



Appeal Decision

Site visit made on 21 February 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/V1505/W/22/3306165

Hygro Farm, Kennel Lane, Billericay CM11 2SU

- 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 Blue Door Homes Ltd against the decision of Basildon Borough Council.
 - The application Ref 21/01814/FULL, dated 9 December 2021, was refused by notice dated 27 May 2022.
 - The development is described as “proposed redevelopment of a site currently occupied by commercial barns to create 5 dwellings with associated parking and landscaping”.
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Decision

1. The appeal is allowed, and planning permission is granted, for the proposed redevelopment of a site currently occupied by commercial barns to create 5 dwellings with associated parking and landscaping at Hygro Farm, Kennel Lane, Billericay CM11 2SU in accordance with the terms of the application, Ref 21/01814/FULL, dated 9 December 2021, subject to the conditions in the schedule to this decision.

Procedural Matters

2. The appellant’s name in the planning application form was ‘c/o agent’. Therefore, I have confirmed the appellant’s name which is displayed in the banner heading above.
3. The appeal site was subject to a previous appeal¹ for three dwellings that was allowed. I have had regard to this appeal insofar as it may be relevant to the proposed development.

Main Issues

4. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF), including the effect upon the openness of the Green Belt; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

¹ Appeal Reference APP/V1505/W/18/3216123

Reasons

Whether Inappropriate Development in the Green Belt

5. The part of the appeal site where it is proposed to site the dwellings is located in the Green Belt, while the access road is outside. The NPPF identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the NPPF explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. It is uncontested by the main parties that the appeal site comprises previously developed land and that it should be considered against the first strand of exception (g) of paragraph 149 of the NPPF, which relates to the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. From the information before me, I would agree.
7. The appeal site contains two former agricultural barns, which on the evidence before me are in commercial use and are positioned within the northernmost part of the site. In addition to the buildings there is a lorry body. The buildings, together with the lorry body, occupy a substantial part of the site, with much of the remainder of the site hard surfaced. The proposal is for the construction of five dwellings; two pairs of semi-detached two-storey dwellings, and one detached two-storey dwelling. The dwellings would be positioned around an access road, with each dwelling having a front and rear garden and two parking spaces. The detached dwelling would have a single storey detached garage. Two visitors' parking spaces would also be included within the site.
8. Using the appellant's figures (which have not been disputed by the Council), the proposed buildings would have a smaller footprint and volume than the existing development. The height of the proposed dwellings would be 0.9m higher than the existing buildings, which according to the Council, would not be a significant increase in height. The creation of gardens would result in a significant reduction in the amount of hardstanding and a greater amount of soft landscaping. In spatial terms, the proposed development would increase the Green Belt's openness.
9. The proposed development would be sited to the rear of those dwellings that front onto Church Street and Kennel Lane. The proposed development would be glimpsed through the access road from the junction of these two roads. However, the existing agricultural sheds are also visible from the street. Open fields are located to the rear of the site, with no footpaths sited in close proximity. Viewed from these open fields, the proposed dwellings would be seen against a backdrop of the existing housing fronting Church Street and Kennel Lane. While the height of the proposed dwellings would be greater than the existing buildings, it would not be unacceptably discernible from the public realm.
10. In reference to the first main issue, the proposed development would not have a greater impact on the openness of the Green Belt in both visual and spatial terms than the existing development and therefore it would not comprise

inappropriate development in the Green Belt. The proposed development would comply with the exception set out in paragraph 149(g) of the NPPF.

Character and Appearance

11. The dwellings fronting onto Church Street and Kennel Lane have a varied character, scale and appearance, but are predominantly detached and semi-detached, with different plot shapes and sizes. The proposed dwellings would also comprise detached and semi-detached dwellings and would be arranged around a central access road. Each dwelling would be set within a plot that would be smaller than some in the surrounding area, but comparable to others. The proposed dwellings and their layout would reflect the character and appearance of the suburban housing development of the surrounding area.
12. The Council has referred me to a recent planning application that was allowed on appeal² for the construction of three dwellings on the appeal site. I have not been provided with the approved plans for a full comparison to be made between the two schemes. However, from the information before me, it would seem that the allowed scheme comprised one pair of semi-detached dwellings and one detached dwelling arranged in an L-shape. The dwellings were 1.5 storeys in height with the second storey contained within the roofspace and served by dormer windows.
13. The siting of the dwellings in the allowed scheme would result in a large block of development occupying almost the full width of the appeal site, with little separation between the detached and semi-detached dwellings. In contrast, the proposed development would have a more spacious and open character. This is supported by the appellant's figures in Table 1 of their appeal statement (not disputed by the Council) that demonstrate the proposed development would have the same footprint and volume as the allowed scheme and would have less hardstanding and more soft landscaping. The proposal would therefore not harm the character and appearance of the area, notwithstanding that it is different to the allowed scheme.
14. The allowed scheme is said to reflect a more rural farmhouse style and appearance with a more organic layout that would be sympathetic to the design of the existing commercial barns on the site. However, the site is immediately adjacent to the built-up area of Great Burstead and therefore it would not be unsympathetic for the proposal to reference this rather than a more rural design. Furthermore, the proposed exterior walls of the proposed dwellings would be constructed of dark horizontal weatherboarding that would be rural in appearance and would be compatible with the surrounding built form.
15. In reference to the second main issue, the proposed development would not cause harm to the character and appearance of the surrounding area and would therefore not conflict with Policy BAS BE12(i) of the Basildon District Local Plan Saved Policies, adopted 2007 which, amongst other things, seeks to prevent new residential development if it would harm the character of the surrounding area, including the street scene. The proposal would also comply with paragraphs 126, 130, 134 of the NPPF that seek to achieve well designed places.

