

---

# Appeal Decision

Site visit made on 25 April 2024

**by Jane Smith MA MA MRTPI**

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

**Decision date: 29 May 2024**

---

**Appeal Ref: APP/H1515/W/23/3320654**

**Timberland Farm, Solid Lane, Doddington, Essex CM15 0JF**

- 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 Michael McGarr (Loughton Capital 2020 Ltd) against the decision of Brentwood Borough Council.
  - The application Ref is 23/00216/FUL.
  - The development proposed is described as 'The addition of 1x new Bungalow in same format and design as existing units within walled area'.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A revised Surface Water Management Strategy<sup>1</sup> was provided with the appeal. Although this was submitted to the Council in an effort to address matters raised by the Lead Local Flood Authority (LLFA), the application was refused on the same day. Through the appeal process, the Council and interested parties, including the LLFA, have had the opportunity to comment on the revised strategy. I have taken it into account and I am satisfied that there would be no prejudice to any party as a result of my having done so.
3. During the appeal process, it became clear that some appeal documents had not been received by the Council and had consequently also not been seen by interested parties. The omitted documents were subsequently made available. The Council and interested parties have had the opportunity to comment on them and the Appellant has had the opportunity to respond. I have taken the additional representations received into account.

## Main Issues

4. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies,
  - the effect of the proposed development on the character and appearance of the area,
  - whether suitable arrangements would be made for surface water drainage to mitigate any increased risk of surface water flooding, and

---

<sup>1</sup> Inspire Design & Development Surface Water Management Strategy dated April 2023

- 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**

### *Inappropriate Development in the Green Belt*

5. The appeal site is a level, grassed area at the front of an enclave of four recently constructed bungalows. These are at the end of a short row of dwellings on one side of Solid Lane. In the wider area, there is sporadic development strung out along the rural road network, but the site is outside any village or settlement as defined in the development plan. There were previous buildings at Timberland Farm, which the Design and Access Statement describes as having provided the justification for this recent redevelopment of previously developed land in the Green Belt.
6. In the Framework, Paragraph 154 states that construction of new buildings should be regarded as inappropriate in the Green Belt. However, it provides a number of exceptions, including limited infilling in villages and infilling or redevelopment of previously developed land, subject to the effect on openness. Policy MG02 of the Brentwood Local Plan adopted 2022 (BLP) confirms that development proposals in the Green Belt will be assessed in accordance with national planning policy.
7. The short row of dwellings on Solid Lane is surrounded by open fields and detached from the other sporadic development along the rural road network. This existing development has no clear focal point and lacks the scale or level of cohesion generally associated with a village. Therefore, the proposal would not consist of limited infilling in a village.
8. The four bungalows form a small residential enclave and the area in front of them is enclosed by boundary walls on two sides. The proposed plot does not currently contain any buildings and I have not been provided with evidence of any relevant pre-existing buildings in this part of the site. Nevertheless, the land has a physical and functional relationship with the group of bungalows, and I have therefore considered the proposal in the context of Framework's provisions for infilling or redevelopment of previously developed land in the Green Belt. As set out in the first part of Framework paragraph 154g, such development is supported only where it would not have a greater impact on the openness of the Green Belt than the existing development.
9. The proposal would introduce a new bungalow together with all the domestic paraphernalia associated with formation of an additional residential curtilage. This would reduce the openness of the Green Belt in spatial terms by introducing built development and domestic features into a parcel of land which is currently open and laid to grass.
10. The development would be seen in the context of the existing residential enclave and the boundary wall would provide some screening. However, the existing bungalows are visible from Solid Lane. The additional bungalow would be even more visible due to its forward position on the site. Any larger domestic paraphernalia such as washing lines, garden structures and play equipment, would be exposed to public view. This would undermine openness

in visual terms, by increasing both the amount and prominence of built development as seen from Solid Lane.

11. The second part of Framework Paragraph 154g allows for development to have a greater effect on openness where there would be a contribution to meeting an identified affordable housing need. However, in this case market housing is proposed and there is no indication that the proposal would provide affordable housing as defined in Annex 2 of the Framework.
12. For the above reasons, the proposal does not benefit from any of the relevant exceptions in Framework paragraph 154. I therefore conclude that it would comprise inappropriate development in the Green Belt, contrary to the provisions of the Framework. It would also conflict with Policy MG02 of the BLP, which amongst other things preserves the Green Belt against inappropriate development, so as to continue to maintain its openness.

#### *Character and Appearance*

13. The appeal site and the land to each side of it together provide an open frontage along this short section of Solid Lane, which is complemented by the wide roadside verges. This opens up an outlook from the lane, towards the more expansive rural landscape beyond the end of the row of dwellings.
14. The proposed bungalow would erode the open frontage. Any larger domestic paraphernalia in the garden area could be visually intrusive. While there are other dwellings in a forward position nearby, they do not have the same relationship with the countryside beyond the end of the existing housing.
15. The design would echo that of the existing bungalows and the development would not encroach beyond the existing row of dwellings. Nevertheless, the erosion of the open frontage to Solid Lane would, to a limited extent, undermine the site's relationship with its rural context.
16. For that reason, I conclude that there would be some harm to the character and appearance of the area. The level of harm would be limited, given that the site is within an established residential enclave. Nevertheless, the proposal would conflict with Policy BE14 of the BLP which requires, amongst other things, that proposals should respond positively and sympathetically to their context and retain existing features which make a positive contribution to the character or appearance of the local area.

