



Appeal Decisions

Site visit made on 6 December 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal A Ref: APP/V1505/W/21/3281392

Land south of New Road, Little Burstead, CM12 9TS

- 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 Marden Homes Ltd against the decision of Basildon Borough Council.
 - The application Ref 20/01313/FULL, dated 9 October 2020, was refused by notice dated 22 February 2021.
 - The development proposed is demolition of existing buildings and redevelopment of the site to provide 3 bungalows with associated amenity space, parking and landscaping.
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Appeal B Ref: APP/V1505/W/22/3295131

Land south of New Road, Little Burstead, CM12 9TS.

- 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 Marden Homes Ltd against the decision of Basildon Borough Council.
 - The application Ref 21/01162/FULL, dated 26 July 2021, was refused by notice dated 20 September 2021.
 - The development proposed is demolition of existing buildings and redevelopment of the site to provide 2 bungalows with associated amenity space, parking and landscaping
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Decision

1. Appeal A is allowed and planning permission is granted for demolition of existing buildings and redevelopment of the site to provide 3 bungalows with associated amenity space, parking and landscaping at Land south of New Road, Little Burstead, CM12 9TS in accordance with the terms of the application, Ref 20/01313/FULL, dated 22 October 2020, and the plans submitted with it, subject to the attached schedule of conditions.
2. Appeal B is allowed and planning permission is granted for demolition of existing buildings and redevelopment of the site to provide 2 bungalows with associated amenity space, parking and landscaping at Land south of New Road, Little Burstead, CM12 9TS in accordance with the terms of the application, Ref 21/01162/FULL, dated 26 July 2021, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ in the number of dwellings proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. The Council have confirmed that the site is not within the Essex Coast Zone of Influence for one or more of the European designated sites scoped in the Essex Coast Recreational disturbance Avoidance and mitigation Strategy (RAMS) and has withdrawn its second reason for refusal on APP/V1505/W/22/3295131. As a result it has not been necessary for me to carry out a Habitats Regulations Assessment

Main Issues

5. The main issue in each appeal is whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including its effects on the openness of the Green Belt and the purposes of including land in it.

Reasons

6. Policy BAS GB1 of the Basildon District Local Plan Saved Policies 2007 (LP) defines the extent of the Green Belt. Both parties accept that the site comprises previously developed land and therefore paragraph 149(g) of the Framework applies.
7. This allows for limited infilling or 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. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence.
8. A significant part of the site currently contains a range of buildings and the demolition of the existing buildings, in particular those located within the rear part of the site and the replacement with dwellings along the frontage would reduce the overall amount of development and in Appeal B would enable the rear of the site to become more open. The layout in Appeal A, however would lead to an in depth development which would not lead to an increase in openness across the rear of the site.
9. However, the proposed development, in both Appeal A and B, would result in a reduction in built floor area within the site and the overall height of the buildings would not be significantly greater than that of the tallest existing buildings. Therefore, in relation to both schemes the development would not have a greater impact spatially on the openness of the Green Belt than the existing development.
10. However, openness also has a visual aspect as well as a spatial one. In Appeal A the proposed dwellings would be positioned with a single dwelling along the road frontage, with two dwellings set behind, served from a single access point. In Appeal B, the two dwellings would be located along the frontage of the site, comparable to the pattern of development in the locality, the majority of which are bungalows or chalet bungalows, similar to that proposed.
11. Currently the buildings to the rear of the site are of a lower height and individually have a minimal footprint, with the exception of buildings F, G & L. However, taken together they do encompass the majority of the rear portion of the site. Therefore, whilst in-depth development is not a feature of the locality

the development as proposed in Appeal A would not have a greater impact visually on the openness of the Green Belt.

12. With regard to Appeal B, whilst the height of these frontage plots would be greater than the height of the existing buildings at the rear of the site, they would be comparable to the neighbouring dwellings. Furthermore, any increase in height across the overall site would be off set by the reduction in built form across the depth of the site. The proposed scheme would follow the pattern of other development along New Road and would be seen within the context of these existing neighbouring dwellings. As a result the proposed dwellings in Appeal B would not be visually intrusive.
13. Therefore, I conclude that the development in Appeal A & B would not be inappropriate development in the Green Belt and as such it should not be regarded as harmful to the purposes of including land within it and is in accordance with the Framework. The proposal would also comply with saved policy BAS GB1 of the LP.

