



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/22/3294531

Park Farm Dairy Site, Lee Chapel Lane, Langdon Hills SS16 5PW

- 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 Robert Baldwin against the decision of Basildon Borough Council.
 - The application Ref 21/01611/FULL, dated 29 October 2021, was refused by notice dated 13 December 2021.
 - The development proposed is the erection of an additional detached 2 bed dwelling on a site currently occupied by a 4 bed detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 However, this emerging plan has now been withdrawn and therefore it cannot be given weight in this appeal.

Main Issues

3. 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;
 - the effect of the proposed development on biodiversity; 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

4. The appeal site is an unoccupied area of land adjacent to a recently constructed dwelling. It is located at the end of the row of dwellings on Lee Chapel Lane and is within the Green Belt. The proposed development is the construction of a new single storey detached dwelling on this plot.

5. Paragraph 149 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to several 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.
6. 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.
7. As there are no permanent buildings on the appeal site at present, regardless of any previous development on the site, the addition of a new building would have a significant spatial impact on the openness of the Green Belt due to the increase in built form. In addition, although located at the end of a small and quiet road and only single storey in height, the proposal would still be highly visible from Lee Chapel Lane. 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.
8. 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.
9. 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 dwelling would be a market dwelling, with no other evidence to suggest otherwise. Therefore, the proposed development would also not fall under the second section of paragraph 149 (g).
10. The appellant has also indicated that the proposal would constitute limited infilling. Paragraph 149 (e) of the Framework lists limited infilling in villages as an exception to the restriction of new buildings within the Green Belt. Although on the edge of a settlement, the appeal site is not located within a village and forms part of the larger town of Langdon Hills and Laindon. The terms 'limited' and 'infilling' are not defined within the Framework. However, whilst a single dwelling would be a relatively limited development, due to the location of the appeal site at the end of a row of dwellings, it does not represent a gap in an otherwise developed frontage and would not represent an infill plot. Therefore, the proposed development would not fall under paragraph 149 (e).
11. The proposal would therefore be inappropriate development within the Green Belt.

Character and Appearance

12. The proposed development would be located at the end of the row of existing dwellings on the northern side of Lee Chapel Lane both adjacent to and opposite a large expanse of woodland. The appeal site is currently unoccupied and unkept, being previously used as a yard. The neighbouring dwellings on Lee Chapel Lane are varied in size and appearance, however the majority of these are relatively large two-storey properties with a pitched roof design. Although located in a relatively discreet position at the end of the road, the site and the proposed development would still be highly visible to passers-by.
13. The siting of the proposed dwelling would follow the pattern of the other dwellings on Lee Chapel Lane, with a modern design, a simple form and a use of materials which are commonly used in the local area. However, whilst a modern design is seen on many of the surrounding dwellings, the single storey, flat roof design of the proposed dwelling is not a common feature and would be out of keeping with the majority of the surrounding properties. Although the scale of the proposed dwelling would be considerably smaller than the neighbouring buildings, its unusual flat roof and boxy design would result in an incongruous feature within the streetscene and an overly prominent addition to the area. Therefore, due to its design, the proposal would not compliment or enhance the character or appearance of the site or the surrounding area.
14. Therefore, the proposed development would harm the character and appearance of the area and would conflict with Policy BAS BE12 of the Basildon District Local Plan Saved Policies (2007). This policy states that planning permission for new residential development will be refused if it causes material harm to the character of the surrounding area, including the streetscene. It would also conflict with the general design objectives of the Framework.

Biodiversity

15. Due to the location of the appeal site, adjacent to Langdon Hills nature reserve, the proposed development could impact upon protected and priority species in the area. This has been identified through consultation with the Council's ecological consultant. The appellant has suggested that a pre-commencement condition could be used to secure the provision of an ecology impact statement before the proposed development takes place. However, this is likely to require surveys to establish the presence of such species on the appeal site or in the surrounding area and the impact upon them from the proposed development. The government circular 06/2005 states that ecological surveys should be carried out before planning permission is granted and only secured by condition in exceptional circumstances. There are no exceptional circumstances in this instance and therefore it is not possible to include such a condition should planning permission be granted.
16. The Council have suggested a condition relating to a biodiversity enhancement measures. However, this is not sufficient to identify the impact of the proposed development on any protected species. Therefore, without an ecological impact assessment to suggest otherwise, the proposed development would harm local biodiversity and would be contrary to the environmental objectives of the Framework in this regard.

Other Considerations

17. The proposed development would contribute to the housing supply with a new dwelling in a sustainable location. However, due to the nature of the proposed development, as a single dwelling, 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.
18. However, 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. I consider that 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.
19. The appellant has provided a list of things which they consider amount to very special circumstances needed to permit new buildings within the Green Belt. These include the modular offsite construction of the proposed development, a reduced construction period and various environmental measures in order for the proposed dwelling to achieve net zero carbon emissions. However, these are only benefits when compared to traditional construction and energy generation methods, not the land as it is at present. Therefore, these factors are given limited weight.

Green Belt Balance

20. The proposal would be inappropriate development in the Green Belt. It would also result in harm to the character and appearance of the area and biodiversity. 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 by way of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. As well as the substantial weight that must be attached to the harm to the Green Belt, I also attach substantial weight to the potential harm to the character and appearance of the area and to biodiversity.
21. 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, and the harm to the character and appearance of the area and biodiversity. 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.

Other Matters

22. The Council have highlighted that the appeal site is located within the Thames Estuary and Marshes SPA and Ramsar site. Although not a reason for refusal, they indicate that new residential development such as the appeal proposal has the potential to cause disturbance to this European protected site through recreational pressures. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation

63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

23. For the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR