



# Appeal Decisions

Inquiry opened on 6 January 2010

Site visit made on 8 January 2010

by **Andrew S Freeman BSc(Hons) DipTP  
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an Inspector appointed by the Secretary of State  
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**Decision date:**  
**29 January 2010**

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## Appeal A: APP/M9565/A/09/2112346

### Former Ardale School Site, Clockhouse Lane, North Stifford, Thurrock

- 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 Four Acre Trust against the decision of Thurrock Thames Gateway Development Corporation.
- The application Ref 09/00009/TTGOUT, dated 7 January 2009, was refused by notice dated 19 March 2009.
- The development proposed is outline development of 80 dwellings together with new access road and open space.
- The inquiry sat for 3 days on 6 to 8 January 2010.

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## Appeal B: APP/M9565/A/09/2112350

### Former Ardale School Site, Clockhouse Lane, North Stifford, Thurrock

- 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 Four Acre Trust against the decision of Thurrock Thames Gateway Development Corporation.
- The application Ref 09/50033/TTGOUT, dated 1 May 2009, was refused by notice dated 14 July 2009.
- The development proposed is outline development of 150 dwellings together with new access road and open space.
- The inquiry sat for 3 days on 6 to 8 January 2010.

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## Decisions

1. I dismiss the appeals.

## Procedural matters

2. Both appeals relate to outline planning application. All matters are reserved for later consideration.
3. At the opening of the inquiry, and with no objection from the Development Corporation, I accepted substitute submission plans (Drawing No 1280/137C – Appeal A and Drawing No 1280/141D – Appeal B). These are “red line” plans that show amended layouts for the respective schemes. However, the layouts are purely illustrative.

## Main issues

4. Prior to the inquiry, the Development Corporation had objections regarding the adequacy of the information accompanying the Transport Assessment (Appeal B) and the proposals for access onto Pilgrim’s Way (both appeals). However,
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the objections were withdrawn before the hearing of evidence. Given the submission of further information, and the outline nature of the proposals, I am satisfied that details of the access arrangements could be determined at the reserved matters stage.

5. Similarly, and in respect of Appeal B, the Development Corporation had objections with regard to the risk of flooding. Following the submission of further information, and correspondence with the Environment Agency, it is agreed that outstanding concerns could be addressed through a suitably worded condition.
6. The remaining main issues in respect of both appeals are therefore:
  - (a) whether there would be harm to nature conservation interests; and
  - (b) whether the 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 in the Green Belt.

## **Reasons**

### *Nature conservation interests*

7. Saved Local Plan Policy LN12 indicates that new developments will only be permitted if proper consideration is given to the nature conservation value of the development site. In this regard there are two relevant matters. These are the botanical value of the site; and the value of the site for invertebrates.
8. Both of the applications were supported by a protected species scoping survey. Over the months, two further ecological reports were received by the Development Corporation. These related to a protected species survey and a plant and habitat survey; but two visits by a local botanist identified significant plants that had been previously missed or mistakenly identified. The Corporation felt that there were significant gaps in the assessment and the impacts of the development and that the proposed mitigation was insufficient to deal with the likely losses.
9. For my part, I consider that the above surveys taken together provide an adequate indication of the botanical value of the site. It is common ground that, although not designated as such in the Local Plan, the site is of local wildlife value (Local Wildlife Site). It is likely to be a remnant of old unimproved neutral/acid grassland (Thames Terrace Grassland). It has a varied flora that in turn is of potential value to invertebrates.
10. On the matter of invertebrates, no survey material was submitted by the appellant. However, in May and July 2009, two visits were made by a local ecologist. This led to the identification of some 186 species including 5 species listed as priorities in the UK Biodiversity Action Plan and other nationally scarce and local species. Using the Species Quality Index used in selecting Local Wildlife Sites in Essex, the site achieved a score of 14.5. This is in circumstances where any site with a score of 10 or more is likely to be of national significance.
11. Whilst it was accepted that the site would not warrant designation as a Site of Special Scientific Interest, I am concerned that the information regarding

invertebrates is not comprehensive. In this regard, the May and July surveys were subject to significant limitations. They used only sweep netting; no pitfall traps were used; they were based on two short visits rather than visits over the whole season; and they were undertaken in sub-optimal weather conditions. The evidence base is lacking.

12. In the circumstances, and having regard to Local Plan Policy LN12 and Key Principle (vi) as set out in Paragraph 1 of Planning Policy Statement 9, *Biodiversity and Geological Conservation*, I am not able to give comprehensive consideration to the nature conservation value of the site or to determine the full extent of the harm to biodiversity interests. I am unable to reach a fully informed conclusion on the need to consider alternative sites, the adequacy of the proposed mitigation or the possible need for appropriate compensation.

