

APP/M1520/W/24/3338797

APPEAL BY MR MARK SPERRIN

RE: OUTLINE PLANNING APPLICATION FOR THE DEVELOPMENT OF UP TO 455 NEW HOMES, A NEW MULTI-USE COMMUNITY HALL, LAND FOR THE PROVISION OF A HEALTHCARE FACILITY, LAND FOR A STAND-ALONE EARLY YEARS AND CHILDCARE NURSERY, NEW VEHICULAR/PEDESTRIAN ACCESS FROM STADIUM WAY IN THE NORTH AND DAWES HEATH ROAD IN THE SOUTH, NEW GREENWAYS AND GREEN LINKS, MULTI FUNCTIONAL OPEN SPACE, GREEN INFRASTRUCTURE. ALL MATTERS RESERVED EXCEPT ACCESS.

LAND EAST OF RAYLEIGH ROAD, THUNDERSLEY, ESSEX

COUNCIL'S OPENING REMARKS

- 1 This appeal concerns inappropriate development in the Green Belt. It is not surprising that the proposed housing scheme here for up to 455 dwellings, 3 community facilities, an access road, and associated development and activity is agreed to be inappropriate development by the Appellant. National policy requires that substantial weight is applied to this Green Belt harm, reflecting the great importance which the Government attaches to the Green Belt and its essential characteristics of openness and permanence (NPPF, 142). That is the starting point for assessing the planning balance in this appeal.
- 2 The Council's case is that the considerations advanced in favour of the proposal by the Appellant, principally based on the need for market and affordable housing in the Council's area, do not clearly outweigh the harm to the Green Belt here, so as to amount to the very special circumstances required to justify the grant of planning permission.
- 3 A recommendation by officers to refuse planning permission on Green Belt grounds was taken to its Planning Committee and endorsed on 13 December 2023 with a Decision Notice issued on 14 December 2023 [CD 5.1].
- 4 The site comprises an area of gently undulating arable farmland which is largely free of any built development or any development inappropriate to the Green Belt. It contains a fishing pond used for leisure purposes with an associated clubhouse, and 2 small

clusters of farm and agricultural buildings. The site lies between the towns of Thundersley, Rayleigh, and the settlement of Daws Heath, and at its eastern extent lies adjacent to a nature reserve. It has an attractive, rural character which is enjoyed in views into the site and from routes around it, by residents, leisure walkers, dog-walkers, cyclists, commuters, and others. For many, it provides a sense of relief between the more built-up settlements around it.

- 5 Reflecting the area's rich biodiversity, the site is within the Zone of Influence of 11 statutory designated sites, including 9 Natura 2000 sites of international ecological importance, 5 of national ecological importance, and one of local ecological importance, as well as 19 non-statutory designated sites of local importance. It also falls within the Hadleigh and Daws Heath Complex Living Landscape, an area identified for its network of wildlife-rich habitats.
- 6 The significant effects of population growth in Essex on wildlife habitat sites, through increased recreational pressure, is dealt with through the Council's adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) which applies a tariff to all net new residential development within zones of influence and habitat sites, with the proceeds going into a fund to avoid and mitigate adverse effects from increased recreational disturbance. As a result, the appeal scheme has necessitated a RAMS contribution in the s.106 Agreement, to mitigate these impacts.
- 7 But the appeal scheme cannot mitigate against the Green Belt harm in any real sense. That is because the proposal would be contrary to the fundamental aim of Green Belt policy, to prevent urban sprawl by keeping land permanently open. The general extent of the Green Belt in Essex was first established in 1964. The boundaries were comprehensively reviewed for the Local Plan in 1998, since when they have remained unchanged, underlining their permanence.
- 8 The site forms a significant part of a Green Belt parcel which has relatively recently been assessed as performing very strongly against 3 of the purposes which the Green Belt serves, making a very strong contribution to its holistic purpose (Green Belt Review, Part 1, 2018 [CD 6.1]):

- (1) Checking the unrestricted sprawl of large built up areas
- (2) Preventing neighbouring towns merging into one another
- (3) Assisting in safeguarding the countryside from encroachment.

- 9 There is a clear, albeit relatively small gap between Daws Heath and the larger urban settlements in proximity to it, and the appeal site forms part of the ring of Green Belt around this settlement. In particular, the parcel represents the full extent of the strategic gap between Thundersley to the west and Daws Heath to the east, as well as Daws Heath and Hadleigh to the south. Significant development here, which development of the appeal site would clearly represent, would act to remove much of the remaining gap between these settlements.
- 10 Phillip Hughes (Director of PHD Chartered Town Planners Ltd), who has been instructed by the Council for this appeal, has reviewed matters afresh. Whilst acknowledging that substantial weight should attach to the need for market and affordable housing in the planning balance, he stands fully behind officers in his view that the benefits here do not clearly outweigh the Green Belt and other harm of developing the appeal site for housing.
- 11 The appeal scheme would give rise to in principle harm to the Green Belt. There would be a substantial loss of openness and conflict with 3 of the 5 purposes which this part of the Green Belt serves, giving rise to substantial harm at the upper end of the scale. These harms carry substantial weight against the proposal in the planning balance. In terms of other harm, Mr. Hughes identifies significant landscape and visual harm arising from the appeal scheme and a failure to recognise the intrinsic character and beauty of the countryside which the appeal site represents, which carries significant weight. The appeal scheme will also result in the loss of almost 18ha of best and most versatile agricultural land which carries further, more limited weight, against the proposal. The harms here present a high hurdle; the Appellant must demonstrate that they are clearly outweighed by very special circumstances.
- 12 The Council acknowledges that it cannot demonstrate a 5 year Housing Land Supply and that its Local Plan is thereby out of date. These are matters covered in the Statement of Common Ground and its Addendum [CD 9.1, 9.2]. It was of course the absolute right of democratically elected Councillors to refuse to adopt the Local Plan prepared for the

period to 2018 – 2033. The Councillors did so unanimously in June 2022. In the 2 years since then, the Council has not sat back, but progressed its new plan, which is on target for submission in April 2025 (PH, p.21). The Local Plan process is the appropriate place for consideration of where the Council’s housing needs should be met. Although the appeal site was allocated under the withdrawn Local Plan and parts of its evidence base remain relevant, Mr. Hughes has rightly questioned the rationale for this site coming forward through that process. It is, in any event, a stricter, more stringent test that must be met for very special circumstances to be demonstrated in the development control context, than that applied in strategic planning¹.

- 13 The pressing need for market and affordable housing does not trump the Green Belt harm here. As expressed in national planning policy, the tilted balance in favour of a proposal which would otherwise apply in circumstances where a 5 year Housing Land Supply cannot be demonstrated, is disengaged where the application of policies in the NPPF that protect assets of particular importance provide a clear reason for refusing development (NPPF, 11(d)i)). Here, the application of policies protecting the Green Belt provide just such a reason. Together with the other harm identified, the harms here point decisively to refusal.
- 14 For those reasons, the Council will in due course invite the Inspector to dismiss the appeal.

ASITHA RANATUNGA
4 June 2024

Cornerstone Barristers, 2-3 Gray’s Inn Square, London

Appearances:

Advocate: Asitha Ranatunga of Counsel
Instructed by David Bland, Legal Services at Castle Point Borough Council

Planning: Phillip Hughes, BA (Hons), MRTPI, FRGS Dip Man MCIM
PHD Chartered Town Planners Limited

¹ *R (Luton BC) v Central Bedfordshire Council* [2015] 2 P&CR 19 at paras. 54-56 [CD 12.14]