² Appeal reference APP/V1505/W/18/3216123

Other Matters

16. In reaching this view, I have had regard to the comments of interested parties. In respect of the access onto the junction of Church Street and Kennel Lane, Essex County Council Highways and Transportation do not consider the proposal would be detrimental to highway safety and they note that there have been no recorded incidents associated with the use of the existing access. From the information before me, I have no reason to form an alternative view.
17. The proposed development would utilise an existing access and its former use for commercial purposes would have involved the coming and going of vehicles. Therefore, any potential issue of vehicles affecting the living conditions of the occupiers of neighbouring properties would not be so different so as to lead to unacceptable harm. Any noise or disturbance associated with the proposed development would, in my view, be akin to that experienced from existing neighbouring properties. While the construction phase of the development could potentially be disruptive, it would be short-term, and some effects can be mitigated by way of condition relating to a Construction Method Statement.
18. Concern has been raised regarding flooding and drainage matters. The appeal site is within Flood Zone 1 and therefore has a low probability of flooding. The removal of a large quantity of hardstanding from the appeal site, its replacement with gardens and soft landscaping, and the use of permeable hard surfacing, is also likely to reduce surface water run-off. Furthermore, comments regarding the over-capacity of the existing sewerage and surface water drainage are unsubstantiated by any compelling evidence.
19. Whether the landowner chose to stop renting the barns is not a matter for the consideration of this appeal. Thus, none of these other considerations, on their own or in combination, alter my view to allow the appeal.

Conditions

20. I have had regard to the conditions suggested by the Council and the tests for conditions set out within the NPPF. As a result, I have made amendments to some of the conditions in the interests of clarity, precision and to avoid repetition. In addition to the standard condition, which relates to the commencement of development, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
21. Conditions in respect of materials are necessary to ensure the appearance of the development would be satisfactory. However, it is not necessary for the trigger for the condition to be 'prior to the commencement of development' as the materials only need to be agreed prior to their use. Therefore, I have altered this condition accordingly. Conditions in respect of the construction of the access and the vehicle turning facility are necessary for highway safety reasons. A Construction Method Statement is also necessary to protect the living conditions of the occupiers of neighbouring properties.
22. Hard and soft landscaping proposals were submitted as part of the planning application, with the Council's Arboricultural & Grounds Maintenance Officer stating they were happy with the choice of species. Furthermore, the Council has failed to detail why these proposals are unacceptable or why they seek to impose a landscaping condition. The landscape proposals before me and

secured as part of the approved plans condition would complement the character and appearance of the proposed development and the surrounding area and therefore the landscape condition should be amended to make reference to the submitted drawings.

23. Conditions in respect of contamination are required due to the former use of the site. The appellant has undertaken a desk-top study³ which identified potential sources of contamination and recommended that a Phase 2 Intrusive Investigation be completed. On this basis, the first part of the Council's recommended condition is not necessary.
24. The Council has requested the removal of permitted development rights within Classes A – C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to retain control over future extensions, roof alterations and additions to a roof. I am allowing the appeal on the grounds that the proposal would not have a greater impact on the openness of the Green Belt. Further extensions and roof additions could undermine this and therefore I consider a condition removing Classes A and B would be reasonable. However, roof alterations under Class C would not cause harm to the openness of the Green Belt and therefore its removal would be unreasonable.
25. In addition to those conditions suggested by the Council, I note that consultees have requested additional conditions. In respect of those from Essex County Council Highways and Transportation, a condition requiring two parking spaces to be provided for each dwelling and for them to be constructed of a size that would comply with current parking standards is considered necessary on highway safety grounds. However, I have amended this condition to include a trigger and to ensure that the spaces are maintained free of obstruction.
26. Requirements that the first 6m of the access is constructed in a bound material and that there should be no discharge of surface water onto the highway are also necessary on highway safety grounds, however, I have amalgamated these with another condition in respect of the access. The requirement for a condition requiring a Residential Travel Information Pack for sustainable transport is necessary to promote more sustainable forms of travel.
27. A condition requiring the development to upgrade the existing bus stops on Church Lane involves works outside the site edged red and therefore would require an appropriate mechanism for securing them, which I have not been provided. Notwithstanding this, it is not directly related to the proposed development or fairly and reasonably related in scale and kind to the development, and therefore such a request would be unreasonable.
28. In respect of those from the Council's Environmental Health Services, conditions to control construction hours and dust are duplicated within the requirements of the Construction Method Statement. A restriction on the burning of materials on site is dealt with by separate legislation and therefore would be unreasonable. The dwellings are located adjacent to a built-up residential area and open fields with no obvious signs of exceptionally busy roads or noise-generating sources located close-by. Therefore, a condition in

³ Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment, produced by Brown 2 Green Associates Ltd, dated October 2021

respect of a noise insulation scheme for the proposed dwellings over and above Building Regulation requirements is unreasonable.

