



Appeal Decision

Site visit made on 18 October 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2022

Appeal Ref: APP/V1505/W/22/3292777

Bensons Farm, Wash Road, Laindon, Basildon SS15 4BP

- 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 Mr and Mrs J French against the decision of Basildon Borough Council.
 - The application Ref 21/01833/OUT, dated 8 December 2021, was refused by notice dated 1 February 2022.
 - The development proposed is described as outline planning for three detached 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application which is the subject of this appeal was made as an outline application with all matters (access, appearance, landscaping, layout and scale) reserved for future consideration. As such I have considered the appeal on this basis and any submitted plans relating to these reserved matters have been considered solely on the basis that they have been submitted for illustrative purposes.
3. In the reason for refusal, the Council find conflict with Policy GB3 of the Emerging Local Plan 2014-2034. However, this emerging plan has now been withdrawn and therefore it is not a material consideration and cannot be given weight in this appeal. The Council have not cited conflict with any other policy in the development plan and therefore the National Planning Policy Framework (the 'Framework') is the sole material consideration.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - the effect of the proposed development on the character and appearance of the surrounding area; 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

Whether it is inappropriate development

5. The appeal site is currently an unoccupied area of land adjacent to several disused farm buildings, with open and undeveloped land to the north and east and a large housing estate opposite. It is located on the edge of a suburban area and within the Green Belt. The proposal would introduce three new detached dwellings to the appeal site.
6. Paragraph 149 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Under the first section of paragraph 149 (g), these exceptions include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continued use which would not have a greater impact on the openness of the Green Belt than the existing development. The appellant has stated that the appeal site is previously developed land and the proposal would therefore fall under this exception.
7. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
8. As there are no permanent buildings on the appeal site at present, regardless of any previous development on the site and when it was removed, the addition of new buildings would have a significant spatial impact on the openness of the Green Belt due to the increase in built form. In addition, although the appeal site is largely surrounded by mature trees and hedgerows, there would still be some visibility of the proposal from Wash Road via the access and above the hedging. As such, the proposed buildings would also visually reduce the openness of the Green Belt. Therefore, there would be both a spatial and visual impact to the openness of the Green Belt from the proposed development.
9. Although the Green Belt Review submitted by the appellant finds only a moderate impact on the openness of the Green Belt, from one neighbouring property, this appears to focus solely on the visual impact with no consideration of the spatial impact. Nonetheless, this would still result in harm to the openness of the Green Belt.
10. Previously developed land is described in the Framework as land which is or was occupied by a permanent structure including the curtilage of the development land and any associated fixed surface infrastructure. Even if the land is previously developed as defined by the Framework, the proposal could not be an exception under the first section of paragraph 149 (g) due to the scheme's greater impact on the openness of the Green Belt.
11. The second section of paragraph 149 (g) makes provision for buildings which would not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. However, the application form indicates that the proposed dwellings would be market dwellings, with no other evidence to suggest otherwise.

Therefore, the proposed development would not fall under the second section of paragraph 149 (g).

12. The proposal would therefore be inappropriate development within the Green Belt.

Character and Appearance

13. Whilst the appeal site is currently open and undeveloped, it is visually separate from the wider landscape in that it is self-contained, surrounded by trees and hedging and bound by several farm buildings on one side. Views from Barleylands Road and nearby public rights of way would be partially screened by existing landscaping and would be sufficiently separated from the appeal site in terms of distance. Therefore, dependant on their scale, which is reserved for future consideration, views of the proposed dwellings would be limited to Wash Road.
14. Regardless of its scale, the proposed development would extend the built form eastward and would undoubtedly alter the existing open nature of the site. Although the proposal, for only three dwellings, is modest in nature, this would still result in a slightly more urban appearance than the existing site. However, the proposed residential use would be in keeping with the suburban residential development on the opposite side of the road. Although the dwellings would likely be a prominent addition to this side of Wash Road, they would not appear overly dominant when viewed against this neighbouring development. Furthermore, the site is sufficient in size to accommodate three dwellings comfortably and therefore the density would likely be similar to nearby development.
15. Therefore, subject to the reserved matters, three dwellings on the appeal site would have a limited visual impact on the streetscene and the wider area. As such, the proposed development would not harm the character and appearance of the surrounding area and would accord with the design objectives of the Framework. However, this is a neutral factor in my consideration of this appeal.

Other Considerations

16. The proposed development would contribute to the housing supply with three dwellings which would be in a sustainable location and could be immediately made available. However, due to the nature of the proposed development, for only three dwellings, this is a small contribution which is given moderate weight. The Council currently have a significant shortfall in housing land supply with only a 3.5 year supply recorded in their Housing Supply Statement 2021-2026. Furthermore, there are no relevant development plan policies which the Council have cited conflict with.
17. While the framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. The harm to the Green Belt identified is such that the policies in the Framework relating to the Green Belt provide that clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposal.

18. The appeal site may have been considered as an alternative site for new housing under the emerging Local Plan. However, this was ultimately discounted due to the concerns over Green Belt impacts. Therefore, comments relating to the possibility of selective development on the land is given limited weight. It is also noted that the appellant considers the appeal site previously developed land and states that the proposal would prevent encroachment onto the best agricultural land. However, irrespective of whether the land is previously developed, there is little evidence to suggest that its redevelopment would lead to less agricultural land being used for other purposes. This matter has very little weight.

Green Belt Balance and Conclusion

19. Although it would not harm the character and appearance of the area, the proposal would be inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt, and the development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
20. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraphs 147, 148 and 149 of the Framework.
21. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR