



Appeal Decision

Site visit made on 5 February 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/V1505/W/23/3326638

273 London Road, Wickford, Essex SS12 0LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Young against the decision of Basildon Borough Council.
 - The application Ref is 22/01759/OUT.
 - The development proposed is described as demolition of exiting dwelling, garages, commercial kennels, erection of 4 detached bungalows. (revised application following refusal 20/01180/OUT).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address above from the application form albeit slightly amended to match the decision notice.
3. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description as included in the application form for the purposes of the heading above.
4. During the appeal, a revised National Planning Policy Framework (the Framework) and the 2022 Housing Delivery Test (HDT) results were published. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to any comments, the Framework and the HDT in reaching my decision.
5. The planning application which is the subject of this appeal was submitted in outline with all matters reserved. I have therefore determined the appeal on this basis and taken all plans submitted to be for illustrative purposes only.

Main Issues

6. 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;
 - the effect of the development upon the character and appearance of the area;

- the effects of the proposal upon biodiversity with particular regard to bats; and;
- If the proposal is inappropriate development, whether or not there are any other considerations which clearly outweigh the harm by reason of inappropriateness, and any other harm, so as to amount to the very special circumstances required to allow the development.

Reasons

Whether inappropriate development

7. I have not been directed to any policies in the Basildon District Local Plan (LP) which address new dwellings in the Green Belt. I therefore have determined this issue with reference to the Framework.
8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
9. The construction of new buildings is inappropriate in the Green Belt unless it satisfies one of a number of exceptions listed in the Framework. This includes at paragraph 154 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 paragraph 154 g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
10. The appellant's statement states that the replacement of the existing dwelling would fall within exception 154 d) and I find no reason to disagree. However, the scheme must be considered as a whole. The development would result in buildings that are used in association with the established boarding and breeding Kennels business being demolished. This part of the proposal would not therefore, satisfy paragraph 154 d) of the Framework, as the other proposed dwellings would not be in the same use as the building it would replace.
11. Turning to paragraph 154 g) of the Framework. The development is not proposed to meet an identified affordable housing need and is therefore required not to have a greater impact on the openness of the Green Belt than the existing development, which excludes temporary buildings and the remains of the previous building that have blended into the landscape.
12. The existing buildings, including the host dwelling are single storey albeit at different heights and comprising different footprints. They are sited within a predominantly linear relationship to each other close to the edge of the settlement adjacent an existing dwelling and its garden.
13. The majority of the site which is bound by mature hedging and trees. A small band of trees are located within the site and there are a small number of dilapidated outbuildings. Notwithstanding various equipment associated with the kennels the remainder of the site is largely undeveloped and open. As a result of the location of the existing buildings, many of which are low level

kennels, close to the edge of the built-up settlement, they are visually unintrusive in this part of the Green Belt.

14. Whether or not any change on the site will have an adverse impact and so cause harm to openness would depend on factors such as the scale of the development, its location on the site, and its spatial and/or visual implications. Due to the outline nature of the proposals, the effects of the change on the site between the existing development and that proposed are not clearly demonstrated. It is not therefore possible to firmly conclude that the proposed development would not lead to a greater impact on the openness of the Green Belt.
15. As any outline permission is the planning permission, it would not be appropriate to assess the impact on openness, as a matter of principle, at the reserved matters stage. Nevertheless, the indicative plans give an indication that to accommodate the proposed dwellings, gardens, parking and related infrastructure there would be a need to extend outward into the appeal site.
16. Although on the edge of a settlement with an established boundary, I observed the rear of the site is seen in the context of the adjoining fields and looser pattern of development as it transitions to the fields beyond. Any development would be visible from several properties on London Road and alongside some glimpsed views from London Road. It would also be visible from properties on Ramsden View Road and the adjacent fields.
17. Notwithstanding the existing dwelling and garage, the proposed dwellings, as indicatively shown, would be significantly greater in bulk and height than many of the existing low-rise buildings on site. Some of the dwellings would also likely need to be accommodated in more undeveloped and open areas of the site. For these reasons, even if I were to agree the scheme would have an overall smaller footprint and not be substantially taller than some of the existing buildings, it would have a greater impact on the openness of the Green Belt in visual terms than the existing development.
18. I therefore consider that in visual terms the proposal would cause significant harm to the openness of the Green Belt and thus have a greater impact on openness than the existing situation. For these reasons, the proposal would not constitute one of the exceptions outlined in the Framework and would therefore be inappropriate development in the Green Belt.

Character and appearance

19. The appeal site, which has an irregular shape, borders dwellings to the east and north beyond the road. There are open fields with boundary planting to the remaining sides. While there has been some historic backland development on the site, the current dwelling shares a more consistent building line with other dwellings found on this section of the road in keeping with the prevailing pattern of development in the area.
20. At the time of my visit, I observed how much of the built development was contained close to the existing built form on the northern and eastern boundaries, closer to the settlement edge, which was strongly defined by dwellings facing the road. Although sited behind hedging and trees, the remainder of the site was relatively open and spacious.

