



Appeal Decision

Site visit made on 20 September 2023

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal Ref: APP/V1505/W/23/3314714

Land South Side, Dry Street, Basildon, SS16 5LT

- 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 Pymont Homes Ltd against the decision of Basildon Borough Council.
 - The application Ref 22/01431/FULL, dated 5 October 2022, was refused by notice dated 28 December 2022.
 - The development proposed is 5 no. new bungalows.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - Whether the proposed dwellings would be inappropriate development within the Green Belt and, if so, whether other considerations clearly outweigh the harm to the Green Belt and any other harm, so as to amount to very special circumstances;
 - The effect on openness and on the character and appearance of the area;
 - The effect of the proposed dwellings on the integrity of Thames Estuary and Marshes Special Protection Area.

Reasons

Whether inappropriate development

3. Policy BAS GB1 of the Basildon District Local Plan defines the extent of the Green Belt, which includes the appeal site. It also falls within the Northlands plotlands area. The National Planning Policy Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate unless one of the specified exceptions applies. These include limited infilling in villages.
4. Dry Street runs to the south of Basildon between the hospital and Langdon Hills passing through open countryside. There are some properties spread along its length but in general it has the character of a rural lane. There is a greater concentration of development in the vicinity of the appeal site including frontage development along Dry Street and the housing in Thames View and other streets. However, this comprises a modest and separate collection of dwellings interspersed with open land with no social or community facilities

near or closely associated with it. The essential ingredients of a village are therefore missing.

5. There are some amenities nearby including a memorial church and hall on the corner of One Tree Hill, a church at Langdon Hills and a public house along the High Road. However, all of these and the congregation place at Beacon Field are too scattered and disconnected from the appeal site to constitute a village. There is no detail about the proposed Dry Street primary school and this, in itself, would not confer village status. There is limited evidence that residents consider that they live in a village but, in any event, this is not decisive for the purposes of applying Green Belt policy. All in all, the absence of a clear sense of a settlement means that the proposal would not be located in a "village".
6. This matter has been dealt with in other appeal decisions in Basildon. An important preliminary point is that each situation is unique and those decisions will have been made on an individual basis. However, in the Branksome Avenue appeal¹ the site was within an area on the edge of the town of Wickford. Similar findings were made at Newhouse Avenue². Based on its features, Inspectors³ concluded that Little Burstead is a small village. The developments allowed at Southend Road and Kennel Lane are of a much greater scale and raised different issues. Therefore, these decisions can be distinguished from the proposal and none of them warrant treating the appeal site as falling within a village.
7. Similarly, the Council's decision to permit a detached four-bedroom dwelling in Thames View is not compelling. Limited details are provided but it followed a permission to convert a shed to a 2-bedroom bungalow so that, on the face of it, the circumstances were materially different to this case.
8. I have had regard to the judgment in *Julian Wood v SSCLG and Gravesham Borough Council* [2015] EWCA Civ 195 in assessing this issue. However, even if the proposed development were held to comprise "limited infilling" it is not within a village. Therefore, the proposed development would not satisfy paragraph 149 e) of the Framework and so would be inappropriate development in the Green Belt.

Openness and character and appearance

9. Openness is one of the essential characteristics of the Green Belt. The site is free of buildings and fringed by trees and hedging. The five bungalows would occupy a large proportion of the land and so would significantly erode the spatial element of openness. In visual terms the perception would be mitigated by the existing vegetation. However, the overall effect would be seriously adverse as openness would be considerably reduced. In addition, by occupying a currently undeveloped parcel of land the proposal would encroach into the countryside and so be contrary to one of the five Green Belt purposes.
10. In the appeal at Meadow Way⁴, the Inspector considered whether there would be "substantial harm" to openness as he was applying Framework paragraph 149 g). Therefore, the findings in that case are not comparable.

¹ Ref: APP/V1505/W/21/3278853

² Ref: APP/V1505/W/21/3283720

³ Refs: APP/V1505/W/3249059 & APP/V1505/W/21/3281323

⁴ Ref: APP/V1505/W/21/3286455

11. The bungalows seek to give the impression of Essex barns with low ridge heights. Whilst time and thought has gone into the design of these buildings they would be closely spaced and give rise to a suburban appearance. This would be at odds with the generally loose-knit and spacious arrangement of development nearby. The proposal would be well-contained in the wider landscape and from public view but the intensity of development and the site coverage would conflict with its surroundings. As such, the character and appearance of the area would be harmed contrary to Policy BAS BE12.

Other considerations

12. The Council's draft Housing Delivery Test Action Plan of June 2023 states that housing land supply equates to 37% of need which is about 1.8 years. It is therefore way below Government expectations for a minimum of five years' worth of deliverable housing sites against its requirement.
13. Furthermore, in 2021 Basildon was the seventh lowest out of 328 local planning authorities in terms of housing delivery and there has been consistent under-delivery since 2016. The withdrawal of the emerging Local Plan in 2022 means that tackling this deficiency through planned provision is some way off. The overall position in terms of significantly boosting the supply of homes in line with the Framework is therefore extremely poor. Five properties would not do much statistically to lower the shortfall of 3,936 dwellings but in this scenario any increase in provision should be welcomed. This is therefore a matter of significant weight in favour of the proposal.
14. The Framework also indicates that the needs of groups with specific housing requirements should be addressed. The single storey accommodation proposed would be suitable for people with disabilities as they would cater for wheelchair users with wide doorways, ramps for access and walk in showers. There is no tangible evidence to back up the contention that there is a serious lack of this type of housing but representations refer to high demand and short supply. Therefore, the nature of the proposed development also significantly supports its acceptance.
15. The Plotlands Study of 2017 identified areas where additional infill development could occur without causing harm. It therefore anticipated that growth could take place within the Northlands plotlands area including the appeal site. Whilst the evidence base is a material consideration the policies that would have supported this stance are not being taken forward. As the planning system should be genuinely plan-led it would be wrong to readily endorse a fundamental shift away from protecting the Green Belt in an individual appeal. The previous approach of the Council should therefore be given limited weight.
16. The proposal would secure local employment and skills provision. Because of its scale and nature there would therefore be moderate economic benefits during construction.
17. Twenty letters of support were submitted at application stage. These indicate that the proposal would meet the needs of local home buyers and may also enable people to downsize thereby 'freeing up' larger family properties. These points have been taken into account already and the fact that some people favour the scheme is not determinative. Nevertheless, it is a further factor that supports the proposal, albeit to only a limited degree.

18. Others raise objections to additional traffic and extra on-road parking and raise concerns about a rainwater culvert, sewage and a badger sett. There is no evidence that there would be an unacceptable impact on highway safety, no biodiversity objections and nothing to suggest that technical drainage and sewage issues could not be tackled.

Green Belt balance

19. The proposal would be inappropriate development within the Green Belt. In accordance with the Framework substantial weight should be given to any harm to the Green Belt. In addition, there would be an erosion of openness and a conflict with one of the purposes of the Green Belt. These factors weigh very heavily against the proposal. There would also be harm to the character and appearance of the surrounding area.
20. Set against this the proposal would deliver five housing units that would be suitable for a particular community group and would make some inroads into the extremely poor housing delivery and supply position in Basildon. Of lesser importance is the previous consideration given to development within plotlands areas, the support of some residents and the accompanying economic benefits. The other considerations that support the proposal are of considerable force but when matched up against the very strong Green Belt and visual objections they do not clearly outweigh the totality of harm. As a result, very special circumstances do not exist.

Integrity of the Thames Estuary and Marshes Special Protection Area

21. The proposal is within the zone of influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy. In combination with other development in Basildon and elsewhere, additional dwellings would have a likely significant effect on the interest features of the Thames Estuary and Marshes Special Protection Area (SPA). This is due to increased recreational pressure. Local planning authorities in Essex have developed a strategy to deliver the necessary mitigation to address such impacts which is funded through a tariff.
22. Whilst the appellant is agreeable to pay the requisite sum, no planning obligation has been provided to secure this. The upshot is that there is no mechanism in place to ensure the necessary payment would be made in the event that the appeal was allowed. As a result, following an appropriate assessment, the proposal would adversely affect the integrity of the SPA. Moreover, in these circumstances, the Conservation of Habitats and Species Regulations preclude the proposal from proceeding.

Conclusions

23. There is an overriding objection to the five dwellings because of the adverse effect on the integrity of a habitats site. Moreover, there are no very special circumstances to justify inappropriate development. There is therefore a clear reason to refuse the development proposed because of its location within the Green Belt. In the light of this and the provisions of paragraph 182 of the Framework, the presumption in favour of sustainable development set out at paragraph 11 of the Framework does not apply.
24. Because of the non-compliance with Local Plan Policy BAS BE12 and the absence of other relevant policies, the proposal would not accord with the development plan as a whole. There are no material considerations to

outweigh that finding and the proposed dwellings are unacceptable. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR