



Appeal Decision

Site visit made on 16 October 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2024

Appeal Ref: APP/W1525/W/24/3339505

Riddens Croft, West Hanningfield Road, West Hanningfield, Chelmsford, Essex CM2 7SY

- 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 and Mrs Paul Ross against the decision of Chelmsford City Council.
 - The application Ref is 23/01169/FUL.
 - The development proposed is demolition of existing dwelling and livery buildings and erection of 3x three bedroom bungalows with amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Both parties, within their respective submissions had an opportunity to comment on the revised Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the 20 December 2023 version.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration of very significant weight, the weight I give to the changes in the draft Framework is limited given that no final document has been published and it is subject to potential change in the future. Consequently, in reaching my decision I have therefore had regard to the Framework published on 20 December 2023.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt considering the effect of the proposal on the openness of the Green Belt, and having regard to the Framework and any relevant development plan policies;
 - whether the proposed development would result in an unacceptable loss of an existing community facility;

- whether the proposed development would provide a suitable site for housing, having regard to local policy and the proximity of services and sustainable modes of transport; and
- whether any 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 necessary to justify the development.

Reasons

Whether the proposal is inappropriate development and effect on openness

5. The appeal relates to a former livery within the Green Belt. The site comprises of three buildings, as well as paddocks, a menage, a dung heap and associated areas of hardstanding. Part of one of the existing buildings on site is a residential bungalow.
6. The appeal proposal seeks to demolish the existing buildings on site, including the existing bungalow, and construct 3no. bungalows.
7. Chelmsford Local Plan (2020) (LP) Policy S11 states that the openness and permanence of the Green Belt will be protected and opportunities for its beneficial use will be supported where consistent with the purposes of the Green Belt. It goes on to state that inappropriate development will not be approved except in very special circumstances. LP Policy DM10 relates to the change of use of land and buildings, and states that engineering operations will be permitted within the Green Belt where they preserve openness and do not conflict with the purposes of including land in the Green Belt.
8. LP Policy DM6 states that where new buildings are proposed within the Green Belt, inappropriate development will not be approved except in very special circumstances. This policy provides a list of specific exceptions to inappropriate development in the Green Belt. These exceptions include, at criterion (vii), the redevelopment of previously developed land provided that the proposed development would not have a greater impact on the openness of the Green Belt, and the purposes of including land within it, than the existing use and/or development.
9. This exception within Policy DM6 is broadly consistent with paragraph 154 (g) of the Framework which allows for the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
10. The main parties are in agreement that the proposal would see the redevelopment of previously developed land in the Green Belt, and I see no reason to disagree with this assessment. As such, my attention turns to the effect of the proposal on the openness of the Green Belt.
11. Openness is one of the Green Belt's essential characteristics. It has both spatial and visual aspects. Whilst the heights of the existing buildings on site does vary, they are all single-storey and this limits their visual impact on the openness of the Green Belt. The proposed 3no. dwellings would also all be single-storey, however the ridge height of each of these proposed bungalows would all be higher than the ridge height of the tallest existing building, and significantly higher than the lowest existing building, on the appeal site.

12. Consequently, the increased height of the proposed buildings, in comparison to the existing buildings on site, would result in harm to the visual openness of the Green Belt. In coming to this view, I acknowledge the appellants' comments that the proposed ridge height seeks to ensure an acceptable design and living standards for future occupiers. However, I have limited information before me that an alternative design or ridge height could not be achieved and in any case, this does not overcome the harm I have identified that the increased heights of the buildings would have upon the visual openness of the Green Belt.
13. The submitted information details that the proposed development of the site would result in a slight reduction in the footprint and volume of buildings in comparison to the existing buildings on site. Nevertheless, the proposed layout would result in the dwelling at Proposed Plot 1 being sited outside of the footprint of the existing buildings on site. As such, the introduction of a new building where there currently is no building would extend the boundaries of the buildings on the site and consequently alter the spatial openness of the Green Belt in this location.
14. Additionally, the proposed curtilages and gardens of the dwellings would be significant in size and the associated domestic paraphernalia within these areas would also inevitably reduce the spatial openness of the Green Belt. I am aware that there is existing hardsurfacing on the appeal site and changes to this would be made. However, I have limited information before me in respect of comparisons between the existing and proposed levels of hardstanding, in order to attach any significant weight to this matter in favour of the proposal.
15. The appellants' have stated that the site is screened by vegetation and very little is visible from the public domain. I observed on site that at least one of the existing buildings on the site is visible from the highway of West Hanningfield Road, albeit I acknowledge it is set back, and I observed that the gable elevation of this same building is also visible from the Public Right of Way¹ that runs directly to the east of the appeal site. Given that this existing building is visible from these locations, I find that the dwellings at Proposed Plots 1 and 2, with their increase in height, would be more visually prominent from these public vantage points.
16. In view of the above, I find the proposed development would have more of an impact on both the visual and spatial aspects of openness than the existing buildings on site. The proposal would therefore not preserve openness. In this respect the degree of harm to the openness of the Green Belt would be moderate. Therefore, the appeal building would not fulfil the requirements of criterion 154 (g) of the Framework.
17. With the above in mind, the proposed development represents inappropriate development in the Green Belt as defined by the Framework and causes moderate harm to openness. The proposal therefore conflicts with LP Policies S11, DM6 and DM10 insofar as these policies together seek to protect the openness of the Green Belt and require that the redevelopment of previously developed land would not have a greater impact on the openness of the Green Belt than the existing use and/or development.

