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# Appeal Decision

Site visit made on 21 December 2016

**by Richard Aston BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 January 2017**

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**Appeal Ref: APP/J1535/W/16/3158086**

**Land at Harlow Road, Moreton Ongar, Essex CM5 0DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Allen Neville against the decision of Epping Forest District Council.
  - The application Ref EPF/0886/16, dated 31 March 2016, was refused by notice dated 8 July 2016.
  - The development proposed is new housing development.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr Allen Neville against Epping Forest District Council. This application is the subject of a separate Decision.

## Procedural Matters

3. The application was submitted in outline form and the application form makes it clear that all matters are reserved for future consideration. However, the Council requested further details relating to 'Access' in order to enable the effect on highways safety to be assessed<sup>1</sup>. The appellant duly submitted a plan showing visibility splays and as such, 'Access' was considered as part of the Council's determination and not as a reserved matter. Consequently, I have determined the appeal on the same basis.
4. Although the proposed site plan and location plan is not marked as 'indicative' or 'illustrative', because all matters apart from 'Access' are reserved for future consideration I have dealt with the appeal on the basis that the plan is indicative.

## Main Issues

5. The main issues are:
  - Whether the proposal would be inappropriate development within the Green Belt and the effect on the openness of the Green Belt.
  - The effect on highway safety.

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<sup>1</sup> Under Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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- If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so would this amount to the very special circumstances necessary to justify the proposal.

## **Reasons**

### *Green Belt*

6. The National Planning Policy Framework ('the Framework') states that the construction of new buildings in the Green Belt should be regarded as inappropriate. This is reflected in Policy GB2A of the Epping Forest District Local Plan Alterations ('LP') adopted in July 2006 albeit that the policy wording does not reflect paragraph 87 of the Framework which advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Policy GB2A does allow for development that is in accordance with another Green Belt policy and the appellant contends that the proposal is intended to provide essential affordable housing within the district. The application form indicates 21 Social rented Housing units are proposed with a mix of 16, 2 bedroom units and 5, 3 bedroom units.
8. Policy GB16 of the LP supports small scale affordable housing schemes within the district's smaller settlements, where the Council is satisfied that there is a demonstrable local need, the development is well related to the existing settlement and is of no detriment to the character of the village or countryside. Furthermore, that there are no significant grounds for objection on other planning grounds, including highway safety and the affordable housing is secured by an appropriate mechanism. This is consistent with the Framework which states limited affordable housing for local community needs under policies set out in the Local Plan, is not inappropriate. The proposal would therefore not be inappropriate development in the Green Belt if it can be shown to be limited affordable housing for local needs and in accordance with the policies in the development plan.
9. Whilst there is no definition within the LP or the Framework of 'limited' or 'small-scale' the Council's evidence suggest that this would represent a 22% increase in the number of residential properties and this is not disputed by the appellant. In any reasonable assessment and in combination with the size of the site and number of dwellings proposed this does not represent a limited or small-scale increase and neither is it limited infilling in a village.
10. Furthermore, the application was not supported by a proper appraisal of local housing need, nor is it supported by the Parish Council as required by Policy GB16. A proper analysis of housing need is also likely to explore what type and range of affordable housing is required, including costs and tenure arrangements to suit households of different income levels and all at a more local level. Although the appellant contends this is not determinative, I give this requirement greater weight than informal discussions with a Council Housing Officer.
11. In 2013, the Parish Council completed a full Housing Needs Survey for the Parish (completed by the Rural Community Council of Essex) but there is no reference to this in the appellant's evidence. In this instance, there is little

- before me to show that such matters have been adequately considered or addressed in any detail to comply with the requirements of the LP.
12. In any event, there is no legal agreement or any other mechanism before me to secure affordable housing on the site to meet local needs. Consequently, I cannot be satisfied that even if it were 'small-scale' or 'limited' it would secure affordable housing for local community need as required by Policy GB16 of the LP and the Framework.
  13. On the evidence before me, the proposal does not fall within any category of development that might be considered 'appropriate' in this Green Belt location for the purposes of Policy GB2A or GB16 of the LP or paragraph 89 of the Framework. It constitutes inappropriate development, which by definition is harmful to the Green Belt and would conflict with Policies GB2A and GB16 of the LP.
  14. Turning to the effect on openness, paragraph 79 of the Framework states 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 permanence.
  15. Openness has both spatial and visual aspects and in this case, the appeal site provides a sense of spaciousness and openness that positively contributes to the semi-rural setting of the settlement on this side of Harlow Road. Although in outline form, the appeal site is free from development and sits at a higher level than Harlow Road. As such, the introduction of residential buildings in this location and of the quantum proposed would undoubtedly have a greater impact on openness, both in spatial and visual terms. This would cause significant harm to the openness of this part of the Green Belt and would conflict with the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.
  16. In accordance with paragraph 88 of the Framework, I attach substantial weight to the harm that I have identified in terms of inappropriateness and harm to openness.

