



Appeal Decision

Site visit made on 10 January 2023

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023

Appeal Ref: APP/V1505/W/22/3298089

Charlotta, Canford Avenue, Wickford SS12 0JN

- 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 D Brackett against the decision of Basildon Borough Council.
 - The application Ref 21/00935/FULL, dated 11 June 2021, was refused by notice dated 29 November 2021.
 - The development proposed is described as 'proposed development comprising the demolition of existing residential building, and erection of a new dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In order to address part of the Council's second refusal reason, a Preliminary Ecological Appraisal and Preliminary Roost Assessment (PEA) was submitted with the appeal documents. Although the Council has not provided an appeal statement or otherwise provided comments on the PEA, the Council and interested parties have had an opportunity to consider it during the appeal process. I have therefore taken it into account in making the decision.
3. A draft unilateral undertaking was also submitted with the appeal in an attempt to mitigate the potential effects of the development on the integrity of 'habitats sites', which is a term described in the glossary to the National Planning Policy Framework (Framework). I return to this matter later in the decision.

Main Issues

4. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on ecology; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

5. The site includes the remains of a small single storey building that appears to be collapsing and a caravan that is missing a door and in a state of disrepair. Neither are suitable for human occupation, but the site constitutes previously developed land due to the presence of the building. Various paraphernalia such as cooking equipment and building materials were evident near the building and the caravan. Otherwise, the site features uneven ground covered in vegetation and is bound by fencing. Additionally, several trees are located near its front boundary with Canford Avenue.
6. The area is identified as 'plotlands', with the uses of the plots varying considerably. Some appear undeveloped, others seem to be paddocks or used for recreational purposes, and many are occupied by structures or buildings including dwellings. The plots and the roads between and around them have a grid-based layout. The character of the roads differs, with some featuring fairly consistent rows of bungalows or houses and others including more sporadic residential development. There are also varied but mostly high proportions of tree and vegetation cover throughout the area.
7. The site is located next to a property named Happy Haven which features a single storey bungalow. It is also located beside a plot named The Paddocks, which is adjacent to a junction between Canford Avenue and Studland Avenue and accessed from the former. The Paddocks features a small single storey timber building, a few other small buildings and a caravan. Next to that plot is one named The Stables, which is principally hard surfaced but features what appears to be a small shed. The land to the site's rear is mostly wooded with no buildings near the shared boundary. There are several properties along Canford Avenue that in most cases are presented as single storey bungalows when viewed from the highway. However, not all plots feature dwellings or other buildings, with a break in built form roughly halfway along the road.
8. It is common ground that the site is located within the Green Belt. The Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. However, one of the exceptions to this is limited infilling in villages, as set out by paragraph 149(e) of the Framework. Definitions of 'village', 'infilling' or 'limited infilling' are not included in the Framework. Additionally, the main parties have not identified the extent of settlement boundaries designated in the development plan. However, as identified by the appellant with reference to case law, such boundaries may not necessarily be determinative. Instead, whether development would accord with the exception is essentially a question of fact and planning judgement for the decision maker.
9. The site is not enclosed on all sides by development as there is none nearby to the rear. Additionally, there is a limited amount of small scale development in The Paddocks overall. Although Happy Haven forms part of a short row of plots including dwellings, having regard to the extent of that row, the break in built form next to it, and the amount of development at The Paddocks, I find that the proposal would not infill an obvious gap in an otherwise continuous built up frontage. Furthermore, the proposed two storey chalet style property would be considerably larger in footprint and height than the buildings and structures adjacent to the site at The Paddocks and The Stables. It would also be taller

than the bungalow at Happy Haven. Although there are larger buildings in the wider plotlands area, they have a far weaker relationship with the named properties due to their distance from the site. Accordingly, even if the proposal would be infilling, the scheme would not constitute limited infilling in the context of its surroundings. It is therefore unnecessary to consider whether the site is in a village, as the scheme nevertheless falls outside the exception at paragraph 149(e) of the Framework.