Other Matters

14. I have also taken into account the matters raised in the representations received including issues such as highway safety, flood risk and the potential for noise and disturbance. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees in regard to these matters. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Conditions

15. The Council has suggested conditions which I have considered against the advice in the Framework and Planning Practice Guidance. As I have imposed the same conditions on both appeal A and B the following reasons apply to both decisions.
16. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is carried out in accordance with the approved plans and a condition to prevent the implementation of both schemes, both these conditions are required to provide certainty.
17. In order to ensure an appropriate level of on-site parking provision for vehicles, I have imposed a condition requiring space to be provided prior to occupation of the dwellings and retained for the life of the development.
18. To ensure that any unexpected contaminants are correctly identified and remediated to ensure that the future users of the site are protected from risks associated with contaminants it is necessary to require an assessment of the risks posed and details of remediation.
19. The submission and implementation of a construction management plan is necessary to minimise detrimental effects to the living conditions of neighbouring residents.
20. To protect and enhance biodiversity I have found it necessary to impose a condition requiring the mitigation outlined in the Preliminary Ecological Appraisal to be carried out, details of enhancements to be submitted and

agreed and to limit the effects of external lighting by ensuring details are submitted and agreed.

21. There have been archaeological finds within the vicinity of the site and therefore, it is reasonable that an assessment of the archaeological potential of the site is a requirement secured by condition.
22. The submission of details or samples of the external materials to be used in the construction of the dwellings will protect the character and appearance of the development.
23. Whilst conditions restricting the future use of permitted development rights will not often pass the test of reasonableness or necessity, in this instance it is necessary to remove permitted development rights for works that could cumulatively or individually fail to preserve the openness of the Green Belt.
24. Finally in order to ensure that any trees within the site are protected during construction I have imposed a condition to ensure the works are carried out in accordance with the submitted arboricultural statement.

Conclusion

25. I therefore conclude that both Appeal A and Appeal B would accord with the development plan as a whole and, as other material considerations do not indicate a decision to the contrary, that both Appeal A and Appeal B should be allowed.

G Pannell

INSPECTOR

Appeal A – Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001.00 Site Location Plan; 002.00 Block Plan; 005.00 Overlay Plan; 300.00 Proposed Site Plan; 310.01 Proposed Street Scene; 305.00 Proposed Bungalow Layout.
- 3) The development to which this planning permission relates shall not commence if any part of the development for which planning permission was granted by the Secretary of State under appeal reference APP/V1505/W/22/3295131 and pursuant to planning application reference no. 21/01162/FUL is already commenced.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works to ensure that no materials produced as a result of site development clearance are burned on site;
 - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No dwelling shall be occupied until space has been laid out within the site for at least 2 cars to be parked, each space with a minimum dimension of 2.9m by 5.5m. Those spaces shall thereafter be kept available at all times for the parking of vehicles.
- 6) No demolition/development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and
 - the programme and methodology of site investigation and recording;
 - the programme for post investigation assessment;
 - the provision to be made for analysis of the site investigation and recording;
 - the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - the provision to be made for archive deposition of the analysis and records of the site investigation;

- the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 7) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 5.
 - 8) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.
 - 9) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
 - 10) The scheme for the protection of the retained trees, as set out with the submitted Arboricultural report dated 30 September 2020 and Tree Protection Plan, shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
 - 11) Any works affecting trees on-site must be completed outside of the UK breeding season for most bird species, February/March – September. If this is not possible then all vegetation suitable for breeding birds should be checked for active nests no more than 48 hours before vegetation clearance or the commencement of any site works. In the event that active nests are identified, works in the vicinity of the nest must cease until the birds have fledged the nest.
 - 12) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

- 13) A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority before the development is constructed above slab level. The scheme shall include the following:
- purpose and conservation objectives for the proposed enhancement measures;
 - the hedgerow and adjacent habitat along Green Lane will need further investigation to provide mitigation measures for bats;
 - detailed designs to achieve stated objectives;
 - locations of proposed enhancement measures by appropriate maps and plans;
 - persons responsible for implementing the enhancement measures;
 - details of initial aftercare and long term maintenance.

The development shall be carried out in accordance with the approved details and thereafter retained.

- 14) No development shall be occupied until details of any external lighting have been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the approved details and thereafter retained.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure, within the curtilage of the approved dwellinghouses, shall be erected other than those expressly authorised by this permission.

Appeal B – Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001.00 Site Location Plan; 002.00 Block Plan; 005.00 Overlay Plan; 300.00 Proposed Site Plan; 305.00 Proposed Bungalow Floor Plans and Elevations; 310.00 Proposed Street Scene.
- 3) The development to which this planning permission relates shall not commence if any part of the development for which planning permission was granted by the Secretary of State under appeal reference APP/V1505/W/21/3281392 and pursuant to planning application reference no. 20/1313/FULL is already commenced.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works to ensure that no materials produced as a result of site development clearance are burned on site;
 - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No dwelling shall be occupied until space has been laid out within the site for at least 2 cars to be parked, each space with a minimum dimension of 2.9m by 5.5m. Those spaces shall thereafter be kept available at all times for the parking of vehicles.
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- the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
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