



Appeal Decision

Site visit made on 5 February 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/V1505/W/23/3323490

Land at Osborne Road, North Benfleet, Essex SS13 2LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gavin Mayer against the decision of Basildon Borough Council.
 - The application Ref is 22/01748/FULL.
 - The development proposed is described as demolish the existing structures on the site and construct a 4 bedroomed half chalet bungalow with attached double garage and private driveway with 2 parking spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I've taken the site address above from the appeal form, albeit with a slight amendment to the order. Whilst different to the application form and decision notice it still accurately reflects the appeal site location.
3. In the banner above, I have referred to the description of the development from the application form, omitting that which is unnecessary to describe the appeal proposal accurately.
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.

Main Issues

5. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt, including the effect upon the openness of the Green Belt, 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 in the Green Belt

6. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence.
7. The Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, subject to exceptions. Such exceptions include, at Paragraph 154(e), limited infilling in villages, and at Paragraph 154(g), the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
8. The Framework does not define 'limited', 'infilling' or 'villages'. When considering whether a site is in a village, the decision maker should have regard to the situation on the ground, as well as any relevant policies including the Framework.
9. The development would involve the construction of a chalet-style dwelling with an attached garage within a largely vacant plot of land. That plot of land lies on the northern side of Osborne Road between vacant plots on either side. A property on Windsor Road, known as Kismarja, abuts the site to the north. To the south beyond Osborne Road, the appeal site fronts a large side/rear garden of a dwelling with fields beyond.
10. While noted by the appellant that Wikipedia describes North Benfleet as a village, during my site visit, I observed the surrounding area to be formed of a mix of plots. These sites included developed plots with dwellings and undeveloped plots along linear roads. The proposed development would be located close to and amongst other residential dwellings. However, based on my observations, it would not be situated within a village. Instead, it is located within its own distinct cluster of development, which does not amount to a village in its own right as it has no discernible centre or services and facilities that would be expected to be found within a village. In reaching this conclusion, I accept there are some sporadic services and businesses, but these, in my view, do not form a village.
11. My attention has been brought to the facilities and services available at Pitsea. However, these facilities and services cannot be reasonably described as being located within the surrounding cluster of development to be considered to be within a village. Accordingly, the proposal would not be infilling within a village and would not meet the exception for development set out at Paragraph 154(e).
12. With regard to Paragraph 154(g), even if I were to accept the site is previously developed, it is necessary to consider the effect on openness that would result from the proposed development in comparison to existing. Openness is both visual and spatial in nature.
13. Taking into consideration the existing built development on the site and the overall size and scale of the development proposed the appeal scheme would inevitably have a greater and harmful impact on the openness of the Green Belt. Therefore, on the basis of the evidence before me and my own observations, the proposed development would conflict with Paragraph 154(g).

14. In reaching the above conclusions, I note the appellant's position that the proposal would not conflict with the five purposes of the Green Belt identified by the Framework. However, the Framework also sets out that a fundamental aim of Green Belt policy is to keep land permanently open.
15. For the above reasons, the proposal would amount to inappropriate development in the Green Belt for the purposes of the Framework. The Framework advises that inappropriate development is harmful by definition and should only be approved in very special circumstances.

Other Considerations

16. The absence of objections from neighbours is noted, as are the absence of objections from the Council with regard to the amenity of neighbouring occupiers and highway safety. However, the absence of harm in such terms is a neutral factor in my assessment, carrying neither positive nor negative weight.
17. I acknowledge the appellant is seeking to build a family home, having purchased the site with the knowledge a dwelling was approved to the north. However, personal circumstances will seldom outweigh more general planning concerns and there is no cogent evidence the appellant has been treated unfairly. Moreover, the dwelling to the north will have been considered on its own merits against the development plan in place at that time. As such, I afford these considerations only limited weight within the decision.
18. The appellant has stated that the surrounding area has changed in its appearance through development undertaken by permitted development, extensions to existing buildings and new dwellings. However, I have not been provided with the full details of these cases or the specific circumstances of their approval. In any case, from the limited information, many appear to be materially different from the proposed development and, accordingly, are not directly comparable to the proposal before me.
19. My attention has been drawn to an allowed appeal¹ for an infill scheme. The proposal shares some similarities in terms of plotland development for a dwelling. However, I note the Inspector found the surrounding area to be that of a well-ordered residential suburb. The appeal site is a considerable distance from the example given and does not have a suburban character. Therefore, I attach minimal weight to the appeal provided.
20. I acknowledge that planning permission and an extension were granted for the dwelling to the north. However, I have little evidence to draw a comparison with the appeal scheme, which I have considered on its own merits and found would result in Green Belt harm.
21. The development would allow for additional landscaping and biodiversity improvements on a plot similarly sized to others. It would also achieve compliance with outdoor amenity space standards. However, given the scale of the scheme these benefits would be small, and I attach minimal weight to these benefits.
22. The scale of the development would result in a limited number of additional users of nearby bus and rail services. Such that the weight I attach is limited.

¹ Appeal Ref: APP/V1505/W/21/3278853

23. There would be economic benefits during the construction of the proposed development. I attach limited weight to the economic benefits given the small scale and temporary nature of these benefits.
24. The scheme would also boost the housing supply in an area with a shortfall and could be delivered relatively quickly. These benefits, in combination, have modest weight in favour of the appeal scheme.

Other Matters

25. The site is within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) and Blackwater Estuary SPA and Ramsar SPA and Ramsar. However, as the appeal is being dismissed on grounds related to Green Belt harm, an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required. Details of a financial contribution were submitted in this regard, but this would have mitigated harm and would not have amounted to a benefit. For these reasons, I have not considered this matter further.
26. Positive correspondence with the Council, which does not result in planning permission being granted while disappointing, is not a reason to allow harmful development.
27. The Council not returning the plotland sites to agricultural use or the Council's financial situation are not a matter for consideration as part of the appeal.

Planning balance and conclusion

28. It is noted the proposed new local plan was withdrawn, and the parties agree that Framework paragraph 11d) should be considered. This indicates that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless it would conflict with criterion i. or ii. As I have identified conflict with the Framework's policy relating to the Green Belt, this provides a clear reason for refusing the proposed development under paragraph 11d) i., I consider that the presumption in favour of permitting sustainable development does not apply in this instance.
29. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, I conclude that the other considerations do not clearly outweigh the harm in this case. Consequently, the very special circumstances necessary to justify the development do not exist.
30. For the reasons set out above, the appeal is dismissed.

A Hickey

INSPECTOR