanent structure including the curtilage of the development land and any associated fixed surface infrastructure. This excludes land that is or was last occupied by agricultural or forestry buildings.
9. The Council contend that only one of the large buildings on the appeal site was granted prior approval for a change of use from agricultural use to a B8 (storage and distribution) use. As such, they suggest that the appeal site has a mixed use including C3 (dwellinghouses), B8 and agricultural and therefore it would not be wholly previously developed land. Nevertheless, even if I were to conclude that the appeal site constitutes previously developed land, due to the

harm to openness, it would not fall under the exception in paragraph 154 (g) of the Framework.

10. The development would therefore be inappropriate development within the Green Belt. This is harmful to the Green Belt which, in accordance with paragraph 153 of the Framework, should be given substantial weight. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, which will be considered below.

Character and Appearance

11. Residential properties in the surrounding area, on Apton Hall Road, are sporadically located on generous plots which are interwoven with large open spaces, in keeping with the rural nature of the area. Whilst the proposed dwellings would have good amounts of open space to the front and rear, they would be located in extremely close proximity to one another, contrary to the layout of other properties in the surrounding area. This would be out of keeping with the spacious pattern of residential development in the surrounding area and would give the appeal site a suburban appearance, at odds with the open and rural surrounds.
12. Whilst the appeal site is already occupied by large buildings covering the majority of the site, these are single storey with an agricultural appearance, which is in keeping with the locality. The proposed dwellings would be significantly greater in height than the existing buildings and many of those in the surrounding area, at a full two-storeys with steep roof pitches and additional rooms in the roof. Along with the layout, the scale of these buildings would add to the suburban appearance of the appeal site and the high density of development, to the detriment of the character and appearance of the area.
13. It is noted that limited information has been provided by the appellant in relation to the retention and protection of trees and hedgerows on the front boundary of the appeal site. Although not specifically protected by a tree protection order, their loss could still have a harmful impact on the character and appearance of the site and its rural surrounds. However, from the site layout plan, it does not appear that the trees or hedging in this location would need to be removed to allow for the development to take place. Therefore, a condition could be attached to any grant of planning permission to ensure that the existing trees on and off of the appeal site are protected during construction.
14. Nevertheless, for the reasons above, the proposed development would harm the character and appearance of the surrounding area and would conflict with Policy CP1 of the Rochford District Council Core Strategy (the CS) and Policies DM1 and DM3 of the Rochford District Council Development Management Plan 2014 (the DMP). The relevant sections of these policies collectively seek to ensure that the new development promotes good, high quality design that has regard to local flavour, positively contributing to the surrounding natural and built environment and with the number of dwellings being proposed appropriate to the locality having regard to the existing character. It would also conflict with the general design objectives of the Framework.

Living Conditions

15. The proposed dwelling located on plot 1 would be located adjacent to an existing neighbouring property, Windmill Cottage. Due to the location of the proposed dwelling in relation to the boundary of the site, these dwellings would be in close proximity to one another. Currently there is tree coverage between the two sites. However, it is likely that these would need to be at least partially removed to make way for the proposed development. Therefore, there would be direct intervisibility between the two properties.
16. The appellant indicates that the front elevation of the proposed dwelling on plot 1 would be in line with the rear elevation of the existing dwelling Windmill Cottage. The proposed site layout plan demonstrates this. However, the rear elevation of Windmill Cottage consists of a single storey rear projection and the first floor element of the dwelling is considerably forward of this. As such, the first floor windows on the front elevation of the proposed dwelling on plot 1 would provide views into the first floor windows on the rear elevation of the neighbouring dwelling.
17. Therefore, the proposed development would harm the living conditions of the occupiers of the neighbouring dwelling, Windmill Cottage, in relation to a loss of privacy, and would conflict with Policies DM1 and DM3 of the DMP. The relevant sections of these policies seek to ensure that the design and layout of proposed development must avoid overlooking, ensuring privacy, positively addressing the proposals impact on residential amenity.

Highway Safety

18. The proposed development would utilise the existing access onto Apton Hall Road with a new shared access road on the appeal site providing access to each of the proposed dwellings. The appellant contends that the proposed development would reduce the number of vehicle movements to and from the appeal site as there is multiple collections and deliveries each day with large lorries. However, no evidence has been provided to demonstrate this.
19. Whilst the current storage and distribution use may have multiple collections and deliveries each day it is likely that seven dwellings on the appeal site would also be likely to have a relatively high number of vehicle movements on a daily basis from residents and visitors. Particularly as the site is only accessible by vehicle. Therefore, without evidence to suggest otherwise, it is likely that the proposed development would result in an intensification in the use of the existing access.
20. The Highways Authority indicates that for secondary distributor roads, such as Apton Hall Road, a visibility splay of 215 metres in each direction is required by the Design Manual for Roads and Bridges (DMRB), for any new or intensified vehicle access. The appellant outlines that the existing access has 5 metres of visibility in each direction and I saw during my site visit that visibility in both directions when exiting the site was limited due to the presence of hedging either side. No proposals to increase the visibility splays have been put forward. Apton Hall Road, whilst not overly busy, is a long straight road which has relatively fast moving traffic and a speed limit of 60mph. Therefore, for this reason and due to the likely intensification of the existing access from the proposed development, the limited visibility splays would result in harm to highway safety from vehicles exiting the site.

21. Consequently, the proposed development would harm highway safety and would therefore be contrary to Paragraph 115 of the Framework which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Protected Species

22. In their report, the Council indicate that there are buildings on the appeal site which are a suitable habitat for bats, a protected species. For this reason, a bat survey should be provided to establish the presence of such species on the appeal site or in the surrounding area and the impact on this protected species from the development proposed. The government circular 06/2005 states that ecological surveys should be carried out before planning permission is granted and only secured by condition in exceptional circumstances. There are no exceptional circumstances in this instance and therefore the necessary bat survey should be completed before planning permission is granted.
23. Therefore, without a survey to suggest otherwise, the proposed development would harm local biodiversity and would be contrary to Policy DM27 of the DMP which states that proposals should not cause harm to priority species and habitats identified under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. It would also be contrary to the environmental objectives of the Framework in this regard.

Flood Risk

24. Whilst the appellant contends that the appeal site is not located within a flood zone, the Council has indicated that it is an area at a high risk of surface water flooding. Paragraph 173 of the National Planning Policy Framework states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and where appropriate, applications should be supported by a site-specific flood risk assessment. Footnote 59 of the Framework states that a flood risk assessment should accompany all proposals involving land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use. Additional dwellings on the appeal site, compared to its current use, would be considered a use which is more vulnerable to flooding.
25. Due to the reduction in the footprint of built form on the appeal site, the proposed development would be likely to reduce the level of hardstanding on the site and therefore improvements to surface water drainage on the site and in the area may be possible. However, a flood risk assessment has not been provided to demonstrate how this could be achieved and how the more vulnerable use would be effectively mitigated.
26. Without this information, it is not possible to determine that the proposal would not increase flood risk on the site or elsewhere. Therefore, without the evidence to suggest otherwise, the proposed development would be likely to have a harmful impact upon flood risk on the appeal site and in the area and would not comply with Paragraph 173 of the Framework, as outlined above.

Other Considerations

27. The proposed development would contribute seven dwellings to the housing land supply in a location which the appellant considers is in close proximity to

local amenities and public transport links. However, no evidence has been provided to suggest that there is a shortfall of housing in the area and, due to the scale of the development, any such benefits would be limited. Therefore, the contribution to housing supply is given limited weight. No other benefits of the proposed development have been put forward by the appellant.

Green Belt Balance

28. The development would be inappropriate development in the Green Belt in that it would result in new buildings within the Green Belt which do not fall under any of the listed exceptions. It would also result in harm to the character and appearance of the surrounding area, the living conditions of the occupiers of the neighbouring dwelling, highway safety, biodiversity and flood risk. The Framework establishes that substantial weight should be given to any harm to the Green Belt and the development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
29. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified, and the harm to the character and appearance of the surrounding area, the living conditions of occupiers of the neighbouring dwelling, highway safety, biodiversity and flood risk. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraph 152, 153 and 154 of the Framework.

Other Matters

30. The appellant has brought several developments to my attention, in close proximity to the appeal site, which were granted planning permission for residential development in the Green Belt. However, as these were found not to be inappropriate development within the Green Belt, they are not comparable to the appeal proposal before me and have no bearing on my consideration of this appeal.
31. The Council identify that the appeal site falls within the Zone of Influence for one or more of the European Designated Sites outlined in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). Therefore, residential development in this area could have a significant effect on the sensitive interest features of these sites through increased recreational pressures from future occupiers of the dwellings proposed.
32. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

33. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR