



Appeal Decision

Site visit made on 16 July 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/B1550/W/23/3335633

Glazebrook Farm, Canewdon Road, Ashingdon, Essex SS4 3JL

- 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 Woodrow Barker (Barker Nelsam Ltd) against the decision of Rochford District Council.
 - The application Ref is 23/00448/FUL.
 - The development proposed is to demolish existing structures and sub-divide the plot to allow for the construction of 3 x 6 bedroom new build detached chalet bungalows with private parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application was submitted by Mr Woodrow Barker (Barker Nelsam Ltd). However, the appeal has been submitted by Mr Woodrow Barker (Barker Woodrow). The right of appeal is given only to the original applicant and the appellant has confirmed that Barker Nelsam Ltd is part of the Barker Woodrow company. Therefore, I will proceed with the appeal on this basis.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies;
 - the effect of the proposed development on biodiversity;
 - the effect of ground contamination on the proposed development; and
 - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether it is inappropriate development

4. The appeal site is occupied by a number of buildings, including one large central building and numerous smaller buildings surrounding it, with hardstanding covering a large majority of the remainder of the site. Access is from Canewdon Road and a track runs down the eastern side of the site

providing access to the onsite buildings and an existing property to the south. The surrounding area is rural in nature with a limited number of residential and commercial properties laid out sporadically along the road. The appeal site is also located within the Green Belt. The proposed development would replace all existing built form on the appeal site with three chalet bungalow style residential dwellings with access via the existing road.

5. Paragraph 154 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Under the first section of paragraph 154 (g), these exceptions include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continued use which would not have a greater impact on the openness of the Green Belt than the existing development.
6. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
7. From the figures provided by the appellant and the Council, the proposed development would reduce the footprint of built form by 14.14m² and would also reduce the volume of the building by 267m³. It would also remove large amounts of hardstanding on the site, replacing it with soft landscaping, opening up the west of the site to provide rear gardens for the proposed dwellings. Whilst still visible from the public realm, the proposed dwellings would, as chalet bungalow style dwellings, have a reduced height when compared to the existing large central building which has a two-storey appearance. Therefore, for these reasons, the proposal would not have a visual impact on the openness of the Green Belt.
8. However, due to the nature of the dwellings proposed, the proposal would result in an increase in overall floorspace of 270m². Therefore, due to this significant increase in useable floorspace, the proposed development would erode the spatial openness of the Green Belt. Whilst the exception in paragraph 154 (g) makes no particular reference to cumulative floor area, it does make clear reference to the impact on openness of the Green Belt, of which it has been found that the proposed floor area would reduce.
9. Previously developed land is described in the Framework as land which is or was occupied by a permanent structure including the curtilage of the development land and any associated fixed surface infrastructure. This excludes land that is or was last occupied by agricultural or forestry buildings. The appellant and the Council both agree that the appeal site would constitute previously developed land. Nevertheless, due to the harm to openness, it would not fall under the exception in paragraph 154 (g) of the Framework.
10. The development would therefore be inappropriate development within the Green Belt. This is harmful to the Green Belt which, in accordance with paragraph 153 of the Framework, should be given substantial weight. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, which will be considered below.

Biodiversity

11. The Council consider that there is suitable habitat on the appeal site to support protected species and therefore a phase 1 ecological survey of the site is required to establish the presence or absence of protected species and to ensure that appropriate mitigation could be secured if necessary.
12. Trees and hedgerows are located on the boundaries of the appeal site which could provide a suitable habitat for protected species. However, the proposed development would not result in a loss of any trees or hedging, either on the site or adjacent to it. As such, a suitably worded condition could be included to ensure that these are protected during the construction phase of the proposed development and remain in perpetuity, where appropriate.
13. The Bat Survey Declaration form submitted by the appellant indicates that there are no works being proposed which would be likely to affect bats, a protected species, or their roosts. The remainder of the appeal site is largely covered by hardstanding and the appellant has stated that there are no water courses nearby. Therefore, there is no evidence to suggest that there are any other suitable habitats on the appeal site to support protected species.
14. Consequently, subject to a suitably worded condition in relation to the protection of trees and hedging, the proposed development would not harm biodiversity. It would therefore not conflict with Policies DM25 and DM27 of the Rochford District Council Development Management Plan (2014) which seek to ensure that proposals do not cause harm to priority species and habitats, conserving and enhancing existing trees and woodlands. Furthermore, it would not be contrary to the objectives of the Framework in relation to biodiversity.

Ground Contamination

15. The use and condition of the appeal site, outlined within the Council's report, were noted and observed during my site visit. Whilst the appellant considers that there is a low risk in relation to ground contamination, as the appeal site is previously developed land and due to the sensitive nature of the proposed use for residential purposes, a precautionary approach with regard to potential sources of contamination would be appropriate. However, this could be achieved by way of a suitably worded condition should planning permission be granted to ensure that a risk assessment is undertaken before the development begins and any identified issues are remediated.
16. Therefore, subject to a suitably worded condition, ground contamination would not have a harmful impact upon the proposed development and the proposal would not conflict with Policy ENV11 of the Rochford District Council Core Strategy (2011). This policy requires applicants who wish to develop suspected contaminated land to undertake a thorough investigation of the site and determine any risks. A condition related to contamination would also ensure that the proposal would comply with paragraph 180 of the Framework which requires planning decisions to contribute to and enhance the natural and local environment by remediating and mitigated contaminated land, where appropriate.

Other Considerations

17. The proposed development would contribute three additional family dwellings to the housing land supply in a location which the appellant considers is in

close proximity to local amenities and public transport links. It would also support the creation of new jobs through the construction phase. However, due to the limited scale of the development, this is given limited weight.

18. It has also been highlighted within the evidence that the proposal would result in the optimisation of a brownfield site and that the proposal would improve the visual appearance of the site through the provision of high-quality architectural design and sensitive landscaping. Whilst this may be the case, it has not been demonstrated that these benefits could not be achieved by an alternative scheme which did not have an impact upon the openness of the Green Belt. Therefore, these factors are also given limited weight.

Green Belt Balance

19. The development would be inappropriate development in the Green Belt in that it would result in new buildings within the Green Belt which do not fall under any of the listed exceptions. The Framework establishes that substantial weight should be given to any harm to the Green Belt and the development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
20. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraph 152, 153 and 154 of the Framework.

Other Matters

21. In the submitted Design and Access Statement the appellant has highlighted three developments which were granted planning permission for housing in the Green Belt. However, as these were found not to be inappropriate development within the Green Belt, they are not comparable to the appeal proposal before me and have no bearing on my consideration of this appeal.

Conclusion

22. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR