
Appeal Decision

Site visit made on 26 November 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/V1505/W/19/3235924

Land at Readers Yard and The Willows, Moores Avenue, Fobbing, Stanford-le-Hope SS17 9HQ

- 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 G Smith on behalf of G & K Groundworks Ltd against the decision of Basildon District Council.
 - The application Ref 18/01657/FULL, dated 8 November 2018, was refused by notice dated 26 February 2019.
 - The development proposed is the erection of three bungalows with associated access from Moores Avenue in lieu of existing buildings and hardstandings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three bungalows with associated access from Moores Avenue in lieu of existing buildings and hardstandings at Land at Readers Yard and The Willows, Moores Avenue, Fobbing, Stanford-le-Hope SS17 9HQ, in accordance with the terms of the application, Ref: 18/01657/FULL, dated 8 November 2018, subject to the conditions set out at the end of this decision.

Application for costs

2. An application for costs was made by Mr G Smith on behalf of G & K Groundworks Ltd against Basildon District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The emerging Basildon Borough Local Plan 2014-2034 (the BBLP) has been submitted for examination. Nonetheless, the examination process has yet to run its course. The BBLP is at a stage that attracts limited weight. This is because the content of its policies may yet change prior to it being formally adopted. I shall consider the appeal on this basis.

Main Issue

4. The main issue is whether or not the proposal is inappropriate in the Green Belt.

Reasons

5. The National Planning Policy Framework (February 2019) (the Framework), which is a very important material consideration in regard to assessing proposals for development that affect the Green Belt, sets out that the

construction of new buildings shall be regarded as inappropriate in the Green Belt. This is unless the development proposal meets one of several exceptions that are set out, which include the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.

6. It is common ground between the main parties to this appeal that the proposal before me represents the redevelopment of previously developed land. The point of dispute is thus whether or not the proposal would have a greater impact on the openness of the Green Belt when compared to the existing development that is in place.
7. The appeal site contains a long linear building (the linear building) that is set adjacent to the eastern boundary of the appeal site and setback from Moores Avenue (the Avenue). I observed this single storey building, which is metal clad to much of its exterior, to be in a state of dilapidation and disrepair. A couple of further dilapidated structures of ancillary scale are also in place in proximity to the linear building. Furthermore, on land to the west that is situated outside of the appeal site, but that falls under the ownership and control of the appellant, is located a further small cluster of single storey buildings that are in a neglected condition. These off-site buildings are also proposed to be removed as part of the proposal.
8. There are also areas of hardstanding in place around and in proximity to the various buildings I have referred to above. Whilst I acknowledge that their removal forms part of the proposal, I observed these hard-surfaced areas, for the most part, to be of either muddied or soiled outward appearance such that their impact upon the openness of the Green Belt was relatively limited. I note that a new access is intended to be provided from the Avenue, which would introduce a new hard-surfaced route providing vehicular access to each of the bungalows that are proposed. Nevertheless, notwithstanding that the access would run to the back (north) of the site, it would be of limited length and prominence. I note here that the site is already accessible to vehicles via High Road.
9. The proposal would introduce three bungalows in a similar setback position to that currently occupied by the linear building. When compared to each of the existing buildings in place, the three bungalows (which would be of matching form and design to each other) would be of higher height. Furthermore, in cumulative terms, when compared to the existing buildings, the bungalows would introduce a greater extent of building volume.
10. I note that new planting is proposed, which would assist to some degree in softening views of the proposed development. However, whilst this is a positive factor, planting cannot be relied upon to provide a solid and permanent buffer to views. Indeed, new planting would take time to properly establish, would be ever evolving and would be reliant on regular maintenance to retain a consistent form.
11. Nevertheless, a reduction in footprint terms is proposed and it is important to note that the proposed bungalows have been designed with roofs of hipped rather than gabled form, which would have the effect of limiting both their visual prominence and built volume. The properties would be closely positioned in relation to each other, which would restrict their effect on

openness, and would be served by modestly sized private garden areas set out to their rears.