#### *Highway safety*

17. Harlow Road is a classified road and classed as a secondary distributor road in the Highway Authorities Functional Route Hierarchy. It is marked out with edge of carriageway lines and no centre lines. There is a grassed verge on the eastern side of the road on the approach to the access point which serves Lakeview and it is proposed to take access into part of the appeal site from this access and an existing site entrance. Harlow Road is also subject to a 30 mph speed limit along this section.
18. The Visibility for the access is required not only for emerging vehicles from the site to see traffic on the access road but also that vehicles on the access road can be aware of traffic intending to pull out of the site without having to take evasive action. The highway authority evidence indicates that a 2m x 25m visibility splay could be used but this would mean that the front of vehicles may protrude slightly into the carriageway.
19. A 2.4m x 43m splay is shown on the proposed site plan but this would require land that is not under the ownership of the appellant. Because access was considered as part of the original determination, it is not something which can

be, or should be, in this particular case left to the reserved matters stage. Accordingly, I am not satisfied that the proposal demonstrates appropriate visibility splays could be achieved. Whilst I have considered whether the use of a Grampian style condition could address this, I have no indication that there is a reasonable prospect of the requirements prior to development being fulfilled. Consequently, such a condition is not appropriate.

20. Furthermore, given the proximity of the access to Harlow Road, the location within the bell mouth of the Lakeview access and acute angle of entry into the site, it is also highly likely that vehicles would fail to clear the carriageway safely and efficiently whilst trying to negotiate cars that could potentially block the access. The access arrangements would therefore lead to conflict between vehicles manoeuvring in and out of both junctions.
21. For these reasons, I am not satisfied that the proposal demonstrates there would not be harm to highway safety and accordingly, it would conflict with Policies ST4 and GB16 (iii) of the LP which supports new development subject to it not being detrimental to highway safety.

#### *Other considerations*

22. The proposal would fail to secure affordable housing and I therefore cannot afford this potential benefit any weight, nevertheless new homes would be provided in an area with an acknowledged under supply. Whilst I attach moderate weight to this, I am also mindful of the Government's Planning Practice Guidance which states that, *'Unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt'* (ref ID 3-034-2014006).
23. The proximity of the site to local services and facilities within the village also weighs in the scheme's favour and there would be some economic benefits associated with the scheme, including the support future occupiers would give to local businesses and services and during construction. To my mind, these considerations also carry moderate weight. I give no weight, in this particular case, to the intentions of the appellant to comply with the normal development management objectives of the LP and the Framework in terms of details relating to energy efficiency, materials, sustainable drainage and waste and recycling, given its Green Belt location.
24. The appellant has also referred me to the inclusion of the site as a candidate for removal from the Green Belt. However, the emerging plan is subject to consultation and moreover, the Council have subsequently confirmed that the site did not proceed beyond the Stage 3 assessment of such sites and has not been put forward as an allocated site within the emerging Local Plan. Accordingly, I attach no weight to this matter.

#### **Other Matters**

25. The Council's second, fourth and fifth reasons for refusal relate to insufficient information relating to the effect on existing landscaping within the site, flooding on and off the site and a lack of justification for loss of allotment gardens. However, given my findings in relation to the first and third main issues and the main areas of dispute, it is not necessary for me to consider these any further.

*Planning balance and conclusion*

26. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
27. As explained above I give only moderate weight to the considerations that weigh in favour of the proposal and find that these considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness, harm to openness and the other harm in terms of highway safety. Consequently, the very special circumstances necessary to justify the development do not exist.
28. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five-year supply of deliverable housing sites. Policy GB2A states that, within the Green Belt, approval for the construction of new buildings will not be given unless it is for one of several specified purposes. It therefore has the effect of restricting the locations where housing may be developed. As a result, it affects and constrains the supply of housing land. Consequently, as the Council does not have a five year supply of housing land it should be regarded as a relevant policy for the supply of housing in this case. However, the Government attaches great importance to Green Belts and because it is broadly consistent with the Framework I have therefore given it significant weight.
29. Although I have found conflict with other LP policies, in circumstances where relevant policies are out-of-date, paragraph 14 of the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances, Green Belt policy provides that to be the case here. Overall, therefore, the proposal does not represent sustainable development.
30. For the reasons set out above, the proposal would conflict with the development plan, when taken as a whole and the Framework. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

*Richard Aston*

INSPECTOR