



Appeal Decision

Site visit made on 2 February 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2024

Appeal Ref: APP/V1505/W/23/3323463

Mascot, Windsor Road, Bowers Gifford, Basildon, Essex SS13 2LH

- 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 Richard Scates against the decision of Basildon Borough Council.
 - The application Ref is 22/00848/FULL.
 - The development proposed is construction of 2no. affordable single storey dwellings inc driveways, parking and private amenity.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. On the same day, updated Housing Delivery Test (HDT) results were also published. The main parties were given the opportunity to make further comments on the implications of these for this appeal. I have referred to the updated paragraph numbers in the Framework in my decision.
3. An unsigned and undated Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. This seeks to address affordable housing and ecological mitigation. I will return to this in due course.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the Framework including the effect upon the openness of the Green Belt; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

5. I have not been directed to any policies in the Basildon District Local Plan 2007 (LP) which address new dwellings in the Green Belt. I therefore have

determined this issue with reference to the Framework. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework confirms that new buildings are inappropriate in the Green Belt unless it is one of the exceptions listed.

6. The exception set out in paragraph 154 f) of the Framework does not apply to the proposed development as it requires there to be policies in the development plan which refer to affordable housing or rural exceptions. I have not been directed to any such policies. The wording of the Framework does not allow for other considerations to be taken into account, so the age of the adopted plan and other evidence of the need for affordable housing would not justify allowing development under this exception.
7. Paragraph 154 g) of the Framework, as it relates to this appeal, allows for the partial redevelopment of previously developed land provided it does not cause substantial harm to the openness of the Green Belt and would contribute to meeting an identified affordable housing need within the area of the local planning authority. The glossary to the Framework confirms that gardens can constitute previously developed land. It is not in dispute there is demand for affordable housing within the Council area.
8. The appeal proposes the erection of two single storey dwellings to either side of the existing property. I observed caravans and a small structure on the site where one of the dwellings would be sited. However, the proposed dwellings would be considerably larger in scale than these. They would inevitably result in a loss of both visual and spatial openness to the Green Belt by introducing two further dwellings onto land where there is only one, and its associated paraphernalia, at present.
9. There are dwellings and other structures to either side of where it is proposed to site the dwellings. At my site visit, I observed structures and items such as shipping containers on the adjacent land to the rear. I also observed the solid boundary fence to the front of the appeal site, the removal of which could be secured were permission to be granted. Consequently, I consider that the harm to the openness of the Green Belt would not be substantial due to the single storey nature of the development, its proposed position relative to the surrounding development and the limited vantage points from which the proposed dwellings would be visible.
10. However, there is not a completed planning obligation before me to achieve this, nor any alternative mechanism. As a result, even if the proposed development met all other considerations, it would not comply with the requirements of paragraph 154 g) of the Framework.
11. The Council also assessed the proposal against the exception set out in paragraph 154 e) of the Framework, and considered that the site would not constitute limited infilling in a village. The appellant has not disputed this, and I have no reason to find otherwise.
12. Paragraph 143 of the Framework sets out the five purposes of the Green Belt. I consider the proposed development would not directly affect the purposes of the Green Belt. However, this would amount to a lack of harm and would therefore be a neutral factor in the determination of this appeal.

13. The appeal proposal would therefore constitute inappropriate development in the Green Belt and harm its openness, although this harm would not be substantial. It would be contrary to the advice regarding the protection of the Green Belt set out in Section 13 of the Framework. In accordance with the advice at paragraph 153, I attach substantial weight to this harm.

Other Considerations

14. Both parties are in agreement that the Council can only demonstrate a 2.32 year housing land supply. The emerging development plan has been withdrawn. The most recent HDT results show housing delivery is also falling short. While the proposed development would only make a limited contribution to that shortfall, it would nonetheless be a benefit and one to which I would attach moderate weight given the extent and duration of the housing land supply shortfall.
15. Biodiversity enhancements could be secured by condition. Further environmental benefits, from the improved energy efficiency and performance of the building proposed would also be a benefit of the proposed development.
16. An emerging Neighbourhood Development Order (NDO) has been brought to my attention. This would include the appeal site and proposes residential development in the Bowers Gifford area. However, this is at an early stage of preparation and there is no evidence of any consultation responses before me. As such, I attach no weight to the emerging NDO in this decision. There is also support for the development from surrounding occupiers, and I attach limited weight to this support which reflects the benefits to the community from additional development.
17. The appellant has provided other appeal decisions which they say weigh in favour of the proposal. While I acknowledge the similarities, one decision¹ related to a different exception in the Framework than those put forward in this case. The other² included a completed UU to secure the affordable housing which distinguishes it from this appeal.
18. The proposed development would not be isolated for the purposes of paragraph 84 of the Framework. No adverse effect on the safe and efficient operation of the highway has been identified. Refuse collection could be accommodated, and no adverse effects from contamination or on trees were identified. The design of the dwellings were considered to be acceptable and harm to character and appearance of the area did not form part of the Council's reason for refusal. I have no reason to find otherwise. Acceptable living conditions would be provided for future occupiers and there would not be an adverse effect on the living conditions of neighbouring occupiers. However these would be expected of any well-designed development and would be neutral factors.

Other Matters

19. The site is located within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy where it has been identified that new residential development is likely to have a significant effect on the features of interest of habitats sites through increased recreational pressure. The potential for the site to form offsite habitat for lapwing has also been

¹ APP/V1505/W/21/3283720 allowed 28 March 2022

² APP/V1505/W/21/3286455 allowed 25 March 2022

identified as a consideration. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the Habitats Sites. However, given my findings above, it has not been necessary for me to pursue this issue further. A finding that the proposal would not have an adverse effect on integrity, with or without any mitigation, would be at best a neutral matter.

Balance and Conclusion

20. I have found that the proposal would constitute inappropriate development in the Green Belt and would result in a loss of openness. The Framework confirms that inappropriate development should only be permitted in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. For the reasons given above, I find that the other considerations in this case do not clearly outweigh the harms that I have identified. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
21. This finding also means that there are policies in the Framework that provide a clear reason for refusing the development proposed. Therefore, under Paragraph 11d)i of the Framework, the proposal does not benefit from the presumption in favour of sustainable development.
22. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

J Downs

INSPECTOR