12. The bungalows would be discreetly located within the site. Indeed, they would be set further away from the Avenue when compared to the southernmost extent of the linear building and further away from High Road when compared to the cluster of buildings situated to the west of the site. The proposal would not appear as visually prominent when viewed from public vantage points.
13. I acknowledge that the existing buildings are in varying states of dilapidation and disrepair. Indeed, I observed some of the existing built form, due to an apparent lack of recent maintenance, to be beset by vegetation and plant growth. This applied most prominently to some of the smaller buildings on the site. Nevertheless, the existing structures, when considered as a whole, read as a collection of existing buildings that have a noticeable presence on the site and that impact in no insignificant way on the Green Belt's openness.
14. Taking all the above matters into account, I find that the proposed redevelopment of the site would not have a greater impact on the openness of the Green Belt when compared to existing development. Thus, the proposal would not be inappropriate development in the Green Belt and, in this regard, it would accord with the Framework. Very special circumstances do not therefore need to be demonstrated in order to justify the proposal.
15. Emerging Policy GB6 of the BBLP relates specifically to the replacement of buildings that are in the same use. This is not the case with respect to the proposal before me where residential buildings would be newly introduced to the site. This policy is therefore of limited relevance to my considerations here.

Other Matters

16. It has been raised by interested parties that Readers Yard and the Willows are comprised of two distinct sites. It has been suggested that development at Readers Yard, and the introduction of access to it from the Avenue, would fail to respect the nature and character of the wider estate and of the Moores Avenue streetscene. However, properties along the Avenue are of a variety of different forms and are set a variety of distances away from each other such that a strong built rhythm is not in evidence. I do not consider that the introduction of vehicular access to serve three additional properties in a location where there is already built development would cause harm to the character and appearance of the Avenue or the wider area.
17. Concerns have also been raised that the proposal would set a precedent for further residential development on land setback from the Avenue and controlled by the appellant. However, each proposal must be considered on its own individual merits. Furthermore, the scheme before me has been justified in this Green Belt location based on the removal of several existing buildings as well as areas of hardstanding. Should the appeal be allowed, and the scheme be implemented, such opportunities would no longer exist to provide potential justification for future further development.
18. The Avenue is not lit or served by footway. It is also the case that only a relatively limited range of facilities and services are located within convenient walking distance of the site. It is thus likely that future occupiers of the development would look to rely on private modes of transportation in order to

serve at least some of their day-to day needs. Nevertheless, the site is served by nearby bus stops such that bus travel would be a realistic option. Furthermore, the site's proximity to Basildon would not necessitate long journeys being made by future occupiers of the development in order to access the wide range of facilities on offer there. I am thus satisfied that the site is appropriately located for access to surrounding facilities and services and note that neither has the Council raised concerns in this context.

19. The Avenue, I understand, is a privately owned and privately maintained road. This would also be the case with respect to the new access road that is proposed to link to the Avenue, maintenance responsibilities would fall to the relevant landowners. I acknowledge that the Avenue is a single lane road. Indeed, it would not appear to be a heavily trafficked route and its form and layout does not lend itself to traffic travelling at speed along it. The addition of three properties would not be expected to generate high volumes of additional traffic. The Highway Authority has raised no objection to the proposal and has noted no recorded incidents at the Avenue's junction with High Road, where I observed there to be good standards of visibility. The Highway Authority's lack of an objection to the scheme is a matter of importance as they are responsible for the safety of road users on the local highway network. I also note that the proposed site plan indicates that opportunities for turning would be provided within the site.
20. Potential safety concerns have been raised with respect to the site's proximity to the railway line. It was nevertheless apparent from inspection that robust boundary treatment is in place to the site's northern boundary. I am satisfied that no undue risk would be posed to future occupiers from this source. I am also content that the proposal would not unduly impact upon the living conditions of existing neighbouring occupiers by virtue of either noise or air pollution. Indeed, the scheme is of a small size and the newly proposed access would be positioned slightly away from the nearest site boundary. The Council's Environmental Officer has not raised concerns in these contexts.
21. Whilst intended sewerage arrangements have been raised as a concern by interested parties, there is no indication from the statutory undertaker that the drainage infrastructure has insufficient capacity or capability to accommodate the proposed development.
22. The Council, in their delegated report, has indicated that in the event any protected species were found during the intended works there would be a responsibility for the developer to contact Natural England to obtain an appropriate license before works could re-commence. Having inspected the site, and in the absence of any clearly evidenced or substantiated indication that protected species are present, I am content that no additional controls are necessary in this regard.
23. An emerging gypsy and traveller allocation at the appeal site has been referenced in the evidence before me. However, when noting the stage at which the BBLP is at, it is my understanding that potential allocations in this regard have not been fully and comprehensively assessed at this point. The emerging allocation is thus of limited relevance to my considerations here.

