

Appeal Decision

Site visit made on 11 April 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 2nd May 2017

Appeal Ref: APP/V1505/W/17/3166415

Plot B, 25 Thames View, Basildon, Essex SS16 5LN

- 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 Mrs Diane Brooks against the decision of Basildon Borough Council.
 - The application Ref 16/00287/FULL dated 1 March 2016, was refused by notice dated 4 July 2016.
 - The development proposed is the erection of a three bedroom detached bungalow with integral garage, raised decking and gravel drive.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework ('the Framework');
 - the effect of the proposal on the openness of the Green Belt and the character and appearance of the area;
 - the effect of the proposed development on wildlife; and,
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Inappropriate development

3. The appeal site is a plot of land covered by woodland. It is located within the Green Belt in the open countryside to the south of Basildon. The Council does not rely on any development plan policies in relation to the Green Belt. As a result, the proposal should be assessed against the Framework. Paragraph 89 of the Framework advises that, other than in relation to certain exceptions, the construction of new buildings in the Green Belt is inappropriate. These exceptions include limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan (paragraph 89, fifth bullet point).
 4. In relation to limited infilling in villages, I agree with the conclusion of the previous Inspector who dealt with an application for a detached bungalow on
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the site in 2014¹. He found that Thames View was one of the small network of partly made roads that form one of the plotlands around Basildon with no obvious centre. As a result, he concluded that a dwelling on the plot would not constitute infill development in a village. This conclusion has not been challenged by the appellant.

5. In terms of affordable housing, the appellant contends that the proposal complies with this exception because, in her view, the dwelling would be modest in size and so would be affordable. However, in the Framework 'affordable housing' has a strict meaning, namely, social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Low cost market housing is specifically excluded from this definition. As the application form states that the proposed dwelling would be market housing it would therefore not meet this definition. Even if this was not the case, no reference has been made to the local community needs for affordable housing or the policies of the Local Plan that support such provision.
6. For the reasons given above, the proposal would be contrary to paragraph 89 of the Framework. The proposal therefore represents inappropriate development and such development would, by definition, be harmful to the Green Belt as described in paragraph 87 of the Framework.

Openness & character and appearance

7. Paragraph 79 of the Framework advises that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It also advises that the essential characteristic of Green Belts is their openness and their permanence. Although overgrown and covered in trees, the site is free from built development. The proposed three bedroom chalet bungalow would occupy most of the width of the plot and have raised decking to the rear. Hardstanding would also be provided to the front for the parking of three cars. The quantum of development proposed would therefore be notable and openness would be demonstrably harmed.
8. Thames View is a partly made residential road with houses along its southern side and open fields and wooded copses to the north. The verdant, wooded character of the site makes a positive contribution to the rural character and appearance of the area. Amongst other trees, two oak trees are present on either side of the front of the site. These are protected by a tree preservation order that was made after the planning application that is the subject of the appeal was determined by the Council. As part of the proposed development one of these trees, along with some of the other trees closest to the highway, would be felled. However, I agree with the submitted arboricultural survey, that the trees that would be felled, including the protected oak, are of low to medium value and sufficient trees would remain for the appeal site to continue to contribute to the verdant character of this part of Thames View.
9. In terms of the design of the proposed bungalow, development on Thames View is characterised by gable ended chalet bungalows. In contrast, the proposed bungalow, in order to create generous living accommodation within the roof space, would have a truncated pitched roof with a large flat section. This would result in a dwelling that in public views from the road would appear top heavy, ungainly and poorly proportioned.

¹ Appeal reference APP/V1505/A/14/2211746

10. Notwithstanding my favourable findings in relation to the effect of the proposed development on trees, this would not negate the poor design of the proposed dwelling. The resulting harm that would be caused to the character and appearance of the area would be contrary to a core planning principle of the Framework which seeks a high standard of design. It would also not comply with policy BAS BE12 of the Basildon District Local Plan Saved Policies ('Local Plan') and the Council's Development Control Guidelines. This policy and the guidelines require the protection of the character and appearance of a locality through high quality design that respects local design features.
11. The additional harm identified to the openness of the Green Belt and the character and appearance of the area adds further weight against the proposal.

Wildlife

12. The appeal site is overgrown, largely wooded and unused. On the basis of what I have read and seen of the site, I agree with the Council that there is a reasonable likelihood that protected species, such as bats or newts, could be present. The presence of protected species is a material consideration when determining development proposals. In cases where there are reasonable grounds to suspect that protected species may be present, paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations And Their Impact Within The Planning System* emphasises the need to establish their presence or otherwise, and the extent to which they may be affected by a proposed development, before planning permission is granted.
13. The appellant has carried out an ecological survey. However, as it was carried out in November, when there is little wildlife activity, it is unable to demonstrate whether there are any protected species present on the site. In terms of whether this matter could be dealt with by condition, it is clear from the Circular and relevant legislation that, other than in exceptional circumstances, it is inappropriate to grant planning permission subject to a condition that a survey is carried out on the proviso that if protected species are found mitigation measures are identified and implemented. In my assessment, exceptional circumstances do not exist in this case.
14. In the absence of a suitable ecological survey carried out an appropriate time of year the proposed development would therefore be contrary to policies BAS BE12 of the Local Plan and policies BAS NE2 and BAS BE1 of the Draft Development Control Policies. These policies, consistent with the Framework, aim to conserve biodiversity. This finding adds further weight against the proposal.

Other considerations

15. I have found the proposal would be harmful to the Green Belt. It is therefore necessary to consider the grounds put forward by the appellant, to determine whether there are any material considerations which would amount to very special circumstances that would outweigh this harm, and the harm that I have identified to openness, character and appearance and the potential harm to wildlife.
16. In this case, the appellant, other than rebutting the Council's reasons for refusal, does not advance considerations that weigh in favour of the appeal. Reference has been made to the proposed dwelling being an affordable market house. However, in the absence of evidence brought to my attention to the contrary, I am not persuaded that a detached three bedroom bungalow in a

rural location would be a low cost home that would help meet the demand for low cost housing. As a result, I attach little weight to this consideration in favour of the appeal.

Conclusions

17. The harm by reason of inappropriateness in relation to the appeal scheme is added to by the reduction in openness, the harm to the character and appearance of the area and potential harm to wildlife. Paragraph 88 of the Framework advises that substantial weight should be given to the harm by reason of inappropriateness and any other harm to the Green Belt. Clearly, therefore the degree of harm caused would be significant. I find that the other considerations put forward by the appellant do not clearly outweigh the harm identified and the very special circumstances necessary to justify the development do not exist. As such the proposal would be contrary to the Framework and should be dismissed.

Ian Radcliffe

Inspector