*Green Belt matters*

13. Under saved Local Plan Policy GB1, planning permission will not be given, except in very special circumstances, for the construction of new buildings in the Green Belt unless it is for any of a number of specified purposes. These do not include major residential development. In terms of Paragraphs 3.1 and 3.2 of Planning Policy Guidance note 2 (PPG 2), *Green Belts*, it is common ground that the proposals would be "inappropriate development" against which there is a general presumption.
14. Inappropriate development is, by definition, harmful to the Green Belt. It is for the appellant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In accordance with PPG 2, I shall attach substantial weight to the harm to the Green Belt.
15. In terms of other harm to the Green Belt (in addition to the harm by reason of inappropriateness), I turn first to the matter of openness. As stated in Paragraph 1.4 of PPG 2, the most important attribute of Green Belts is their openness. In the present case, there is a small cluster of derelict workshops and classrooms in the centre of the southern boundary of the site. Save for this small cluster of buildings, the whole of the site (stated to be about 4.42 ha) is open.
16. The principal impact upon openness would be the erection of 80 or 150 new dwellings. Under either option, the majority of the site would be covered by dwellings and their curtilages. An estate of dwellings would be established on what was formerly a relatively undeveloped, extensive and flat open area.
17. I appreciate that the visual impact of the dwellings would be limited. Distant views are very restricted. Locally, and in views from the entrance to the site on Pilgrim's Way, the northern fringe of the housing area to the south and the rear of properties fronting Clockhouse Lane, the development would be seen in the context of existing housing. Nevertheless, the effect on the openness of the Green Belt would be marked and extensive.
18. I now turn to potential harm in the context of the purposes of including land in Green Belts. At present, the appeal site serves to restrict the spread of the built-up area that is North Stifford. I appreciate that further extension to the

west would be precluded by the establishment of open space secured under an executed planning obligation; and to the north by land that slopes steeply down to the Mar Dyke Valley. Nevertheless, I saw that the appeal site checks the unrestricted sprawl of a large built-up area. If developed by housing, the land would no longer perform this function.

19. In terms of preventing the merger of neighbouring towns, the appeal site is part of the Green Belt gap between Chafford Hundred and South Ockendon. If the appeal site were developed, as proposed, that gap would be eroded and narrowed. The purpose of the Green Belt in this regard would be compromised.
20. As to the role of the appeal site in countryside terms, I note that this matter was considered at the time of the 1999 inquiry into the redevelopment of the Ardale School site. The Inspector concluded that the proposals did not amount to encroachment into the countryside. The Secretary of State accepted this conclusion. However, I consider that the context has now changed. It is no longer appropriate to consider the former school site as a single site. There is a clear and marked distinction between the (now) developed housing estate to the south and the open land to the north.
21. In my opinion, the appeal site forms part of the countryside. It is beyond the built up limits of North Stifford and it is not within a development boundary or envelope. It is open, essentially undeveloped and of rural appearance. It is contiguous with the open countryside that includes the Mar Dyke Valley to the north and Davy Down to the west. In carrying out either appeal scheme I consider that there would be a failure to assist in safeguarding the countryside from encroachment.
22. In terms of the use of land in Green Belts (PPG 2, Para 1.6), the appellant claims that the schemes will allow the site to fulfil all of these objectives in a manner that is far better than it does at present. For my part I am satisfied that there is no additional harm (or particular benefit) in this regard. However, in summary of the above, I identify harm by reason of inappropriateness, marked and extensive harm to the openness of the Green Belt and harm to purposes of including land in Green Belts (checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging into one another and assisting in safeguarding the countryside from encroachment).
23. I now turn to factors that may weigh in favour of the alternative proposals. Having considered all the evidence before me, I consider that the relevant matters in this regard are as identified in the opening statement for the appellant. These matters may be summarised as 5 year housing land supply; need for affordable housing; sustainability of the location; and other benefits in terms of delivering public open space, recreational provision, wildlife protection, allotments and landscaping.
24. The position on the 5 year supply of housing land within the Borough of Thurrock is not straightforward. One might have expected all potential land to be identified by the Borough Council and identified in its documentation. However, it is clear that there are sites sponsored by the Development Corporation that do not appear in the Council's annual monitoring report. Be that as it may, it was common ground between the witnesses at the inquiry

