



Appeal Decision

Site visit made on 19 September 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/V1505/W/22/3307147

Claremont Burnt Mills Road, North Benfleet, Wickford SS12 9JX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Steven Duffell against the decision of Basildon Borough Council.
 - The application Ref 22/00697/OUT, dated 18 May 2022, was refused by notice dated 9 September 2022.
 - The development is described on the application form as 'Proposed erection of 4 No. 3 Bed Bungalows'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal seeks outline planning permission with all detailed matters reserved. Whilst the submitted drawings show details of a possible layout, including access, and floor plans and elevations of bungalow type dwellings, I have treated them as being purely indicative.

Main Issues

3. The main issues are:
 - whether the proposed development is 'inappropriate development' in the Green Belt;
 - the effect of the proposed development upon the openness of the Green Belt;
 - the effect of the proposed development on European protected sites; and,
 - if the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the proposed development.

Reasons

Whether the proposal would be inappropriate within the Green Belt

4. The National Planning Policy Framework (the Framework) explains that the fundamental aim of Green Belt (GB) policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of GB's are their openness and their permanence. The construction of new buildings is inappropriate unless in accordance with the exceptions in the Framework. One

- of the exceptions in the Framework is limited infilling in villages (paragraph 149 e).
5. The Council has indicated that saved policies BAS GB1 and BAS BE12 of the Basildon District Local Plan (adopted 2007) apply to the proposal but make no specific reference to them in their analysis of the proposal. From the evidence submitted I note that Policy BAS GB1 identifies the boundaries of the Green Belt making particular reference to the proposals map. Policy BAS BE12 is a broad development control policy that relates to new dwellings and extensions and alterations to existing developments. Both of these policies predate the publication of the current Framework and where there are inconsistencies, I shall give more weight to the Framework.
 6. The appeal site is located to the rear of a row of dwellings that front Burnt Mills Road. It is accessed via a gated private road, which currently serves 5 dwellings, including 4 newly constructed bungalows. Further to the east, beyond the new bungalows is open land, used for grazing and ponds. Directly to the south there is a loose knit grouping of dwellings fronting Elm Road. A significant feature of this area was the presence of paddocks for horses and associated commercial activity. To the west of the site is an additional area of open land, beyond which is open countryside interspersed with hedgerows and groups of mature trees.
 7. From the evidence before me, and what I saw on my site visit, North Benfleet had some of the attributes of a village, including a church and a number of other services and facilities. That said, it appeared to have no definitive centre which is characteristic of a stereotypical village. Moreover, it lacked cohesion and comprised of randomly sited properties, accessed by narrow poorly maintained roads, resulting in the area appearing as a dispersed settlement within an agrarian landscape.
 8. Taking all of the above into account, as a matter of fact on the ground, I am not persuaded that the built form at North Benfleet constitutes a village. Part of the exception at paragraph 149 e) of the Framework is therefore not met.
 9. The term 'infilling' is not defined in the Framework. However, a commonly held and widely used definition of infilling is to fill a gap between buildings in an otherwise built up frontage. The proposal would be set on open land, opposite new dwellings that have been erected on land previously occupied by kennels and barns. Whilst noting that properties lie to the north, east and south of the appeal site, they are some distance from the proposed dwellings, and consequently I do not accept that the proposal would fill a gap within an otherwise built up frontage. Moreover, the shapes of the proposed plots and sizes, and the position of the proposed dwellings thereon, would not be directly comparable with other properties within the locality. Therefore, I do not accept that the proposal would amount to infilling in the normally accepted sense.
 10. Accordingly, for the purposes of paragraph 149 e), I conclude that the appeal proposal would not fall within the provision of 'limited infilling in villages'. As such, the scheme would constitute inappropriate development, in terms of GB policy. Inappropriate development is, by definition, harmful and in accordance with paragraph 148 of the Framework I attach substantial weight to this harm.

Openness of the Green Belt

11. The Framework indicates, at paragraph 137, that an essential characteristic of GB's is their openness and their permanence. Openness has both spatial and visual aspects.
12. The proposal would result in the erection of four bungalows on a site that is substantially flat and devoid of any structures or natural features such as hedgerows or trees. The indicative layout suggests that the dwellings would be arranged in an arc facing towards the recently erected bungalows, with a shared driveway at the front and significant gardens to the rear. The appellant indicates that the dwellings would be designed to be similar to those on the adjacent development and have a green corridor between them and the neighbouring properties, in an attempt to maintain openness and provide a good outlook for future occupiers.
13. Notwithstanding the above, the proposal would result in the erection of buildings on land where there are currently none. Moreover, it would introduce domestic activity onto a site, including the parking of vehicles and the establishment of landscaped gardens and domestic paraphernalia such as sheds and other outbuildings. It is also likely that boundary walls, fences or other means of enclosure, would be erected to enclose private garden space. The combined effect of these works would be to significantly reduce the openness of the GB beyond what currently exists.
14. Whilst I accept that the site is not isolated, as there are other dwellings in the locality, I have characterised the site as countryside rather than as being in a village. Therefore, the proposed development would lead to encroachment into the countryside and would impact on this related GB purpose.
15. Accordingly, I conclude that the development would lead to a significant loss of GB openness and would impact on the GB purpose of safeguarding the countryside from encroachment.

European protected sites

16. The development site falls within the zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy. Natural England has identified that new residential development within this area is likely to have a significant effect on the features of interest of these sites through increased recreational pressure. Although the site is not within or directly adjacent to one of the European designated sites the Council seeks to secure a contribution from developers to fund strategic 'off site' measures in and around the designated sites.
17. The appellant has indicated that he would be willing to make a financial contribution, via a legal agreement, to mitigate the effects of the proposed development. That said, no legal agreement has been presented to me for consideration. However, given that the proposal would fail on other substantive matters, as identified above, the lack of a legal agreement for such a contribution is not an overarching factor in this appeal.

Other considerations

18. The Council indicates, in its delegated report, that they are unable to demonstrate a deliverable 5-year supply of housing land. I have not been

advised of any subsequent change to this position. The Framework makes clear the need to maintain a minimum of 5 years' supply in all local authority areas, in order to help boost the supply of housing nationally. The shortfall of housing land in the district is therefore an important material consideration.

19. Paragraph 11 d) i indicates that where the policies which are most important for determining applications are out of date, planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. In this context footnote 7 indicates that land designated as GB are included as areas or assets of particular importance. In this regard, and for the reasons set out above, I find that the delivery of 4 additional dwellings would not outweigh the substantial weight that I give to the harm to the GB.
20. Based on the indicative drawings, I accept that a development could be provided on the site that would provide adequate room sizes, levels of light, outlook, outdoor amenity space and privacy for future occupiers. Furthermore, I agree with the Council's view that the scheme would not result in harm to the living conditions of the occupants of surrounding properties. I also appreciate that the Council has no significant concerns with regards to parking and highway safety. However, these are requirements of the Council's saved policies as well as national planning policy. They are therefore neutral factors in the overall balance.
21. I have also taken into account the appellants submission of a Preliminary Ecological Assessment and the Council's response thereto. In particular I note that the Council are content that the proposal would not have a significant adverse impact on amphibians, including Great Crested Newts and reptiles, bats or hedgehogs. In the event that the appeal was allowed conditions could be imposed in this regard, which the appellant has indicated he would be happy with.

Planning Balance and Conclusion

22. The proposed development would represent inappropriate development, which is, by definition, harmful to the Green Belt. I have also concluded that there would be harm to the openness of this part of the Green Belt. The matters advanced in support of the proposal at most carry limited weight and do not outweigh the substantial weight that is given to the harm identified to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist. The proposal therefore conflicts with paragraphs 147, 148 and 149 of the Framework.
23. Accordingly, I conclude that the appeal should be dismissed.

J Gunn

INSPECTOR