



Appeal Decision

Site visit made on 22 October 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2024

Appeal Ref: APP/W1525/W/24/3342399

**Land on the West Side of Southend Road, Howe Green, Chelmsford
CM2 7TE**

- 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 Millen Homes against the decision of Chelmsford City Council.
 - The application Ref is 23/01680/OUT.
 - The development proposed is described as 'outline application with access and layout, all other matters reserved for the development of two detached dwellings.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Outline planning permission is sought with details of access and layout for consideration, and with details of appearance, landscaping and scale reserved. Accordingly, I have taken the drawings into account in respect of matters of access and layout, but otherwise treated them as illustrative.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and relevant development plan policies;
 - if the proposal would be inappropriate development, the effect of the proposal on the openness of the Green Belt;
 - whether the site is an appropriate location for housing, with particular regard to the Council's spatial strategy and access to services, facilities and sustainable transport options; and
 - if the proposal would be 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 the development.

Reasons

Whether inappropriate development

4. The site is in the Green Belt. Paragraph 152 of the Framework explains that inappropriate development should only be approved in very special circumstances. However, one of the exceptions to this is limited infilling in villages, as set out by paragraph 154(e) of the Framework. Paragraph 8.67 of the Chelmsford Local Plan (LP) describes infilling as filling the small gaps within existing groups of dwellings or buildings. LP Policy DM9 articulates this in specifying that permission will be granted for infilling where a site constitutes a small gap in an otherwise built-up frontage, the infilling is limited so as not to impact unacceptably on the function and purpose of the Green Belt, and the development does not detract from the character or appearance of the area.
5. The site is outside but adjacent to the settlement boundary of Howe Green as defined by the LP. Notwithstanding this, the main parties agree that the site is within a village for the purposes of Green Belt assessment and, having regard to the situation on the ground as necessitated by case law¹, I concur.
6. The site constitutes undeveloped land with a wide and highly vegetated frontage onto Southend Road, near a junction with East Hanningfield Road. It is clear from the evidence and those roads that the site represents a substantial break between the nearest buildings at Hilltops and Howe Farm to the south and west respectively. This contrasts markedly not only with the relatively regular and narrow gaps between dwellings along Southend Road to the south of the site but also more broadly between properties in the wider settlement, both as defined by the LP and as perceived on the ground, and with the more sporadic and irregularly spaced properties to the west.
7. Accordingly, while the properties to the south of the site form a coherent built-up frontage those to the west do not. The site is therefore not located within a built-up frontage. Moreover, taking account of the spaces between properties that characterise the pattern of development in the vicinity, the site does not constitute a small gap. In that context, the proposal would not constitute limited infilling in a village.
8. While the proposed plot sizes, widths and the gaps between and beside buildings would be comparable to others along Southend Road following completion of the development, particularly in transitioning to countryside westwards, LP Policy DM9 requires an assessment based on whether the site is a small gap in a built-up frontage, not if there would be small gaps or built-up frontages as a result of the scheme. In addition, though LP paragraph 8.67 suggests that in some circumstances a gap that is capable of accommodating more than one dwelling may be considered small, that is not the case here having regard to the site's local context. While I have been referred to purportedly analogous development at other sites, full details of the circumstances that applied for those are not before me and, as the appellant and the LP highlight, whether LP Policy DM9 is satisfied will vary on a case-by-case basis. As such, little weight can be attached to the schemes elsewhere.
9. It has been highlighted that potential changes to the Framework have been subject to consultation, and it is alleged that national Green Belt policy is likely

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

to be relaxed and housing need increased. However, I cannot be certain as to whether, when and how any changes will be made. Accordingly, this matter does not alter my findings.

10. I therefore conclude that the proposal would be inappropriate development in the Green Belt. The proposal conflicts with LP Policy DM9 for the reasons set out above. Very special circumstances would therefore need to exist to justify the development in line with paragraph 152 of the Framework, and also LP policies DM6 and S11 which echo it.