Community facility

18. LP Policy DM21 seeks to protect community facilities and the subtext² to this policy provides a list of valued facilities, which includes livery yards that provide a facility

¹ Ref: Galleywood 42

² Paragraph 8.122

for the equestrian community. Both the main parties agree that Policy DM21 is relevant in the determination of this appeal.

19. Policy DM21 sets out, amongst other things, that the redevelopment of sites that provide valued community facilities or services will only be permitted where the premises or site cannot be readily used for, or converted to, any other community facility; and the facility or service being lost will be met by an existing or new facility in the locality which shall be at least equivalent to the facility that is being lost.
20. At paragraph 8.125 within the subtext of this policy it states that the retention of all community facilities is paramount. It goes on to explain that if no alternative provision will be provided, permission will only be granted where an assessment, which may include details of marketing, has been undertaken to show the facility is inappropriate for alternative community uses or it is surplus to requirements.
21. Furthermore, Policy DM21 requires the loss of a valued community facility that is commercial in nature to be evidenced that the use is not economically viable and that it is no longer required to meet the needs of the local community.
22. The appellants' advise that the former use of the appeal site as a livery benefitted from a rental agreement with a nearby landowner, which allowed horses from the livery to be exercised within an adjacent field. The appellants' explain however that such an agreement is no longer in place and consequently horses cannot be kept at the appeal site as the facilities would not meet the British Horse Standards in respect of exercise areas. Whilst I have not been provided with a copy of the British Horse Standards, this specific point does not appear to be contested by the Council.
23. Nevertheless, limited details or correspondence have been provided by the appellants' in respect of why this agreement with the nearby landowner is no longer in place; what attempts were made to re-enter into such an agreement; and there is no substantive evidence of any efforts by the appellants' to find another parcel of land within the vicinity that could potentially be used to exercise horses kept at the appeal site.
24. Additionally, in respect of alternative community uses for the site, the term "community use" covers a wide variety of potential uses and the list of alternative community uses disregarded by the appellants' is limited. I also find the reasons why these alternative uses have been discarded to be unsubstantiated by any evidence, including structural surveys, market research or active marketing of the site to establish if there is any outside interest in using the site for an alternative community use.
25. Consequently, I find that the submission has not adequately explained why the appeal site cannot be readily used for the existing use or converted to another community facility. The appellants' state that the Council has not suggested any alternative viable community uses for the appeal site. However, I do not consider this is the role of the Council and as detailed above no evidence of any active marketing of the site has been provided to demonstrate there is no external interest from any community groups or other uses.
26. Furthermore, the appellants' have not provided details of other livery facilities in the locality that would be able to meet the needs of the community that were being met by the use at the appeal site, which the appellants' state within their

submission was popular and housed up to a total of 18no. horses and ponies. Nor has evidence been provided that the livery use is not economically viable and no longer required to meet the needs of the community, as also required by Policy DM21.

27. I note the appellants' accept the proposal would not comply with the requirements of LP Policy DM21, but request a practical view be taken as to the likelihood of the site making a contribution as a community facility. However, for the reasons given above I do not find that the submitted evidence is sufficient to demonstrate that the appeal site is no longer required as a community facility, and that it cannot be retained as a community facility, either within its existing, or an alternative, community use.
28. In view of the above, I conclude that the proposal would result in the unjustified and unacceptable loss of an existing community facility and the proposal therefore conflicts with LP Policy DM21, which seeks to protect community facilities.

Sustainable location

29. Paragraph 8 of the Framework sets out the environmental, economic and social dimensions of sustainable development. Policies S1 and S7 of the LP apply these principles to the spatial strategy for the Plan area. Among other things, Policy S1 requires all new development to accord with a list of Spatial Principles, which includes optimising suitable previously developed land for development; locating development at well-connected and sustainable locations; and ensuring development is served by necessary infrastructure.
30. The appeal site is located within a rural location and I have been provided with very limited information in respect of the distances to the nearest services and facilities, such as shops, schools, health facilities, public transport links, employment opportunities etc... I acknowledge an image of a map has been provided which shows the locations of some facilities in the wider area. However, this map is not to scale, does not provide details of travel times or distances, and does not include all the services and facilities that future residents would likely utilise on a frequent basis.
31. Furthermore, I observed on site that there appeared to be no such facilities within the immediate vicinity of the appeal site, and the highway of West Hanningfield Road did not include footpaths or street lighting, resulting in both walking and cycling being unrealistic options to access any such services and facilities.
32. As such, and on the evidence before me, the appeal site would not represent a sustainable location for residential development, in respect of access to everyday services and facilities, and therefore future residents would be heavily reliant upon the use of the private car.
33. Notwithstanding the above however, I acknowledge that there is an existing dwelling at the appeal site that is to be demolished and residents of this dwelling, as well as users of the previous use as a livery, or any other potential community use at the site, would also be reliant on the private car.
34. The submission includes some information in respect of how the livery use previously operated, and the number of horses and ponies that were once housed at the appeal site. I have not however been provided with any specific details of the total number of vehicular trips an active livery use of this size would generate, and

how this would compare with the provision of 2no. additional dwellings at the appeal site.