#### *Surface Water Drainage*

17. The Surface Water Management Strategy (SWMS) describes the impermeable soil conditions within the site. Representations from interested parties include evidence of the accumulation of surface water, which is stated to have had an adverse effect on the existing bungalows. On that basis there is evidence of a risk of surface water flooding at a localised level.
18. The existing development includes a sustainable drainage system involving discharge to a nearby watercourse via an attenuation pond. The pond is near the appeal site, on the other side of the access drive. The SWMS confirms that the same system would be used to drain the proposed development and includes evidence that the attenuation pond has adequate capacity. It also provide other details requested by the LLFA in their response to the application.

The Council has confirmed that it addresses some of the issues raised by the LLFA, while highlighting an outstanding concern about land ownership.

19. While I have noted representations stating that the existing system is ineffective, based on the technical evidence I have no substantive reason to doubt that the proposed drainage arrangements are suitable in principle. However, the attenuation pond is outside the red line boundary shown on drawing 816/22/006 Revision A, dated January 2023. This appears to supersede the red line on a Block Plan dated April 2022, which encompassed the whole development. Furthermore, representations from an interested party include evidence that the land containing the attenuation pond is now in separate ownership and the Appellant acknowledges this to be correct.
20. While s72(1) of the Town and Country Planning Act 1990 provides for the use of planning conditions to regulate the development of land, that does not extend to development on land outside the control of the applicant. Therefore, I cannot be confident that the physical works required to connect with the pond could be secured by means of a positively worded condition.
21. The Appellant states that the terms of the land ownership transfer agreement provide for a connection to be made to the attenuation pond. In that case, it may have been possible to secure implementation of the drainage system by means of a negatively worded Grampian condition, preventing the development from taking place until the required works on land outside the Appellant's control had taken place. However, Planning Practice Guidance advises against the use of Grampian conditions if there is no prospect of the required action being performed within the lifetime of the permission.
22. The landowner in question has expressed clear unwillingness to permit an additional connection to the pond. Based on the limited evidence available to me I cannot be confident that the terms of the transfer agreement would fully override that objection. Had I been otherwise minded to allow the appeal, this is a matter on which I could have sought further submissions from the relevant parties. However, based on the evidence before me I am not persuaded that implementation of the sustainable drainage system could be reliably secured through planning conditions.
23. Although the Appellant indicates that an alternative approach could be implemented, draining the development direct to the nearby watercourse, I have been provided with no substantive evidence that this would provide the required level of attenuation or adequately mitigate the risk of increased surface water flooding elsewhere in the development.
24. For the above reasons, based on the evidence before me I conclude that the proposed development does not include suitable arrangements for surface water drainage to mitigate any increased risk of surface water flooding. As such, it would conflict with relevant requirements in Policy BE05 of the BLP which requires, amongst other things, that all developments should incorporate appropriate sustainable drainage systems for the disposal of surface water, in order to avoid any increase in surface water flood risk. It would furthermore conflict with relevant paragraphs in the Framework which require that development avoids increasing flood risk elsewhere, by means including the incorporation of sustainable drainage systems.

### *Other Considerations*

25. The proposal would make a small contribution to the supply of land for housing. The particular value of bungalows for the Borough's high proportion of older residents is highlighted in the BLP. However, there is no indication that delivery of single storey housing should be prioritised over the restrictions on development in the Green Belt when the development plan is read as a whole.
26. While the BLP includes support for housing to support rural communities, the appeal site is not within a rural settlement defined in the development plan. Nor is there any substantive evidence that one additional dwelling in this location would make a material contribution to local services or otherwise be of benefit to any nearby rural community.
27. Although interested parties raise concerns about additional traffic on Solid Lane, neither the Highways Authority nor the Council has alleged any adverse effect on highway safety and there is space to provide car parking within the site. Any effect on existing trees or landscaping could be addressed through conditions. The Council did not allege that the proposal would cause any material harm to living conditions for neighbouring occupiers, despite having some effect on the outlook from the dwelling on the adjacent plot. Based on the evidence before me I have no reason to reach a different view on these matters. However, they are all neutral factors which weigh neither for nor against the proposal. The absence of any response to consultation with water or gas suppliers is likewise a neutral consideration.

### **Conclusion**

28. The proposal would be inappropriate development in the Green Belt as defined in the Framework and relevant development plan policies. It would be harmful to the openness of the Green Belt. There would also be limited harm to the character and appearance of the area. Furthermore, it has not been demonstrated that suitable arrangements could be secured for surface water drainage to mitigate any increased risk of surface water flooding.
29. The Framework states that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless that harm, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
30. While a number of factors have been highlighted in favour of the proposed development, for the most part these carry neutral weight. I have given modest positive weight to the proposal's small contribution to the supply of housing suitable for a range of occupiers. Nevertheless, the harm to the Green Belt, and the other harm, is not clearly outweighed by this or any other considerations. In consequence, the very special circumstances necessary to justify the proposal do not exist.
31. For the above reasons, I conclude that the appeal should be dismissed.

*Jane Smith*

INSPECTOR