



Appeal Decision

Site visit made on 2 September 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2024

Appeal Ref: APP/W1525/W/23/3329744

Land Adjacent Daylands Farm, Stock Road, West Hanningfield, Chelmsford CM4 9QZ

- 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 & Mrs Brockwitz against the decision of Chelmsford City Council.
 - The application Ref is 22/02008/FUL.
 - The development proposed is the erection of a detached self build bungalow on land adjacent to Daylands Farm, Stock Road, Stock.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Chelmsford City Council against the appellants, Mr & Mrs Brockwitz. This application is the subject of a separate decision.

Preliminary Matter

3. At the final comments stage, a Unilateral Undertaking (UU) dated 23 March 2024 was submitted by the appellants. The Council has had the opportunity to comment on this additional information. As such, I am satisfied that the evidence does not alter the proposed development to an extent that anyone involved in the appeal would be prejudiced or impacted should I accept the UU. I shall return to the UU later in my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the Framework; and
 - if it is inappropriate, whether the harm to the Green Belt 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

Whether the proposal is inappropriate development

5. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. The appeal site comprises a parcel of land to the north of Stock Road. The site is bounded by mature trees and landscaping. The proposal is for the erection of a single-storey dwelling. To the front of the site, a timber framed car port and an area of hardstanding is proposed.
7. Paragraph 154 of the Framework regards the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include, at Paragraph 15 g), the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
8. Previously developed land is defined in Annex 2 of the Framework as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure'.
9. The site is between the dwelling at Daylands Farm and the former Ashridge Farm, which now comprises residential properties. The Council considered, in granting planning permission for residential development under application reference 20/01514/FUL, Ashridge Farm to have been previously developed land given its previous commercial use. Nevertheless, although the site has been associated with both properties, it has been in separate ownership since July 1999. The submitted declaration confirms the change of ownership but provides limited information of the use of the site before and after the change in ownership.
10. The evidence presented indicates that the site has been used for agricultural purposes, including as a smallholding, separate to both the residential use of Daylands Farm and the commercial use of Ashridge Farm. The rear boundary may have had a small access connecting the site to Ashridge Farm. However, the supporting details, including the historic imagery, does not support the assertion that the site has been used in association with the commercial use of Ashridge Farm. In addition, there is no substantive evidence before me to demonstrate that the site was occupied by a permanent structure.
11. Even if the site remained part of the curtilage of either Ashridge Farm or Daylands Farm, the Framework states that it should not be assumed that the whole of the curtilage should be developed. Moreover, even if the land was previously developed and occupied by a permanent structure, given the site is overgrown to an extent that it has blended into the surroundings, the Framework excludes land where the remains of any permanent structure or fixed surface structure have blended into the landscape. Consequently, the site does not meet the Framework's definition of previously developed land.

12. The proposal is a very similar scheme to that of a previous appeal¹ at the site, which was for a single dwelling and related to limited infilling only. The Inspector considered that the development would harm the openness of the Green Belt, but that the adverse effects would be moderate. I see no reason to disagree with this conclusion. Nevertheless, Paragraph 154 g) requires that the site must be previously developed land, whether redundant or in continuing use.
13. For these reasons, I find that the proposal would fail to meet the requirements of Paragraph 154 g) of the Framework. Therefore, the proposal would be inappropriate development which is, by definition, harmful to the Green Belt.

Other considerations

14. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
15. The proposal would make a positive contribution towards the supply of self-build homes in the area. There is no substantive evidence before me that demonstrates that the Council is unable to meet the demand for applicants on its right to build register, however the Framework seeks to increase the supply of custom and self-build housing. Accordingly, I attribute moderate weight to this consideration.
16. A legal agreement has also been submitted that seeks to secure a financial contribution for affordable housing in the Council area. There is no dispute that there is a demand for affordable housing within the Council area. While the proposal would not result in the direct delivery of affordable housing, a UU has been submitted that seeks to provide a financial contribution to assist in its delivery. However, I have concerns about the deed itself and whether it could be relied upon to secure the contributions. For example, the description of development and the planning application reference number are missing from the Interpretation section. Consequently, I can attribute no weight to this consideration.
17. For these reasons, I find that the other considerations in this case, as set out above, do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the proposal do not exist. The proposal therefore conflicts with Policies S11 and DM6 of the Chelmsford Local Plan 2020, which collectively state that inappropriate development will not be approved except in very special circumstances and the Framework, which seeks to protect the Green Belt from harm.

Other Matter

18. The Council have accepted a contribution to mitigate the effects on the Blackwater Estuary Special Protection Area and Ramsar site. If the circumstances leading to a grant of permission had been present, I would have given further consideration to this in accordance with the Habitats Regulations. However, as I am dismissing the appeal on the main issues above I have not

¹ APP/W1525/W/21/3281319

found it necessary to consider this matter any further as it would not alter my decision.

Conclusion

19. Given that I have identified that very special circumstances do not exist, the proposal would not accord with the development plan, when read as a whole. The other considerations, including the Framework, in this case do not indicate that a decision should be made otherwise than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR