

## Appeal Decision

Site visit made on 6 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 03 March 2017

---

**Appeal Ref: APP/B1550/W/16/3159712**

**Land opposite 1-10 Disraeli Road, Rayleigh SS6 8XP.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steve Mitchell and Peter Spicer against the decision of Rochford District Council.
  - The application Ref 16/00570/FUL, dated 17 June 2016, was refused by notice dated 27 September 2016.
  - The development proposed is the construction of two detached passivhauses.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as this is more objective and succinct than the version provided in the Application Form.
3. The Council's Officer Report highlights that previous planning applications in 1999 and 2010 were dismissed on appeal<sup>1</sup>. However, as I have not been provided with copies of these decisions, I have assessed the scheme before me purely on its own merits in light of the particular circumstances that apply in this case.

### Main Issue

4. The appeal site is within the Green Belt and so the main issues are:
  - Whether or not the proposal is inappropriate development in the Green Belt for the purposes of the *National Planning Policy Framework* (the Framework).
  - The effect of the development on the openness of the Green Belt.
  - If the proposal is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by *other considerations*, so as to amount to the very special circumstances necessary to justify the development.

---

<sup>1</sup> LPA refs: 99/00592/OUT & 10/00686/OUT

---

## Reasons

5. The appeal site comprises an area of open paddock land on the outskirts of Rayleigh. The site is within the Green Belt and despite the presence of other dwellings on the south side of Disraeli Road, the area is unmistakably rural.

### *Whether inappropriate or not*

6. Subject to some exceptions, paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. The proposal fails to meet any of the stated exceptions and is inappropriate development, which, by definition is harmful to the Green Belt and should not be approved except in very special circumstances.

### *The effect on openness*

7. Openness is an essential characteristic of the Green Belt. Despite some timber fences the land is essentially open and contributes to an open, rural setting to the north of Disraeli Road.
8. Whilst views of the development over the wider area would be screened by the area of woodland to the north, the dwellings would be highly prominent from Disraeli Road. From here the erection of the two large contemporary dwellings would have a stark visual appearance and would completely change the character of the land. Moreover, the introduction of domestic boundary treatments, hard surfaced driveways with attendant vehicles as well as the likely proliferation of residential paraphernalia within the curtilages would all significantly erode the openness of the Green Belt which by its nature is reduced by the erection of buildings and other structures. The importance attached to this consideration by the Framework requires me to allocate it a significant amount of weight in my decision.

### *Other considerations*

9. Very special circumstances can only exist if the harm I have identified in terms of inappropriateness and openness is clearly outweighed by other considerations.
10. The appellant makes particular reference to paragraph 55 of the Framework which indicates that one of the special circumstances to justify isolated (my emphasis) new homes in the countryside is where a dwelling would be of exceptional quality or of innovative design. The paragraph goes on to state that such design should be *truly* outstanding or innovative, helping to raise standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance the immediate setting and be sensitive to the defining characteristics of the local area.
11. I do have some reservations regarding the appellant reliance on paragraph 55 given that it is concerned with isolated new homes in the countryside. The site is opposite a row of houses that themselves sit on the edge of a wider built up area. Consequently, I am not persuaded that the proposed houses would be isolated in the terms set out in paragraph 55.
12. Putting that concern to one side, the addition of the adjective '*truly*' into the last bullet of paragraph 55 implies that the bar that has to be crossed is particularly high and that few projects are likely to succeed in meeting this

criterion. The proposed houses would undoubtedly boast high quality design credentials and would be constructed to *Passivehaus* principles incorporating a variety of measures with regard to renewable energy and energy efficiency with the aim of securing a house which would meet the requirements of the former Level 6 of the Code for Sustainable Homes.

13. Whilst all this is to be applauded, the *Passivehaus* movement is well-established as a means of achieving the highest standards of environmental construction. Whilst, such properties may not yet be commonplace, neither are they any longer rare and, in themselves, can no longer be described as truly innovative.
14. Whilst I acknowledge a degree of departure from the ordinary or commonplace is inevitable if the exceptional quality tests are to be met, the contemporary appearance of the dwellings as well as the proposed facing materials would be aesthetically isolated from the modest traditional dwellings on the south side of Disraeli Road. This incongruence would be compounded by the bulk and mass of the dwellings which would be decidedly different to anything else in the vicinity.
15. For these reasons and notwithstanding their many positive features, I find nothing unique or exceptional in the design of the dwellings. I am therefore hard pressed to accord the scheme either the '*truly outstanding or innovative*' accolade and concur with the Council's appraisal that the proposal would not satisfy the requirements of paragraph 55.
16. I have noted that the scheme includes sustainable drainage measures as well as ecological and landscape enhancements. Whilst these provide some support for the scheme, the benefits of these works are unsubstantiated and therefore I afford them only modest weight.

### **Conclusions**

17. The proposal would be inappropriate development in the Green Belt. The Framework clearly states that inappropriate development is harmful to the Green Belt, and that substantial weight should be attached to that harm. Moreover, I have found that the development would harm the openness of the Green Belt. Collectively these harms carry substantial weight.
18. I have identified some modest benefits arising from the proposed ecological/landscape enhancements. However, these *other considerations* clearly do not outweigh the harm I have identified. Consequently, there are no very special circumstances necessary to justify the development.
19. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*D. M. Young*

Inspector