- that a five year supply of housing could not be demonstrated even taking into account Development Corporation masterplan sites.
25. The extent of the shortfall was the subject of debate at the inquiry. To meet the residual requirement set by the Regional Spatial Strategy, a completion rate of 1,129 units a year is now required. The Development Corporation suggested that a 4.5 year supply could be identified (5,045 units). For the appellant, and as an absolute maximum, sites for 2,938 units were recognised. This is the equivalent of a supply of 2.6 years.
  26. I do not intend to review all the disputed sites. Suffice it to say that it is unlikely that all the sites with planning permission would come forward within the 5 year period. Similarly, it would be wrong to assume that completions would be delivered, as estimated, on all identified sites without planning permission. I am also mindful of the fact that, in PPS 3 terms (Planning Policy Statement 3, *Housing*), not all the sites are (or will) meet the definition of "deliverable". My conclusion is that the true supply situation is likely to be much closer to the figure calculated by the appellant.
  27. By any account, the situation is serious. Paragraph 71 of PPS 3 suggests that, in such circumstances, local planning authorities should consider favourably granting planning applications for housing. However, it is still necessary to consider the suitability of the site for such purposes.
  28. I am mindful of the fact that the economy has slowed considerably. It is difficult to sustain high volumes of house sales in the current climate. This is not a complete answer. Other growth areas have managed to achieve high numbers of completions despite economic circumstances. In addition, the economy of the Thames Gateway could suffer if housing growth were not maintained. However, in the 2008/09 financial year, dwelling completions in the Borough totalled 130. Whilst urgent action by the Borough Council and others is necessary to help redress the balance, I think that it is unrealistic to expect completions to immediately reach the rate assumed under the Regional Spatial Strategy (RSS).
  29. I am also mindful of the work that the Development Corporation is undertaking through its master planning. Complementing the work of the Borough Council, its aim is to allocate land sufficient to meet the requirements of the RSS. In the light of the current supply situation, I would expect urgent consideration to be given to the bringing forward and preparation of housing sites. Some of these sites are Green Belt sites. The sites were not the subject of comparative assessment at the inquiry. Nevertheless, the Corporation's evidence indicates that, unlike the appeal site, the sites have been assessed as suitable residential locations to minimise harm to the Green Belt.
  30. I return to the significance of the housing supply shortfall later in my decision. However, I now address the other matters that may weigh in favour of the alternative appeal developments.
  31. In terms of affordable housing provision, the record is poor. In 2008/09, 13 affordable houses were provided (gross) in the Borough against a 2004 housing needs assessment of 204 units a year and a 2008 assessment of 524 units a year. This is in circumstances where, having regard to a Section 106 planning obligation that has been executed in relation to the current appeals, 28

affordable dwellings would be “guaranteed” under Appeal A or 53 units under Appeal B.

32. Policy H2 of the East of England Plan (the RSS) suggests a target of 35% of affordable housing coming forward through planning permissions and I would expect these provisions to bite in respect of the appeal proposals in any event. However, if housing delivery were made up of smaller schemes, there would be less likelihood of the 35% target being achieved. The appeal schemes therefore represent cases where an appreciable number of affordable homes would actually be provided and brought forward in the short term. This would be an undeniable benefit.
33. Turning to the sustainability of the location, I do not see this as a positive advantage. I appreciate that a range of facilities would be reasonably accessible to the occupants of the proposed dwellings. Nevertheless, by and large, these facilities are not available in North Stifford. From this point of view, development of this nature would be better sited close to a settlement where a wider range of facilities are available close at hand.
34. In addition, I do not consider that building on a Green Belt countryside site is a sustainable alternative in the circumstances of this case. I would normally expect such sites to be safeguarded for their intrinsic qualities including their openness and wildlife value.
35. The final relevant matter to be considered is other benefits in terms of delivering public open space, recreational provision, wildlife protection, allotments and landscaping. In the main these are provisions that would be made on “blue” land, also in the ownership of the appellant, and secured through the Section 106 obligation.
36. In terms of public open space, the detailed provision is described under other headings. However, the public would enjoy a right of access, not currently available, to active and passive open space. The active open space would include a football pitch and a Locally Equipped Area for Play (LEAP); the passive areas would include semi-natural green space, native shrub planting and other areas of landscaping all with wildlife value. In addition there would be an allotment area large enough for the provision of 9 full sized plots.
37. There is an apparent demand for playing fields and allotments as revealed by the Borough Council’s Technical Report on Community Needs and Open Spaces 2006. In this regard, there are vestiges of sports facilities that were previously available on the blue land. However, I understand that these would have been treated as private facilities. The proposed adult football pitch, and certainly the allotments, would be a genuine public gain. Having said that, I do not have the impression of material demand such that the proposed provision would be particularly significant.
38. In terms of the proposed play space, a children’s play area would be required in connection with either of the appeal developments under Local Plan Policy LR7. Whilst enhanced facilities would be available in a Locally Equipped Area for Play, I see this as a very minor benefit.
39. On the subject of wildlife protection, provision would need to be made in any event consequent upon the loss of areas of botanical value and of value to

invertebrates. In this regard, I recognise that the appellant has sought to maximised opportunities on land within the ownership of the Four Acre Trust. Indeed, the whole of the open space provision and landscaping is beyond the requirements of Local Plan Policy LR6. Nevertheless, given the availability of the blue land, I see the approach as essentially opportunistic. The planning gains are welcome but, to my mind, do not amount to weighty considerations.

