



Appeal Decision

Site visit made on 21 February 2022

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 6th April 2022

Appeal Ref: APP/V1505/W/21/3278853

Land between 'Green Oak' and 'Woodlands', Branksome Avenue, Wickford, Essex

- 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 Miss Tina Cole against the decision of Basildon District Council.
 - The application Ref 21/00375/FULL, dated 9 March 2021, was refused by notice dated 19 April 2021.
 - The development proposed is described in the application as: "infill development, providing 3 bedroomed chalet bungalow".
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Decision

1. The appeal is allowed, and planning permission is granted for a detached 3-bedroomed chalet bungalow, on land between 'Green Oak' and 'Woodlands', Branksome Avenue, Wickford, Essex, in accordance with the terms of the application, Ref 21/00375/FULL, dated 9 March 2021, subject to the conditions contained in the attached schedule.

Preliminary matters

2. Planning law requires the appeal to be determined in accordance with the development plan for the area, unless material considerations indicate otherwise¹. In the present case, the Council and the appellant are agreed that the appeal site falls within an area of Green Belt (GB), as defined in the Basildon District Local Plan (the BDLP), adopted in 1998. Policy GB1 of that plan confirms that the boundaries of the GB are those shown on the Proposals Map. No other relevant policies or provisions of the adopted development plan have been referred to by any party.
3. The Council's case refers to various policies of the draft Basildon Borough Local Plan (BBLP), which was submitted for examination in March 2019. However, in its officer report on the appeal proposal, in April 2021, the Council acknowledged that only limited weight could be given to those policies. Subsequently, the draft plan has now been withdrawn. In the circumstances, I have given no weight to the contents of the BBLP.
4. At the time when the Council made its decision to refuse permission, it was acknowledged that the supply of land for housing in Basildon District was sufficient for only 2.4 years. I have not been advised of any subsequent change to this position. The National Planning Policy Framework (NPPF) makes clear the need to maintain a minimum of 5 years' supply in all local authority

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004

areas, in order to help boost the supply of housing nationally. The shortfall of housing land in the District is therefore an important material consideration.

5. In the Council's decision notice, Refusal Reason 2 (RR2) relates in part to the potential indirect impact on internationally designated habitat sites, as a result of recreational disturbance. However, the appellant has subsequently made a financial contribution to the Essex Coast Recreational Avoidance and Mitigation Strategy, which is a policy that has been agreed for this purpose between various local authorities, including Basildon District Council, and Natural England. Although the legal undertaking which accompanies the appellant's payment has not been fully executed, and contains other apparent errors and inconsistencies, there seems to be no dispute that the contribution already made is sufficient to offset the development's impact. I also have no reason to doubt that the Council is capable of ensuring that the sum of money involved is directed to that intended purpose. In the circumstances, I am satisfied that the development would have no likely significant effect, either alone or in combination with any other schemes, on any offsite protected habitats.

Main issue

6. In the light of the submissions before me, I find that the main issue in the appeal is whether the appeal proposal would constitute 'inappropriate development' in terms of the relevant GB policies.

Reasons for decision

7. In the absence of any relevant development plan policies, the most relevant policies with regard to development in GBs are those of the NPPF. Paragraph 149 of the NPPF provides that, in most cases, the construction of new buildings in GBs should be regarded as inappropriate. However, certain specific types of development are to be treated as exceptions. One of these exceptions, at subparagraph 149(e), is for 'limited infilling in villages'.
8. In the present appeal, the site lies within an area comprising former 'plotland' development, on the edge of the town of Wickford. It is common ground that this settlement was originally developed in the inter-war years, in a piecemeal fashion, with a variety of wooden chalets and other types of temporary dwellings, designed for holidays and leisure use, or as smallholdings. However, as I saw on my visit, these original buildings and uses have now been largely replaced by modern, permanent dwellings, with car parking, garages and domestic gardens. The plotland settlement area is served by a network of estate roads, arranged in a grid pattern, and the present-day houses are laid out to front onto these. The roads mostly have metalled surfaces, with many also having kerbs and verges, and in general these all appear to be well maintained. The settlement also has formalised street name signs throughout, and is said to have mains drainage and services. In some parts of the plotland area, mainly towards its fringes, the housing is punctuated by undeveloped land, where the original plots were evidently never taken up. However, in the main core of the area, including Branksome Avenue, Sugden Avenue, Parkstone Avenue and the western section of Studland Avenue, such undeveloped plots are few, and the predominant character is that of a well-ordered residential suburb.
9. The appeal site itself is located mid-way along the southern side of Branksome Avenue, between the existing properties 'Green Oak' and 'Woodlands'. Apart