29. The appellant has confirmed they are agreeable to the imposition of the pre-commencement conditions in respect of contamination and a Construction Method Statement.

Conclusion

30. The proposal would not be inappropriate development in the Green Belt as it would not have a greater impact on the openness of the Green Belt than the existing development. As such, there would be no harm caused to the Green Belt by the proposal and therefore it has not been necessary for me to consider whether very special circumstances exist. Furthermore, the proposed development would not result in harm to the character or appearance of the surrounding area.
31. The proposal would comply with the development plan, when read as a whole. Material considerations, including the NPPF do not indicate that a decision should be made other than in accordance with the development plan.
32. Having considered all other matters raised, I therefore conclude that the appeal should be allowed.

A Berry

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall only be carried out in complete accordance with the following approved plans:
 - 20.7905.100 Rev A
 - 20.7905.101 Rev D
 - 20.7905.120 Rev A
 - 20.7905.121 Rev A
 - 20.7905.122 Rev A
 - 20.7905.123 Rev A
 - 20.7905.124 Rev A
 - 20.7905.125 Rev A
 - 20.7905.126 Rev B
 - 20.7905.127 Rev B
 - 20.7905.128
- 3) Prior to development above slab level, details of the materials to be used in the construction of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 4) All planting, seeding and turfing as shown on drawings JBA 21/229.01 Rev A, JBA 21/229.02 and JBA 21/229_03 Rev A shall be carried out in the first planting and seeding season following the occupation of the dwellings, or the completion of the development, whichever is sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species by the developers or their successors in title unless the local planning authority gives written consent to any variation. All hard landscaping as shown on drawings JBA 21/229.01 Rev A, JBA 21/229.02 and JBA 21/229_03 Rev shall be completed prior to the occupation of the dwellings, or the completion of the development, whichever is sooner.
- 5) Prior to the commencement of development, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed, taking into account the site's existing status and proposed new use. A copy of the site investigation and findings shall be forwarded to the local planning authority upon completion.
- 6) Prior to the commencement of development, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site, shall be submitted to and approved in writing by the local planning authority and all requirements shall be implemented and completed to the satisfaction of the local planning authority. No deviation shall be made from this scheme without the express written agreement of the local planning authority.

If during redevelopment contamination not previously considered is identified, then the local planning authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and approved in writing with the local planning authority.

- 7) Following the completion of measures identified in the remediation scheme, one copy of a full closure report shall be submitted to and approved in writing by the local planning authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved method statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met. The closure report shall include a completed certificate, signed by the developer, confirming that the required works regarding contamination have been carried out in accordance with the approved written method statement.
- 8) Prior to the first occupation of any of the dwellings hereby approved, the access road shall be constructed to a width of 5.5 metres in a bound material for at least the first 6 metres from the back edge of the footway, as shown on drawing 20.7905.101 Rev D, and shall be provided with an appropriate dropped kerb crossing of the footway and highway verge. There shall be no discharge of surface water onto the highway.

- 9) Prior to the occupation of any of the dwellings hereby approved, a vehicular turning facility, as shown on drawing 20.7905.101 Rev D shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- 10) Prior to the occupation of any of the dwellings hereby approved, each dwelling shall be provided with a minimum of two parking spaces, as detailed on drawing 20.7905.101 Rev D. Each parking space shall have minimum dimensions in accordance with the Council's current parking standards. The parking spaces shall be maintained free from obstruction within the site at all times for that sole purpose.
- 11) Prior to the occupation of any of the dwellings hereby approved, the developer shall be responsible for the provision and implementation of one Residential Travel Information Pack for each dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- 12) Prior to the commencement of development, including any ground works or demolition, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include:
 - i. construction traffic management.
 - ii. the parking of vehicles of site operatives and visitors.
 - iii. details of access to the site.
 - iv. loading and unloading and the storage of plant and materials used in constructing the development.
 - v. the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate.
 - vi. wheel washing facilities.
 - vii. measures to control the emission of noise, dust and dirt during construction.
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works.
 - ix. details of a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer's representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any Order revoking and re-enacting that Order with or without modification), any extensions or roof additions under Schedule 2, Part 1, Classes A and B shall not be undertaken.
- 14) The new hard-surfaced areas provided within the site shall be constructed of permeable materials.

*****End of Conditions*****