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# Appeal Decision

Site visit made on 9 January 2024

**by Robert Naylor BSc (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 January 2024**

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**Appeal Ref: APP/V1505/W/23/3318671**

**Maisron, Eversley Road, Basildon SS13 2DJ**

- 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 Steve Shead against the decision of Basildon Borough Council.
  - The application Ref 22/01526/FULL, dated 25 October 2022, was refused by notice dated 3 January 2023.
  - The development proposed is the demolition of existing residential storage and construction of three bedroom dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). Any references to the Framework hereafter in this decision are to the latest version. The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

## Main Issues

3. The main issues are as follows:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and the effect on openness; and
  - Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify it.

## Reasons

*Whether inappropriate development*

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. Policy BAS GB1 of the Basildon District Local Plan Saved Policies 2007 (BLP) defines the extent of the Green Belt.

5. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. These exceptions include criterion d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces and criterion g) limited infilling or the partial or complete redevelopment of previously developed land (PDL) providing it would not have a greater impact on the openness of the Green Belt than the existing development. I shall deal with these in turn.
6. Planning permission<sup>1</sup> has been granted for the conversion of the residential storage outbuilding into a one bedroom bungalow. Following my site observations and from the evidence before me the permission has not been implemented, and it is unclear whether the building is currently in a residential use. Nevertheless, even if the new building was in the same use, the proposal would provide a footprint of approximately 154m<sup>2</sup> which is materially larger than the 59m<sup>2</sup> footprint of the existing building it would replace.
7. For these reasons, I conclude that the appeal proposal would constitute a replacement dwelling that is materially larger than the one it replaces. It would therefore not meet the exception listed at paragraph 154 d) of the Framework. As such I will need to assess whether the proposal would involve the partial or complete redevelopment of PDL.
8. I now refer to paragraph 154 g) of the Framework in respect to PDL. The Framework defines PDL, as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.
9. From my site observations and from the evidence before me, the appeal site would be considered PDL given the presence of the existing building. The second limb of paragraph 154 g) requires any redevelopment of such land to not have a greater impact on openness than the existing development. The extent of the existing development consists of a relatively modest structure. Thus, the proposal for a chalet style dwellinghouse would provide a significant increase in the amount of development at the site, which would have an impact on the spatial and visual aspect of openness.
10. As stated above, the proposal would introduce an increased footprint in terms of the built structure at the site. The scheme would provide a significantly larger quantum of built development than currently exists on site, and thus adversely impacts on the openness of the Green Belt in spatial terms.
11. In regard to the visual aspect, the proposal would provide a development that would be prominent within the streetscene due to its relatively open location fronting the roadside. However, it is acknowledged that the proposal is located within an existing secluded cluster of development which includes several chalet style dwellinghouses. Nevertheless, this cluster of residential development contrasts with the much less developed open spaces to the north, east and west of the site. As such, I conclude in visual terms, it would have a limited effect on the visual aspect of openness of the Green Belt. Overall, I

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<sup>1</sup> Basildon Borough Council Planning Ref: 21/00971/FULL

have found that there would be harm to both the spatial and the visual dimensions of the openness of the Green Belt.

12. Bringing these strands together, I find that the proposal does not meet the exception in Framework paragraph 154 d) or the exception in paragraph 154 g). The proposal is therefore inappropriate development in the Green Belt and would conflict with the aims and objectives of the Framework and Policy BAS GB1 of the BLP.

*Other considerations*

13. It is common ground between the parties that the Council does not currently have a deliverable 5-year housing land supply. The appeal scheme would provide a small development of a single dwelling that would make a modest contribution to the Council's housing undersupply, albeit more important given that the Council is unable to demonstrate a 5-year supply of deliverable housing sites. As such, this attracts modest weight in favour of the development.
14. However, footnote 7 of Paragraph 11 of the Framework states that the presumption in favour of sustainable development is not engaged where policies in the Framework, that protect areas or assets of particular importance, provide a clear reason for refusing the development proposed. Footnote 7 sets out that these policies include those relating to land designated as Green Belt.
15. Given my findings in relation to the Green Belt there is a clear reason for refusing the development proposed, I am not required to apply the presumption in favour of sustainable development in this respect, albeit that the delivery of housing when there is evidence of under delivery is a benefit to which I have given modest weight.
16. The proposal would result in the provision of a well-designed and sufficiently sized unit. The proposal would also result in some small social and economic benefits, including the support future occupiers would give to local businesses and services. To these benefits I apportion modest weight given the limited scale and nature of the proposed development.
17. The approved scheme referenced above, represents a fallback position which is available and a material consideration in the assessment of the proposal, and I accept that there is a real possibility that it could be implemented should planning permission for the appeal scheme be refused. However, from the evidence before me this is a conversion of the existing building on site and differs from the appeal proposal in that it would not provide any increase in the quantum of development, thus would have negligible impacts on the openness of the Green Belt. Therefore, I consider that the approved planning permission would be demonstrably different to the appeal scheme and would not be as harmful to the Green Belt than the scheme before me, and therefore I have given it limited weight.
18. The appeal site falls within the Zone of Influence of European sites on the Essex coast. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) indicates that residential development in this location is likely to have significant effects on a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended, (the Habitats Regulations) through increased

recreational disturbance. Local Planning Authorities in Essex have developed a strategy to deliver the necessary mitigation to address such impacts which is to be funded through a tariff. The appellant has indicated that they are prepared to provide mitigation through a financial contribution toward the Essex Coast RAMS. However, I have no planning obligation before me.

19. The Habitats Regulations impose a duty on me, as the competent authority, to carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to being inappropriate development in the Green Belt and harming its openness, I do not need to consider this matter further, as no significant likely effects on European Designated sites would arise from my decision.

### **Conclusion**

20. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in harm to the openness of the Green Belt. Paragraph 153 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.
21. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. As explained above I give modest and limited weight to the other material considerations cited in support of the proposal. However, I conclude these circumstances do not clearly outweigh the harm the scheme would cause.
23. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. The proposal is therefore in conflict with Policy BAS GB1 of the BLP and the Framework and there are no other considerations that outweigh this conflict. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Robert Naylor*

INSPECTOR