



Appeal Decision

Site visit made on 8 July 2025

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2025

Appeal Ref: APP/B1550/W/25/3361926

Land adjacent to Fairdene, Church Road, Hockley SS5 4SS

- 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 Fox against the decision of Rochford District Council.
 - The application Ref is 23/00906/FUL.
 - The development proposed is to sub-divide the plot at Fairdene to allow for the construction of a 5 bedroom detached house with private parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - the effect on the openness of the Green Belt; and
 - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether it is inappropriate development

3. The appeal site is an area of land to the north of the existing dwelling at Fairdene. Whilst it appears to have previously formed part of the garden and driveway at Fairdene, it is currently unoccupied and overgrown grassland, fenced off from the host property with separate access from Church Road. The site is in a semi-rural location within the Green Belt, on the outskirts of the settlement of Hockley. The proposed development would introduce a new detached two-storey dwelling on the appeal site with on-site parking and access via the existing vehicle crossover.
4. Paragraph 154 of the Framework indicates that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. Neither the Council nor the appellant indicate that the proposed development would fall under any of the exceptions listed within paragraph 154 of the Framework.
5. However, Paragraph 155 of the Framework goes on to state that the development of homes, commercial and other development in the Green Belt should also not be

regarded as inappropriate subject to four criteria. The first (a) states that the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

6. Both parties agree that the appeal site would constitute grey belt land. Furthermore, due to the limited scale of the appeal site and the presence of existing built form in the surrounding area, the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Therefore, the proposed development would accord with criteria (a) of paragraph 155 of the Framework.
7. The second (b) states that there is a demonstrable unmet need for the type of development proposed. Footnote 56 indicates that for applications involving the provision of housing, this means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable or where the Housing Delivery Test was below 75% of the housing requirement over the previous three years. The Council have confirmed that they can only demonstrate a 4.53 year supply of deliverable housing. Therefore, as the proposed development is for an additional dwelling, in accordance with footnote 56, there is a demonstrable unmet need for the type of development proposed and therefore it would accord with criteria (b) of paragraph 155 of the Framework.
8. The third (c) states that the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework. There appears to be no particular services or facilities in the area surrounding the appeal site, however the appellant states that it is a 10 minute walk to the nearest bus stop which is 643 metres away. This can be accessed on foot via the pavement network, which starts at Folly Lane. The appellant states is a 3 minute walk from the appeal site, 140 metres away. They contend that this pavement network provides safe and suitable access to the nearby bus stop, including streetlighting.
9. However, whilst that may be the case, during my site visit I noted that Church Road was a narrow and relatively busy thoroughfare that was well used by cars. As such, although only a short distance away, without a dedicated footpath, it would be difficult for the future occupiers of the proposed dwelling, including children, to reach the pavement network in a safe manner. This would be the case particularly during the hours of darkness due to the lack of sufficient streetlighting along this stretch of road. Therefore, the necessary services and facilities which would be required by the future occupiers of the proposed dwelling would not be readily accessible. There are limited sustainable transport options and therefore the future occupiers would largely be reliant on the use of a car to serve their day to day needs on a regular basis.
10. Whilst paragraph 110 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, this does not negate the requirement to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users, as required by paragraph 115 of the Framework. Consequently, the proposed dwelling would not be in a sustainable location and would not accord with criteria (c) of paragraph 155 of the Framework.

11. The fourth criteria (d) is not relevant to the appeal proposal before me as it is not for major development. Nevertheless, as the proposed development would not accord with criteria (c) it would not fall under the exception within Paragraph 155 of the Framework.
12. 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.

Openness

13. 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.
14. The proposed dwelling would be located adjacent to the road, at an elevated position. Although there is hedging partially screening the appeal site from public view, the proposal would still be highly visible within the streetscene and from the public realm. Therefore, the proposal would erode the visual openness of the site. Furthermore, the proposed dwelling would introduce built form onto the appeal site where there currently is none. For this reason, the proposal would also have a significant spatial impact on the openness of the Green Belt, in that it would be reduced.
15. The Framework makes it clear in paragraph 153 that substantial weight should be given to any harm to the Green Belt. 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.

Other Considerations

16. As outlined previously, the Council cannot achieve a five year supply of deliverable housing and are only able to demonstrate a 4.53 year supply, a moderate shortfall. As such, due to the provisions of footnote 8, paragraph 11(d) of the Framework should be applied.
17. However, while the framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. The harm to the Green Belt identified is such that the policies in the Framework relating to the Green Belt provide that strong reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposal.

Green Belt Balance

18. 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. 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.

19. 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. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraph 153, 154 and 155 of the Framework.

Other Matters

20. It is noted that the appellant considers that the Council have an inconsistent approach to the application of paragraphs 110, 115 and 155 (c) of the Framework. Two planning applications¹ have been brought to my attention for which planning permission was granted for new dwellings despite being located further from the pavement network and nearest bus stop than the appeal site before me. Limited information has been provided with regard to these examples, particularly whether they were considered against paragraph 155 of the Framework, which is a relatively recent addition and specifically requires paragraph 110 and 115 to be taken into account when considering development on grey belt land, as in this current appeal. Nevertheless, whilst I understand the appellant's frustrations in this regard, these examples do not alter my findings in relation to paragraph 155 (c) of the Framework or set a precedent for the appeal proposal before me.
21. 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 dwelling proposed. They state in their report that the appellant has paid the suggested financial contribution to contribute towards longer term monitoring and mitigation along the coastline.
22. 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

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

E Grierson

INSPECTOR

¹ 23/00474/FUL (Wadham Park Farm) and 24/00620/FUL (Glazebrook Farm)