

# Appeal Decision

Site Visit made on 24 November 2020

**by R Sabu BA (Hons), BArch, MA, PgDip RIBA ARB**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2020**

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**Appeal Ref: APP/V1505/W/20/3258009**

**Land On The East Side Of Newhouse Avenue, Wickford, SS12 0JZ**

- 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 Millen against the decision of Basildon Borough Council.
  - The application Ref 20/00023/OUT, dated 8 January 2020, was refused by notice dated 10 June 2020.
  - The development proposed is described as, 'development of 13 affordable dwellings on land at Newhouse Avenue, Wickford'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application was made in outline with all matters except for access and layout reserved. I have therefore treated any details relating to those reserved matters as being illustrative only.
3. I note the Basildon Borough Revised Publication Local Plan 2014 – 2034 October 2018 (emerging Local Plan) which, from the evidence before me, is under examination. However, since there is no certainty that the Policies within will be adopted in their current form, I attribute them limited weight only.
4. While I note the address as stated in the application form, I have used the street name as stated in the wider evidence in the interests of certainty.

## Main Issues

5. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (Framework) and any relevant development plan policies;
  - the effect on the openness of the Green Belt;
  - the effect of the proposal on the character and appearance of the area;
  - whether the proposed development would provide a suitable living environment for future occupiers with particular regard for noise; and

- would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Inappropriateness*

6. New buildings in the Green Belt are inappropriate development unless they fall in one or more of the exceptions given in paragraph 145 of the Framework. One such exemption is limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).
7. From the evidence before me, there are no policies within the Basildon District Local Plan Saved Policies September 2007 (LP) which allow for affordable housing for local community needs within the Green Belt. Consequently, the proposal would represent inappropriate development in the Green Belt and would conflict with the Framework in this respect.

### *Openness*

8. The appeal site is an undeveloped plot of land, whereas the proposal would introduce 13 dwellings that would significantly diminish the spatial openness of the site.
9. While the site is largely screened from wider views by trees and hedges, glimpses of the undeveloped site are available from Newhouse Avenue through the vegetation along the boundary. The proposal would result in a significant amount of built development that would be likely to be visible from Newhouse Avenue as well as from the rear of the properties along London Road, thereby significantly diminishing the spacious character of the area and adversely affecting the visual openness of the Green Belt.
10. Consequently, the proposal would adversely affect openness of the Green Belt and conflict with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. Therefore, it would conflict with the Framework in this respect.

### *Character and appearance*

11. On the other side of the highway adjacent to the undeveloped site lies a ribbon of detached bungalows with generous spacing that results in a pleasant spacious character and appearance. While there is built development to the north of the site, that area is a commercial yard that has an agricultural character and appearance. The kennels further to the north also has a spacious feel in line with the open countryside beyond such that overall, the area has a spacious semi-rural character and appearance.
12. While the site is screened to a large extent by hedges and trees, given its open, undeveloped nature it reads as part of the semi-rural edge of the town and is in keeping with the agricultural feel of the area to the north.

13. The proposal for 13 dwellings would not only involve the erection of houses, but also would include significant areas of new road, paved driveways and domestic gardens. Therefore, while I acknowledge that the site does not lie within open countryside, the proposed scheme would urbanise the site and substantially alter the landscape character of the area.
14. I note the evidence relating to density and assessments by the Council of this and other sites in the wider area as well as the Landscape Character Assessment of Basildon Borough. I also note that the layout would meet the private amenity requirements of future occupiers. However, the density being higher than neighbouring properties to the south and west of the site is not in dispute and while the site may not appear prominent from wider views, given the amount of built development proposed compared with the undeveloped site as existing, the scheme will nevertheless significantly diminish the spacious character and appearance of the area surrounding the site.
15. Consequently, the proposed development would harm the character and appearance of the area. Therefore, it would conflict with LP Policy BAS BE12 which resists new residential development that would, among other things, would cause harm to the character of the surrounding area.