21. Notwithstanding all matters are reserved for later consideration, the scheme would result in the introduction of a number of dwellings and associated infrastructure across the site. The development of this site would fail to reflect the surrounding context and the prevalent pattern of development in that it would result in undesirable and inappropriate back-land development in an area where properties predominantly have strong road frontages.
22. The existing site boundaries would provide some screening and softening of the proposed development. However, it would unlikely be sufficient to prevent the scheme appearing as an incongruous addition within the surrounding area that would be out of keeping with the prevailing character of the area which is made up of dwellings fronting the road.
23. Consequently, the proposed development would have a detrimental effect on the character and appearance of the surrounding area. This would be contrary to Policy BAS BE12 of the LP. This seeks, among other matters, to ensure developments do not harm the character of the surrounding area. The proposal would also conflict with the provisions of the Framework, which seeks to ensure that development is sympathetic to local character.

Biodiversity

24. There is no dispute between the main parties that there are two trees within the appeal site that possess potential roosting features for bats. The appellant has stated a willingness to keep these trees, and therefore, the development would not affect the potential roosting for bats.
25. Circular 06/2005 referred to in paragraph 185 of the Framework, states that it is essential the presence or otherwise of protected species, and the extent that they may be affected is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.
26. As noted above, the granting of outline permission is a planning permission. In the absence of substantive up-to-date evidence to the contrary, it would appear there is a reasonable likelihood protected species could be present. Additionally, given the scale of the development when taking into consideration the size of the appeal site works are likely to take place close to the identified potential roosting features for bats.
27. Therefore, I cannot be certain there would not be significant and direct adverse effects upon protected species, that it would be possible to adequately mitigate any adverse effects, or, that any necessary duties under the Conservation of Habitats and Species Regulations 2017 (as amended) can be discharged. There are no exceptional circumstances in this case to justify leaving the relevant surveys to condition.
28. For the reasons set out, I cannot be certain the proposed development would not result in significant harm to biodiversity. This would conflict with the aims of paragraph 186 of the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Considerations

29. I note that letters of support have been received regarding housing replacing the kennels and boarding business, and the scheme has been revised following past submissions. I've also considered that the scheme is likely to generate less noise than the present situation. However, these factors do not lead me to a different conclusion on the main issues and receive little weight in favour of the appeal.
30. The appellant has stated no site visit was undertaken and following allocation to another officer was determined relatively quickly. Nonetheless, I have found harm for similar reasons as identified by the Council, and these matters do not alter my findings.
31. A lack of objection from the Council's highways, environmental and arboricultural officers is noted. However, the absence of harm in such terms is a neutral factor in my assessment, carrying neither positive nor negative weight.
32. My attention has been drawn to an allowed appeal¹ at the site. I acknowledge the Inspector's findings. However, that appeal was for a consideration of permitted development rights and is materially different to the appeal before me. Furthermore, no details to demonstrate what additional development could take place through permitted development are before me. I therefore give these matters limited weight in favour of the scheme.
33. My attention has also been drawn to an appeal² for development within the Green Belt. The full details are not before me, and whilst there are similarities in the proposal types, the Inspector noted that many of the buildings to be demolished were spread across the site alongside large expanses of hard surfacing. These characteristics do not match my observations of the appeal site. For this reason, the effect upon the openness of the Green Belt would likely be materially different. Moreover, harm to the character and appearance of the area was not considered a main issue in the appeal. Therefore, I give this appeal little weight in favour of the scheme.
34. Examples of backland developments, including in the Green Belt allowed by the Council³ have also been put to me. I do not have the full details of these schemes. Nevertheless, the sites are located some distance from the appeal scheme and would not be seen alongside it. Where required, an assessment on impact on the openness of the Green Belt in the respective locations would also likely have taken place. Additionally, examples of development considered against other exceptions listed in the Framework are materially different. I have not been provided with any substantive evidence to demonstrate an inconsistent approach by the Council with regard to Green Belt assessment, and I give these examples little weight in favour of the scheme.
35. The proposal would result in short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwellings. However, given the quantum of development in this case, I give this matter limited weight in favour of the scheme.

¹ Ref: APP/V1505/W/16/3163444

² Ref: APP/V1505/W/20/3247573

³ Refs: 18/00169/FULL, 20/01162/FULL and 21/00016/FULL

36. Both the main parties agree the Council are unable to demonstrate a five year supply of housing. Nonetheless, the proposal would result in three additional units of accommodation, which would contribute to the Government's broader objective of significantly boosting the supply of homes in a location with good access to services and facilities on previously developed land, as supported by the Framework. As stated by the appellant, the dwellings could also be built using suitable methods and eco-technologies, which could be secured by condition. These benefits, in combination, have modest weight in favour of the appeal scheme.

Other Matters

37. The site is within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). However, as the appeal is being dismissed on other grounds, an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required. In any event, this would have mitigated harm and would not have amounted to a benefit. For these reasons, I have not considered this matter further.

Balance and Conclusion

38. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
39. 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 development do not exist.
40. 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.
41. For the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

A Hickey

INSPECTOR