
Appeal Decision

Site visit made on 28 February 2023

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/V1505/W/22/3304975

Land rear of The Hyde, Glebe Road, Ramsden Bellhouse, Billericay, Essex, CM11 1RL

- 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 Webb against the decision of Basildon Borough Council.
 - The application Ref 22/00422/FULL, dated 22 March 2022, was refused by notice dated 21 June 2022.
 - The development proposed is 5no. dwellings, construction of access road via Orchard Avenue and formation of wildlife and biodiversity park including existing lake enlargement.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I received copies of correspondence between the Council and the appellant in respect of a contribution towards affordable housing. This is not a requirement of the Council policy for a scheme of five dwellings. I have disregarded this matter and it forms no part of this decision.

Main Issues

3. The appeal raises the following issues:
 - The effect of the proposals on the Green Belt, including any effects on openness and the purpose of including land within it,
 - The effect of the proposal on the character and appearance of the area,
 - The effect of the proposal on designated sites and priority species,
 - Whether or not the proposal would increase flood risk to surrounding areas, and
 - Whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations such as to provide the very special circumstances, required to justify development in the Green Belt.

Reasons

Green Belt

4. The Government attaches great importance to Green Belts and identifies that their fundamental aim is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and substantial weight should be given to that harm.
5. Although there is no definition of 'openness' within the National Planning Policy Framework (the Framework), the Government's Planning Practice Guidance (PPG) refers to assessments of openness as being informed through consideration of spatial and volumetric aspects, the duration of the development and the degree of activity likely to be generated.¹
6. The appeal site comprises agricultural land lying on the northern edge of Ramsden Bellhouse, a large village. It shares a common boundary with detached residential dwellings. Given its location development on this site cannot be regarded as infill development, defined as an exception under Paragraph 149 of the Framework.
7. The proposed scheme is for five detached dwellings and includes the formation of a wildlife and biodiversity park including the enlargement of an existing lake. The appeal scheme involves an extension of development beyond the existing settlement boundary directly into the countryside. This would have spatial and visual impacts on the site.
8. The Council's decision letter refers to policies BAS BE12 and BAS BE13 which seek to ensure that development is acceptable to its surrounding and accords with specific guidelines for Ramsden Bellhouse regarding matters such as plot and frontage size. The decision also refers to paragraphs of the Framework regarding design and Green Belt matters.
9. Paragraph 148 of the Framework states that in consideration of planning applications, substantial weight should be given to any harm to the Green Belt. The appeal site makes an important contribution to Green Belt Purposes, being largely undeveloped and open. The appeal scheme would result in a loss of openness in both spatial and visual terms.
10. The inclusion of five detached houses in this scheme would introduce development which would be inappropriate in the Green Belt. Although the two policies referred to by the Council in its first reason for refusal do not relate specifically to Green Belt matters there are references to the Framework which is an important material consideration in this decision.
11. I conclude that the appeal scheme is inappropriate development which would impact on the openness and permanence of the Green Belt in conflict with the policies of the Framework.

Landscape character and appearance

12. The proposed dwellings would comprise five detached 2 storey dwellings which would extend from the rear of Orchard Avenue into open countryside.
13. Policies BAS BE12 and BAS BE13 seek to resist development which would result in harm to the character of the surrounding area with specific policies for Ramsden Bellhouse focussed on minimum plot frontages with bungalows and

¹ Reference ID: 64-001-020190722

chalets only normally permitted. This is designed to preserve the low density and spacious character of the existing development within the settlement.

14. Development in the surrounding area broadly accords with adopted policies. In contrast the introduction of five large detached dwellings with ridge heights of around 8.5-9.6 metres in an area which is open would contrast significantly with the prevailing character of the surrounding area. This would result in harm to the existing character and appearance of this area.
15. For this reason, I conclude that the appeal scheme conflicts with Policies BAS BE12 and BAS BE13 of the Basildon District Local Plan resulting in harm to the character and appearance of the local area.

Designated site and protected species

16. In 2018, the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage².
17. The appeal site falls within the Zone of Influence of the Essex Coastal Recreational Avoidance and Mitigation Strategy. This requires that appropriate mitigation in line with the strategy is submitted which would normally be in the form of a planning obligation submitted with the appeal. Although the appellant has indicated that they would expect to pay this, no obligation is before me.
18. Although the responsibility of completing an Appropriate Assessment falls to me, as I am dismissing this appeal, I do not have to complete this exercise.
19. In conclusion, in the absence of a planning obligation I find that the scheme conflicts with Paragraphs 181 and 182 of the Framework.

Flood Risk

20. The appeal is accompanied by a flood risk assessment (FRA) for a scheme for ten dwellings on which the LLFA issued a 'holding objection'.
21. Given the difference between the size of the appeal scheme before me and that referred to in the FRA, it is unclear how flood risk would be reduced and surface water managed.
22. For this reason, I conclude that it is unclear how these matters could be addressed as required by the Framework.

Whether exceptional circumstances apply to justify development in the Green Belt

23. The appellant's statement includes a range of matters cited as providing exceptional circumstances required to allow housing in the Green Belt. These include officer level support, the 2017 SHLAA and HELAA and that the site was included in the 'call for sites' for the Local Plan which has been subsequently withdrawn.
24. I recognise that the scheme includes the formation of a biodiversity and wildlife park but this does not provide the very special circumstances to justify housing in the Green Belt.

² People Over Wind and Peter Sweetman v Collite Teoranta ECJ (2018) C-323/17

25. None of the other matters referred to by the appellant amount to the very exceptional circumstances required to warrant the development of inappropriate development in the Green Belt. I therefore conclude that the appeal scheme conflicts with the policies of the Framework.

Planning Balance

26. Both parties recognise that there is a severe deficit of housing land as required by the Framework. These circumstances, together with the age of the most important policies, deems that they are out of date. The tilted balance is not invoked, however, because the Framework at Paragraph 11d(i) and footnote 7 protects both areas and assets of particular importance, which include the Green Belt and habitat sites such as the those on the Essex Coast and these each provide a clear reason to dismiss the appeal.
27. The fact that policies have to be considered as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 219, which amongst other things, states that the closer that local policies are to policies in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date for reason of an inadequate land supply to still carry significant weight.
28. Policies BAS BE12 and BAS BE13 are broadly consistent with the Framework policies included in Paragraphs 125 which seek to ensure that development is broadly sympathetic to its surroundings. Accordingly, I attach significant weight to the conflict between these policies and the appeal scheme.
29. The appeal scheme would partly address the local housing land supply issue and result in a limited number of construction jobs and a marginal increase in spend in local services. However, set against these benefits would be harms to the Green Belt including definitional harm, that is harm to its essential purposes and harm to openness arising from the proposed scheme. The inclusion of open space and the extended lake is insufficient to overcome this. No exceptional circumstances have been identified which could allow the scheme to proceed.
30. Overall, I conclude that the harm caused in this case would significantly and demonstrably outweigh the benefits identified when assessed against the policies in the Framework taken as a whole. As such the proposed development does not benefit from the Framework's presumption in favour of sustainable development.
31. Bearing all of the above in mind, there are no material considerations, including the Framework, that would indicate that the decision in this case should be taken otherwise than in accordance with the Development Plan. Accordingly, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Stephen Wilkinson

INSPECTOR