#### *Living environment*

16. The site lies a short distance from Kennels and a Garden Centre. While the kennels may currently be closed, and there is an application to change the use of the buildings, there is no certainty that the use as a kennels could not continue in the future. Given the proximity to the site, the barking of dogs would potentially be of a significant volume and character such that the effect on the living conditions of future occupiers has the potential to be significant.
17. I acknowledge that the properties would be constructed from Structurally Insulated Panels which create airtight homes, and that the Council had not raised the issue during the application process. I also recognise that there may be a lower level of noise generated by the nearby garden centre. However, there is not enough information before me either as part of the planning application or appeal such as noise impact assessments or similar that demonstrate that there would not be harm to the living environment of future occupiers.
18. Consequently, the proposed development would be likely to harm the living environment of future occupiers with particular regard for noise.
19. LP Policy BAS BE12 resists new residential development that would, among other things, would cause harm in terms of noise or disturbance to the occupants of neighbouring dwellings. As such, there would not be direct conflict with this Policy.
20. Notwithstanding that there would not be development plan conflict in this particular respect, given that paragraph 127 of the Framework seeks places with a high standard of amenity for existing and future users among other things, the scheme would conflict with the Framework in this particular regard.

### *Other Considerations*

21. It is common ground between the main parties that the Council are unable to demonstrate a five-year housing land supply and have a substantial existing need for affordable homes. I have had regard to the evidence submitted by the appellant in this respect including a letter of support from Estuary Housing. In addition, the appellant has submitted a complete Unilateral Undertaking (UU) that would secure the dwellings as affordable homes. The planning obligation would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the Framework. On this basis, given the modest number of affordable homes that are proposed, I attribute the provision of affordable homes moderate weight in favour of the development.

### **Other Matters**

22. The Green Belt policies in the Framework provide a clear reason for refusing the development proposed. Therefore, even though the Council cannot demonstrate a 5-year supply of deliverable housing sites and its policies for the supply of housing are out-of-date, the presumption in favour of granting planning permission in those circumstances found in paragraph 11(d) of the Framework does not apply.
23. I note the comments of the Inspector for the case at Ramsden Bellhouse. However, that proposal was sited some distance from the appeal site and limited further details are before me such that it does not form a direct comparison to this appeal. I also acknowledge the comments of the Inspectors for the cases at Ruddington and Thundersley. However, since those proposals were for more dwellings than this proposal and given that they were in different districts and determined under other development plans, those schemes are not directly comparable to this appeal. In any event, limited details are before me and each case must be determined on its own merits.
24. The development falls within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). Had I found that the proposed development would not have a harmful impact on the Green Belt or future occupiers of the proposed development in terms of noise, I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment.
25. The UU submitted as part of the appeal would provide financial contribution towards the Essex Coastal RAMS. There is a slight discrepancy between the contribution required by the Council as stated in the planning officer's report compared with that stated in the UU. However, in the circumstances of this case this has not proved to be a determinative matter given the harm to the Green Belt and future occupiers of the development that would arise from the development.
26. I acknowledge the evidence regarding environmental design of the proposal and the sustainability of the location. However, any lack of harm in this respect carries neutral weight in the planning balance.

## **Conclusion**

1. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
2. I have found that the proposal would be inappropriate development in the Green Belt, would harm the openness of the Green Belt and the character and appearance of the area. As such, the scheme would conflict with the fundamental aim of Green Belt policy. In addition, the proposal would be likely to harm the living environment of future occupiers with particular regard for noise. On this basis, I attribute significant weight to these harms.
3. For the reasons given above, the substantial weight to be given to Green Belt harm and significant weight attached to the overall harm that would result from the proposal is not clearly outweighed by the moderate weight attached to other considerations sufficient to demonstrate very special circumstances.
4. For the reasons given above the appeal should be dismissed.

*R Sabu*

INSPECTOR