Conditions

24. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and omitted others. Pre-commencement conditions have been applied where agreed to by the appellant in writing and where necessary to guide initial works on site. In such instances where pre-commencement conditions have not been formally agreed to in writing, suitable opportunities were provided for the appellant to make observations.
25. In the interests of certainty, a condition specifying the approved plans is required. I have included an existing site plan referenced 18.5057/E101 as it clearly illustrates the existing buildings and other features to be demolished/removed, but I have not included a location map referenced 18.5057/M001 because it merely serves to loosely illustrate the location of the site under consideration.
26. In the interests of ensuring that the proposal would not lead to a loss of Green Belt openness, a condition is reasonable and necessary that requires all existing buildings and hard surfaces to be removed (in accordance with plan 18.5057/E101) prior to any residential occupation. I note here that all of these buildings are situated on land falling under the appellant's control.
27. As set out in the Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In this instance, in the interests of protecting the openness of the Green Belt, I see clear justification for such a condition to be applied that pertains to any enlargements/improvements, roof additions and buildings incidental to the enjoyment of a dwellinghouse.
28. To protect the character and appearance of the area, conditions are reasonable and necessary that secure details of the external facing materials to be used, levels, boundary treatments, the refuse/recycling facilities to be installed and the soft landscaping to be undertaken. A condition is also required to secure the timely implementation and subsequent maintenance of the soft landscaping. The levels condition would also be in the interests of safeguarding the living conditions of nearby occupiers. For this same reason, conditions are reasonable and necessary that secure details of any external lighting to be installed and the submission and implementation of a Construction Method Statement. It is also necessary to condition reasonable construction hours noting the proximity of existing residential occupiers to the site.
29. In the interests of safeguarding the living conditions of future occupiers of the development and in the interests of seeking to protect human health, conditions are reasonable and necessary that secure a desk-top study, site investigation and any necessary remediation works with respect to potential contamination and pollution at the site.
30. I note that interested parties have raised concerns with respect to drainage issues that, at least in-part, relate to an existing ditch/brook that runs the southern edge of the appeal site. Whilst the site is in a low-risk flood zone and existing buildings and areas of hard surfacing are intended to be removed, new built development, including a new access road, is intended to come forward.

In such circumstances, it is reasonable and necessary to secure, via condition, a strategy for managing surface water at the site to guard against any potential associated instances of flooding.

31. In the interests of highway safety, conditions are reasonable and necessary that secure the provision and ongoing retention of approved car parking areas on-site, the full details and implementation of the new access on to the Avenue and the provision and retention of visibility splays to either side of this access. Furthermore, the Construction Method Statement would secure full details of vehicular access arrangements during the demolition/construction phase of development.
32. Also, in the interests of highway safety, a condition is reasonable and necessary to ensure that the existing High Road access point is permanently stopped up immediately following the point in time when the new access is first brought into use. Indeed, the access is situated to the edge of land that falls under the appellant's control and such a condition would guard against the creation of an unnecessary additional point of potential traffic conflict. I note that the existing High Road access point provides limited standards of visibility and is situated in proximity to a railway line level crossing such that its stopping up would, in any event, be in the interests of highway safety.
33. In the interests of promoting sustainable modes of transportation alternative to the private car, a condition is reasonable and necessary to secure the provision of a Residential Travel Information Pack for the future occupiers of each dwelling.

Conclusion

34. For the above reasons, having taken account of all material considerations before me, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be commenced not later than the expiration of three years beginning with the date on which permission is granted.
- 2) The development hereby permitted shall be carried out only in accordance with the following approved plans: 18.5057/M002; 18.5057/P201 Rev B; 18.5057/P202 Rev A; 18.5057/P203 Rev A; 18.5057/E101.
- 3) No dwelling hereby permitted shall be occupied until the existing buildings, hard surfaces, greyhound training run, and access road, as shown on the approved plan referenced 18.5057/E101 have been demolished/dug out and all debris removed from the site.