from the appeal site, this side of the road has a continuous built-up frontage of residential development along its full length, extending to about 400m in total. On the opposite side of Branksome Avenue, although the existing development is more intermittent, the section opposite the appeal site contains a continuous row of about five dwellings, including 'Brookside House', which directly faces the site. The appeal site is therefore closely surrounded by existing housing on three sides, and appears as an uncharacteristic gap within that existing development. In addition, it is evident that the appeal site is broadly consistent with most of the existing dwelling plots nearby, in terms of its size, shape and proportions. Having regard to these physical features and characteristics of the site and its surroundings, and in the context of NPPF paragraph 149(e), it seems to me that the appeal site clearly represents an infill site, and consequently that the development now proposed would thus be an infill development.

10. The proposed development itself would comprise a single dwelling. The new property would be fairly modest in scale, with a combined kitchen/dining/ living area, plus a study and three bedrooms, contained within a chalet-bungalow style external envelope. In addition, I note that the submitted plans also show a detached single garage. To my mind, the plans clearly show that the development as a whole would fit comfortably within the site. Having regard once more to the terms of paragraph 149(e), it does not appear to be disputed that the scale of the proposed development would be limited. In my view there can be no doubt that the scheme would comprise limited infilling.
11. The Council contends that the former plotland settlement area should not be considered a village. However, no clear reasons for that view have been given. I agree that some parts of the settlement might be described as sporadic development. But the same could be said of many other villages, which have a loose pattern development, or which incorporate built development interspersed with open land. The plotland area is not identified as a village in the BDLP, but there is nothing in the NPPF that restricts the policy in question only to settlements that have been formally recognised in that way. The relatively recent origins of the plotland settlement, and its planned nature, may distinguish it to some degree, but these differences do not seem to me to be fundamental. None of these matters seems to me to form a convincing reason as to why the appeal site should not be treated as within a village.
12. On the other hand, looking specifically at the appeal site and its immediate surroundings, the existing development in Branksome Avenue is extensive and well consolidated. Furthermore, for the reasons already identified above, this part of the settlement has many of the features and characteristics of a village, or indeed those of an urban area. In terms of its effects on the GB, the development now proposed would be indistinguishable from infill development in any other settlement. Consequently, having regard to the aims of the NPPF's GB policies as a whole, I can see no reason why the appeal site should not be considered to be located within a village setting.
13. Overall therefore, for the purposes of NPPF paragraph 149(e), I conclude that the appeal proposal would fall within the provision for 'limited infilling in villages'. As such, the scheme would not constitute inappropriate development, in terms of GB policy.

14. I accept that the development would result in some loss of openness within the appeal site itself, but given the site's enclosed, infill nature, the openness of the wider GB would not be materially affected. In any event, the provision for infilling under paragraph 149(e) is not contingent on openness. It follows therefore that the effects in that regard do not alter my finding with regard to inappropriateness.
15. Based on the evidence before me, I conclude the proposed development would not be inappropriate, and is therefore not in conflict with GB policy. In the light of this conclusion, it is unnecessary for me to go on to consider whether very special circumstances exist.

Other matters

16. I note the Council's view that the appeal proposal should have been accompanied by an ecological appraisal. However, at the time of my visit, the appeal site had been cleared of all ground-level vegetation and thus offered no apparent potential for any ecological interest. There is no evidence before me to suggest that it previously had any such potential. Nor is there any suggestion that the works undertaken represent a breach of planning control or of any other relevant legislation. In these circumstances, it seems unlikely that the development would result in any significant effects on wildlife or biodiversity. I see no grounds for refusal of permission on this basis.
17. The Council refers to a previous appeal relating to the same site, which was dismissed in 2021. That decision may potentially be a material consideration, as is the desirability of consistency in decision-making. However, no details of the earlier proposal, or the decision in question, are before me. Without such further details, I do not know the reasoning behind the decision, nor the planning circumstances at that time. In all appeals it is the responsibility of the parties involved to present their case in full, so that others may comment on it. In the absence of any further information about any previous appeals, I have determined the present case on its own merits, in the light of the evidence that is before me now.
18. It is suggested that the proposed development would be a self-build or custom-build project for the appellant, contributing to meeting the requirements arising under the Self-Build and Custom Housebuilding Act 2015. However, there is no evidence before me as to the level of local need for such development, nor is there any formal commitment to undertaking the development in that way. I therefore give limited weight to the potential benefits arising in this regard.
19. I saw on my visit that the site contains two existing semi-mature trees. One of these, at the front of the site, is close to the position of the proposed access and driveway. Although it appears that it might be possible to retain this tree, albeit with some removal of lower branches, and some form of root protection, there is no indication as to whether any such measures have been considered. However, the Council has raised no objection on this ground, and indeed proposes to deal with matters relating to the existing trees within the scope of a landscaping condition. In the circumstances, I see no reason to disagree.