10. The proposed dwelling would be substantially larger than the existing building and caravan on site in terms of its footprint, height and volume. Additionally, the dwelling would be set closer to Canford Avenue, extend across most of the plot's width, and block views through the site to the wooded area to its rear. Landscape screening through existing and supplementary trees and vegetation would do little to offset the effects of the development. Consequently, the proposal would have a moderate adverse impact on the openness of the Green Belt spatially and visually. The Council has not argued that the proposal conflicts with the purposes of including land within the Green Belt and I see no reason to conclude otherwise, but the development would nonetheless be harmful for the reasons identified.
11. The appellant acknowledges that the development would also fall outside the exceptions to inappropriate development identified in parts (d) and (g) of paragraph 149 of the Framework. For the reasons stated above, the proposed dwelling would be materially larger than the building it would replace and have a greater impact on the openness of the Green Belt than the existing development. No other exceptions are relied upon. The proposal is thus inappropriate development in the terms of the Framework.
12. Additionally, the Council's decision notice refers to Policy BAS GB3 of the Basildon District Local Plan Saved Policies document (LP). It sets out that proposals involving replacement dwellings in the Green Belt will be allowed subject to several criteria. Notably, one criterion sets maximum height limits for development in plotland areas. Furthermore, LP Policy BAS GB5 defines what is meant as a dwelling for the purposes of applying Policy BAS GB3. Amongst other things, dwellings should be permanent substantial structures, provide adequate shelter and contain basic facilities for living. It is common ground that the site was previously in residential use but been abandoned. Neither the building nor the caravan provide adequate shelter or basic living facilities. LP Policy BAS GB3 is therefore not directly relevant to this appeal but, even if it was, its maximum height limit criteria would be exceeded and thus the proposal would conflict with it.

Ecology

13. The PEA includes the findings of desk and field surveys. It explains that the site previously included dense scrub with scattered trees that have been recently removed. Nevertheless, it indicates that the development would not be harmful to protected species or habitats subject to mitigation measures. No evidence to the contrary has been advanced. Furthermore, the PEA puts forward opportunities for habitat creation and enhancement within the site. Based on the information before me, I see no reason to conclude that it would not be possible to secure the delivery of biodiversity net gain.
14. If I were minded to allow the appeal, I would need to consider any effect of the proposal on habitats sites and whether the draft unilateral undertaking would

be effective in securing mitigation if needed. However, even if I were to conclude that there would be no adverse effect on habitats sites, this would be a neutral consideration rather than a benefit in favour of the scheme.

15. Notwithstanding any potential impacts on habitats sites, the proposal would have a satisfactory effect on ecology. In this respect it accords with Chapter 15 of the Framework, which states that development should minimise impacts on and provide net gains in biodiversity alongside other things.

Other considerations and whether very special circumstances exist

16. Paragraph 148 of the Framework explains that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
17. The appellant has provided uncontested evidence which indicates that the Council can only demonstrate around 3.5 years housing land supply. Additionally, the Council's latest Housing Delivery Test results show that 41 percent of the required number of homes have been delivered over the assessment period. I also note that the Framework seeks to significantly boost the supply of homes. Nevertheless, the use of the previously developed land would make a limited contribution to the supply and delivery of housing given that just one dwelling would be provided. Accordingly, the proposed provision of housing is a benefit of modest weight in favour of the development.
18. In addition, notwithstanding the impacts on the openness of the Green Belt, the proposal would somewhat improve the appearance of what is described by the appellant as a derelict and untidy site. Furthermore, having regard to the limited amount of development proposed, there would be limited benefits from the construction of the scheme in economic terms, and potentially from biodiversity net gain and ecological enhancements.
19. It is contended that much of the borough is within the Green Belt and that development of the site would not be as harmful as the development of a wholly greenfield site elsewhere in the borough. Whilst it may be the case that development elsewhere may be more harmful in many cases, this does not indicate that the borough's needs can only be met through development at this site. These matters therefore attract negligible weight.
20. The Council refers to an emerging local plan in its officer's report. However, the appellant has highlighted that it has been withdrawn. I have no reason to doubt this and thus it does not factor into my assessment.
21. Taken together, there are other considerations in this case that weigh modestly in favour of the development. However, the proposal would be inappropriate development in the Green Belt, which is harmful by definition. There would also be moderate harm to the openness of the Green Belt. Paragraph 148 of the Framework explains that any harm to the Green Belt attracts substantial weight. Overall, the other considerations raised do not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify development in the Green Belt do not exist.
22. The only relevant development plan policy that has been provided is LP Policy BAS BE12, which sets out design criteria for new development. The Council does not allege that the proposal conflicts with that policy. On that basis the

proposal accords with the development plan. However, the presumption in favour of sustainable development as set out by paragraph 11(d) of the Framework is applicable, meaning the most important development plan policies for determining the appeal are deemed out-of-date, due to the Council's housing supply and delivery position. In this case, the policies in the Framework that protect the Green Belt provide clear reasons for refusing the development.

23. Moreover, irrespective of my findings as to the application of the presumption in favour of sustainable development, in terms of my duty under Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposal's conflict with the Framework in respect of the Green Belt is a very important consideration which indicates that permission should be refused.

Conclusion

24. For the reasons given above, the appeal is dismissed.

Mark Philpott

INSPECTOR