- 4) No development above ground level shall take place until details/samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 5) No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping for the site which shall include indications of all existing trees, shrubs and hedgerows on the site and details of those to be retained. This scheme shall be based on the indicative landscaping details set out on the approved plan referenced 18.5057/P201 Rev B and shall include details for the area for bio-diversity annotated on this plan.
- 6) The landscaping scheme, as approved in accordance with Condition 5, shall be carried out in the first planting and seeding seasons following the first occupation of any dwelling or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 7) The dwellings hereby permitted shall not be occupied until the two car parking spaces relating to each dwelling together with the visitor spaces, as shown on the approved drawing 18.5057/P201 Rev B, have been laid out and surfaced, with each parking space measuring a minimum of 2.9 metres wide by 5.5 metres long. Such provision shall be permanently retained for car parking purposes and used for no other purposes.
- 8) No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, design, materials and type of boundary treatment to be erected. No part of the development shall be occupied until the approved boundary treatment for that part has been provided. The approved boundary treatment shall be retained at all times thereafter.
- 9) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order, with or without modification) no buildings, extensions or alterations permitted by Classes A, B, C and E of Part 1 of Schedule 2 of the 2015 Order shall be erected, constructed or placed on any part of the land without the prior approval in writing of the Local Planning Authority.
- 10) Details of any external lighting to be provided as part of the development shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The development shall be carried out in accordance with the approved details.
- 11) Before construction of the dwellings hereby permitted commences details of existing site levels and the finished floor levels of the approved dwellings shall be submitted to and approved in writing by the Local

- Planning Authority. The development shall be carried out in accordance with the approved details.
- 12) No dwelling hereby permitted shall be occupied until the refuse and recycling facilities to be provided for each of the dwellings have been provided on site. Details of these facilities shall have first been submitted to and approved in writing by the Local Planning Authority.
 - 13) The existing vehicle access at the western end of the site onto High Road, shall be suitably and permanently closed, incorporating the reinstatement to full height of the highway verge/footway/kerbing immediately following the new access onto Moores Avenue first being brought into use. Full details of the reinstatement works shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the new access hereby permitted and the works shall be carried out in accordance with the agreed details.
 - 14) Prior to the first occupation of the development the vehicular access onto Moores Avenue shall be constructed at right angles to the existing carriageway and shall be provided with an appropriate crossing of the verge to the existing carriageway. The full details of which shall have first been submitted to and approved in writing by the Local Planning Authority prior to the new access being laid out.
 - 15) There shall be no obstruction above ground level within a 2.4 metres wide parallel band visibility splay as measured from and along the nearest edge of the Moores Avenue carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times thereafter.
 - 16) Prior to the first occupation of the development, full details of a Residential Travel Information Pack for sustainable transport, to include six one-day travel vouchers for use with the relevant local public transport operator, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, one Residential Travel Information Pack shall be provided to each dwelling before it is first occupied.
 - 17) No development shall take place until a surface water drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be carried out in full prior to the first occupation of the development and shall be maintained in accordance with the approved details thereafter.
 - 18) No development shall take place until a desk-top study has been carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation work/Quantitative Risk Assessment, or state that none is required. Upon completion, copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the Local Planning Authority prior to any site investigation work or development taking place.

- 19) If identified as being required following the completion of the desk-top study required to be carried out under Condition 18, a site investigation shall be carried out prior to the commencement of development to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed, and shall take into account the site's existing status and proposed new use. Copies of the site investigation, if required to be carried out, and its findings shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place.
- 20) A written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority. If during redevelopment contamination not previously considered is identified, the Local Planning Authority shall be notified immediately, and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and approved in writing with the Local Planning Authority.
- 21) Following the completion of measures identified in the remediation scheme required by Condition 20 and prior to the first occupation of the development hereby permitted, copies of a full closure report shall be submitted to and approved in writing by the Local Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met. The closure report shall include a completed certificate, signed by the developer, confirming that the required works regarding contamination have been carried out in accordance with the approved written method statement. A sample of the certificate to be completed is available in Appendix 2 of Land Affected by Contamination: Technical Guidance for Applicants and Developers.
- 22) No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: site access arrangements; the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; wheel and underbody washing facilities.
- 23) Demolition and construction work and associated activities shall only be carried out on the site between the hours of 0800 and 1800 Monday to Friday inclusive, and the hours of 0800 and 1300 on Saturdays, with no work on Sundays, Bank and Public Holidays, other than internal works not audible outside the site boundary.