35. Nevertheless, I find that the established use of the appeal site for a single dwelling and livery, as well as any other potential community use at the site, would be reliant upon the private car and I have no reason to doubt that this would likely result in a similar number of vehicular movements to and from the site as the proposed development. This therefore tempers the harm that would arise from the unsustainable location of the appeal site for the proposed residential development.
36. In view of the above, I find that the appeal site would not represent a sustainable location for residential development and therefore conflicts with Policies S1 and S7 of the LP where these policies together seek to ensure, among other things, that new development is located at well-connected and sustainable locations, and is served by necessary infrastructure. The proposal would also be contrary to the provisions of the Framework where it seeks to achieve sustainable development.
37. However, given the number of vehicular movements that would likely be generated by the established use of the site, the magnitude of harm arising from the proposed residential development of this site in comparison to its existing use would be limited.

Other considerations

38. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
39. The provision of two additional houses would make a positive contribution to the Council's housing land supply. Nevertheless, the social benefits arising from the provision of two additional bungalows would be limited given the scale of the development.
40. Economic benefits would arise from the proposal, including contributions to the local economy during the demolition and construction phases of the development. These however would be short term benefits. Further economic benefits would also arise from additional spending in the area by future occupants of the dwellings. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
41. The appellants' have stated that the proposed development would be broadly comparable with, and have a similar impact on the openness of the Green Belt as, the existing built form on the site. For the reasons given earlier I find that the appeal proposal would have a greater impact on the openness of the Green Belt in comparison to the existing built form and thus this is not a matter that weighs in favour of the appeal scheme.
42. It is stated that the ecological enhancement measures recommended within the submitted ecological report, and the provision of a wildflower meadow, would result in ecological and biodiversity benefits. Whilst I acknowledge that the appeal proposal provides an opportunity to enhance biodiversity at the site, given the overall scale of biodiversity enhancement that would be created, I attribute this matter moderate weight in favour of the appeal.

43. The appellants' state that the proposed development would result in a reduction in vehicle movements when compared to the former use as a livery. As detailed earlier, I have been provided with limited details of the total number of vehicular trips an active livery use would generate, and how this would compare with the provision of 2no. additional dwellings at the appeal site. In the absence of this detailed information, I attribute limited weight to this matter in favour of the appeal scheme.
44. The appellants' consider the proposal would benefit local character and appearance. Although I acknowledge that due to its vacant nature parts of the appeal site are currently somewhat overgrown and unkept, the site does not significantly detract from the character and appearance of its rural surroundings. Moreover, there is no evidence before me to suggest that improvement and maintenance of the site is dependent on the development taking place. I therefore attach little weight to this factor.
45. It has also been highlighted within the evidence that the proposal would result in the re-development of previously developed land. Whilst this may be the case, it has not been demonstrated that this benefit could not be achieved by an alternative scheme which would not have an impact upon the openness of the Green Belt. Therefore, this factor is also given limited weight.

Other Matters

46. The proposed development is identified within the appeal documentation as being located within the Zone of Influence of the Blackwater Estuary Special Protection Area (SPA) and RAMSAR site, and the Essex Estuaries Special Area of Conservation (SAC), which are covered by the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy Supplementary Planning Document (2020).
47. Had I been minded to allow the appeal I would have carried out an appropriate assessment (AA) of the effect of the proposal on the integrity of the RAMSAR, SPA and SAC. However, as the proposed development is unacceptable for other reasons, an AA is unnecessary as doing so would not change the outcome of the appeal.

Green Belt Balance

48. The appeal proposal constitutes inappropriate development in the Green Belt and results in moderate harm to openness. By virtue of paragraph 153 of the Framework this harm attracts substantial weight. For the reasons given earlier, mainly the established use of the site, I attach limited weight to the harm arising from the appeal site being an unsustainable location for residential development. However, the proposal would also result in harm by way of the loss of a community facility, to which I attribute significant weight.
49. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations. I find that there are matters which weigh in favour of the scheme. However, collectively these other considerations do not clearly outweigh the substantial harm to the Green Belt, the limited harm arising from the unsustainable location of the appeal site for residential development and the significant harm arising from the loss of a community facility.
50. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

51. In coming to the above view, I have had regard to the case law³ presented by the appellants' and acknowledge that in cases where the harm identified is considered slight, this fact alone can be part of the very special circumstances. However, I have not found the totality of harm in this case to be slight and in any case, it is incumbent upon the appellants' to demonstrate the benefits of the development would outweigh the degree of harm identified. For the reasons given above I do not find that the benefits that have been put to me outweigh the harm I have identified. I therefore do not find any conflict with the principles established by this case law in this regard.

Conclusion

52. The development conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR

³ Vision Engineering Ltd v Secretary of State for the Environment and Guildford Borough Council