Openness

11. The openness of the undeveloped site would clearly be adversely affected in spatial terms by the construction of two dwellings and associated development, irrespective of the form that the reserved matters take. Furthermore, although vegetation would be retained and proposed to the front and sides of the site, the dwellings would be visible above and behind it from both Southend Road and near the junction, particularly in winter months when trees are not foliate. Unobstructed views would also be gained behind the vehicular access. Consequently, the proposal would have significant adverse impacts on the openness of the Green Belt both spatially and visually.

Location

12. Policy S1 of the LP sets out spatial principles for new development. Amongst other things, it seeks to locate development in well connected and sustainable locations and gives priority to higher order settlements outside the Green Belt. LP Policy S7 identifies Howe Green as a small settlement, which LP paragraph 6.28 describes as being at the bottom of the settlement hierarchy due to having the least services, facilities and transport links. However, the policy also states that windfall sites are expected to be a reliable source of housing.
13. There is little in the way of services and facilities in Howe Green, and bus services are generally infrequent. Nonetheless, though the site is outside the settlement boundary, there are bus stops immediately in front of it, a footway on one side of Southend Road and a path on the other with signage indicating that it is for pedestrians, cyclists and horse riders that extends to the Howe Green Interchange. Additionally, nearby settlements and the Sandon Park and Ride are within cycling distance of the site, albeit little detail has been provided as the precise extent of any off-road routes and many journeys seemingly require cycling beside the busy A114, which is likely to be undesirable.
14. Notwithstanding this, the site cannot have a significantly different level of accessibility to a scheme² approved recently at Wild Oaks, which is located along East Hanningfield Road only a short distance away. Accessibility was not identified as an issue in that case. While Wild Oaks is within the settlement boundary, this does not have a bearing on the accessibility of a site, which is informed by physical and spatial factors. Moreover, East Hanningfield Road does not benefit from a continuous footway in contrast with Southend Road. The Council has not offered any justification for the difference in the approaches to the schemes.
15. Paragraphs 83 and 109 of the Framework make clear that housing should be promoted where it will enhance or maintain the vitality of rural communities

² Council reference: 22/01714/FUL

and that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There is some prospect that the occupiers of the proposed properties would contribute to the vitality of nearby settlements and access these by transport modes other than the car. Having regard to this, the amenities in the vicinity identified in the appellant's case, and the Council's approach to housing within the settlement recently, the site is an appropriate location for housing. In this respect the proposal accords with LP policies S1 and S7, the purposes of which are identified above.

Other Considerations

16. The site is purportedly in the zone of influence of the Blackwater Estuary Special Protection Area and Ramsar, which is a habitats site as defined by the Framework. If I were minded to grant permission, I would need to consider whether the development would adversely affect the integrity of this or any other potentially relevant habitats site. However, even if there would be no adverse effects on habitats sites, this would constitute a neutral consideration rather than a benefit weighing in favour of the scheme.
17. The proposal would bring about benefits through the construction of two additional dwellings on a windfall site, which would contribute to the Council's housing supply position. There would also be local economic benefits as a result of the construction process and from the occupiers of the dwellings spending money in the area. However, the scale of these benefits is limited by the small amount of housing proposed.
18. The main parties refer in detail to an appeal decision³ for one proposed dwelling at the site. I have necessarily reached my own findings on the appeal before me and, insofar as these deviate from that decision, I am satisfied that this is the result of the evidence differing between the cases.

Planning Balance and Conclusion

19. There are considerations in this case that weigh modestly in favour of the development when taken together. However, the proposal is harmful to the Green Belt by definition. There would also be spatial and visual harm to the openness of the Green Belt. Paragraph 153 of the Framework explains that any harm to the Green Belt attracts substantial weight. Overall, the other considerations raised do not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify development in the Green Belt do not exist. Consequently, the Framework does not indicate in favour of the development, and there is conflict with LP policies DM6 and S11.
20. For the reasons given above the proposal conflicts with the development plan as a whole. Material considerations do not indicate that a decision should be taken otherwise than in accordance with the development plan. As such, it is not necessary that habitats sites are considered further, as this would have no bearing on my decision.
21. I conclude that the appeal should be dismissed.

Mark Philpott

INSPECTOR

³ Appeal reference: APP/W1525/W/19/3243689