40. I am now in a position to start drawing my conclusions. In summary of the above, I do not see the sustainability of the location as a positive advantage; the proposed provision of the football pitch and allotments is not particularly significant; the proposed LEAP is a minor benefit; and the other matters including the proposed wildlife protection and landscaping do not amount to weighty considerations. The two matters that I do consider to be of material significance are the housing land supply situation and, to a lesser extent, the provision of affordable housing.
41. As indicated in the foregoing discussion, I regard the 5 year housing land availability situation as dire. Urgent and positive action is needed by the Borough Council in consort with the Development Corporation. The circumstances are such that, even given the paucity of information on nature conservation matters, the principle of residential development could appropriately be considered. The availability of affordable housing would be an undeniable benefit although not of overriding importance either on its own or along with other matters.
42. Nevertheless, from the information before me, I have concluded that the appeal sites are not suitable for housing development. There would be harm to the Green Belt by reason of inappropriate; also what I regard as significant additional harm in terms of loss of openness and harm to the purposes of including land in Green Belts. I have given these matters substantial weight. This is not outweighed by other considerations.
43. I shall not rehearse the mitigating circumstances. There are no grounds for complacency. I simply confirm that the harm by reason of inappropriateness, and the other harm that I have identified (save the harm to nature conservation interests), is not clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development in the Green Belt. The proposals would not accord with Local Plan Policy GB1.

*Other matters*

44. I have carefully considered all others matters raised at the inquiry including the concerns of third parties. However, there are no matters that would lead me to conclusions different from those that I have identified.

**Overall conclusion**

45. For the reasons given above, I conclude that the appeals should be dismissed.

*Andrew S Freeman*

INSPECTOR

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Instructed by Mr D Shaw

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Instructed by Director of Planning,  
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He called:

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Planning Development Officer,  
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INTERESTED PERSONS:

Rev D Brockhurst Chairman,  
North Stifford Village Community Group

Cllr N Rockliffe Ward Councillor, Chafford North and North Stifford Ward

DOCUMENTS SUBMITTED AT THE INQUIRY

- Doc 1 Lists of persons attending the inquiry
- Doc 2 Opening submissions for the appellant
- Doc 3 Annual Monitoring Report, Thurrock Borough Council, 2009
- Doc 4 Potential 5 year housing capacity sites – Mr Gallagher’s version
- Doc 5 Potential 5 year housing capacity sites – Mr Shaw’s version
- Doc 6 e-mail dated 6 January 2010 on development quanta, Purfleet Development Framework
- Doc 7 Copy of planning obligation for the “Commodore Kitchens” site
- Doc 8 Secretary of State’s first interim decision letter, 1 August 2000, Land at Ardale School, Clockhouse Lane, North Stifford
- Doc 9 Secretary of State’s second interim decision letter, 2 March 2001, Land at Ardale School, Clockhouse Lane, North Stifford
- Doc 10 Secretary of State’s final decision, 14 September 2001, Land at Ardale School, Clockhouse Lane, North Stifford
- Doc 11 Extract from the East of England Plan – Policy H1
- Doc 12 Thurrock Biodiversity Study 2006 – 2011
- Doc 13 Schedule of open space measurements
- Doc 14 Rev Brockhurst’s “Points to talk about”
- Doc 15 Extract from Thurrock Borough Local Plan – Policies LR6 and LR7
- Doc 16 e-mail dated 9 December 2009 requesting information on the Aveley and South Ockendon Master Plan
- Doc 17 e-mail dated 4 January 2010 including the Environment Agency’s position statement
- Doc 18 Extract from the East of England Plan – Policy H2
- Doc 19 Extract from the East of England Plan – Vision and Objectives
- Doc 20 Extract from Thurrock Borough Local Plan – Policy LR5
- Doc 21 Suggested conditions
- Doc 22 Planning obligation – Appeal A<sup>1</sup>
- Doc 23 Planning obligation – Appeal B<sup>2</sup>
- Doc 24 Closing submissions on behalf of Thurrock Thames Gateway Development Corporation
- Doc 25 Closing submissions for the appellant

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<sup>1</sup> Final version dated 12 January 2010

<sup>2</sup> Final version dated 12 January 2010

PLANS

Plan A	Substitute submission plan – Appeal A (Drawing No 1280/137C) (Mr Shaw's Appendix 21)
Plan B	Substitute submission plan – Appeal B (Drawing No 1280/141D) (Mr Shaw's Appendix 22)
Plan C	Aveley Village Extension Masterplan
Plan D	Belmont Allotment site showing HSE consultation zones
Plan E	Plan identifying land east of Askew Farm (former Belmont), West Thurrock
Plan F	Landscape Proposals – 80 dwellings (Drawing No 2852_07)
Plan G	Landscape Proposals – 150 dwellings (Drawing No 2852_08)