Conditions and reasons for imposition

20. For the most part, I agree that the draft conditions suggested by the Council meet the tests set out at NPPF paragraph 56. In some cases I have edited the wording, in the interests of conciseness and precision.

21. Conditions relating to materials and landscaping are necessary, to ensure a satisfactory appearance. In the latter case, I have amended the proposed wording to avoid any requirement for details of landscaping works within the rear garden, as such a requirement would be unduly onerous.
22. A condition relating to contamination is needed, to protect the health of future occupiers. The provision of a charging point is reasonable, in the interests of promoting sustainable transport. A condition relating to the proposed access is necessary for reasons of highway safety.
23. A condition requiring adherence to the approved plans is required, to give clarity and certainty as to what is permitted. However, in the light of that condition, it is not necessary to impose a further condition to control the proposed floor levels, as the height and dimensions of the proposed building in relation to the existing ground level are already clearly indicated.
24. The suggested condition relating to boundary treatments is unnecessary, as the boundaries are already enclosed, and any change could be adequately controlled through the permitted development provisions relating to walls and fences in Part 2 of Schedule 2 of the relevant secondary legislation². A condition restricting permitted development in Classes A, B, C and E of Part 1 of that Schedule would be unreasonable, given my earlier conclusions regarding the site's relationship to the GB.

Planning balance and conclusion

25. Although the appeal site is within the GB area designated in the BDLP, no development plan policies relevant to the appeal have been identified by any party. In these circumstances, NPPF paragraph 11(d) advises that permission should be granted, unless NPPF policies provide a clear reason for refusal, or the adverse impacts would significantly and demonstrably outweigh the benefits.
26. In the present case, I have found that the proposed development would constitute limited infilling in accordance with NPPF paragraph 149(e), meaning that, despite its location in the GB, the development would not be inappropriate. The relevant NPPF policies relating to GBs therefore give no support for a refusal of permission.
27. The development would provide a new dwelling which would contribute to remedying the local shortfall in the 5-year supply. This is a benefit worthy of substantial weight. The scheme would also provide some benefit to the local economy. No adverse impacts have been substantiated. The benefits of the development are therefore not outweighed.
28. I have taken account of all the other matters raised, but none changes my conclusion based on the above reasoning. I conclude that permission should now be granted. The appeal is therefore allowed.

J Felgate

INSPECTOR

² The Town and Country Planning (General Permitted Development) (England) Order 2015

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out only in accordance with the following approved plans: No 21/0803/02 (Site Plan), No 21/0803/03 (Floor Plans, Elevations and Section), and No 21/0803/04 (Street Elevation).
- 3) No development shall take place, including site clearance or preparation works, until a scheme of hard and soft landscaping has been submitted to the local planning authority and approved in writing. The scheme shall include details of the existing trees, and any existing hedgerows, shrubs or other vegetation on the site, and of any felling or other works which are proposed to these. With regard to the area in front of the proposed new dwelling, the landscaping scheme shall also provide details of all new planting, seeding and hard surfacing materials. The new dwelling hereby approved shall not be occupied until the landscaping scheme has been implemented as thus approved.
- 4) No construction work above existing ground level shall be carried out until full details of the materials and finishes to be used on the external surfaces of the development have been submitted to the local planning authority and approved in writing. Thereafter, the development shall be carried out in accordance with these approved details.
- 5) If, during the course of carrying out the development, any actual or likely ground contamination is either discovered or suspected, then:
 - i) as soon as reasonably practical, and in any event within no less than 48 hours, notice of the discovery of, or the reasons for suspecting, the presence of contamination shall be provided to the local planning authority; and
 - ii) no further below-ground construction work shall take place until a method statement for any necessary further investigations and remedial work, to make the site safe for work to proceed, and for residential occupation, has been submitted to the local planning authority and approved in writing. Thereafter, the development shall be carried out in accordance with the details thus approved.
- 6) The new dwelling shall not be occupied until an electric vehicle charging point has been installed, in accordance with details to be submitted to the local planning authority and approved in writing.
- 7) The new dwelling shall not be occupied until a vehicular access to the site has been formed and laid out, in accordance with details to be submitted to the local planning authority and approved in writing.

[END OF SCHEDULE]