

Appeal Decision

Site visit made on 13 August 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2024

Appeal Ref: APP/V1505/W/23/3334028

Hygro Farm, Kennel Lane, Billericay, Essex CM11 2SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Blue Door Homes Ltd against Basildon Borough Council.
 - The application Ref is 23/00479/FULL.
 - The development proposed is redevelopment of a site currently occupied by commercial barns to create 5 dwellings with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of a site currently occupied by commercial barns to create 5 dwellings with associated parking and landscaping at Hygro Farm, Kennel Lane, Billericay, Essex CM11 2SU in accordance with the terms of the application, Ref 23/00479/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Blue Door Homes Ltd against Basildon Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has submitted three revised plans with the appeal: JBA 21/229-01 Rev F Detailed Soft Landscape Proposals for plots; JBA 21/229-03 Rev F Landscape Masterplan; and JBA 21/229-02 Rev D Detailed Hard Landscape Proposal. I have compared these revised plans with the previous iterations considered by the Council. I find they show minor changes to landscaping to ensure consistency with the final set of architectural drawings. Consequently, the revisions do not involve substantial differences or a fundamental change to the application. I am satisfied there would be no procedural unfairness if I were to take them into account in my decision.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. I invited the parties to consider

whether the proposed reforms had relevance to this appeal and have taken account of their responses in my decision.

Background and Reasons

5. I understand the planning application was validated by the Council on 6 April 2023 and a period of consultation and negotiation with the Council and interested parties followed. The Council failed to determine the application within the prescribed period, so the appellant exercised their right to submit the appeal on 28 November 2023. The Council subsequently issued a 'decision notice' dated 12 December 2023, but no extension of time had been agreed with the appellant. Whilst this notice is a material consideration in the appeal, it does not amount to a planning permission as jurisdiction to grant permission passed to the Secretary of State when the appeal was made.
6. The Council's appeal statement confirms there is no dispute between the main parties over the planning merits of the appeal scheme, which includes revisions made in response to Council comments during the application. I have nevertheless considered the concerns raised by other interested parties, the first of which relates to the Green Belt.
7. Paragraph 154 of the Framework states the construction of new buildings in the Green Belt is inappropriate subject to several exceptions. One of these is g) redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Saved Policy BAS GB1 of the Basildon District Local Plan (LP) is consistent with this.
8. The status of the appeal site as previously developed land has been established through previous decisions¹.
9. The proposed development in this appeal would comprise five detached houses rather than the two pairs of semi-detached dwellings and one detached home allowed at appeal under permission reference 21/01814/FULL. There would be no material difference in height between that scheme and the current proposal and the fully detached layout would allow more views through the site. Although the total footprint of the appeal scheme would be marginally greater than that previously allowed, it would still be smaller than the footprint of the existing barns. In addition, the proposed built form would be more dispersed across the site and the total area of hard landscaping would reduce compared to the current situation.
10. I therefore agree with the Council and the appellant that the appeal scheme would not have a greater impact on the openness of the Green Belt than the existing development. Consequently, the proposal would satisfy the tests at paragraph 154 g) of the Framework and would not be inappropriate development in the Green Belt. Accordingly, there would be no conflict with LP Policy BAS GB1.
11. Other concerns expressed relate to character and appearance, visitor parking, highway safety, construction management, effects on the living

¹ Application references 18/00594/FULL and 21/01814/FULL

conditions of neighbouring occupiers - including outlook, privacy, noise and disturbance - and surface water drainage. There is no compelling evidence before me that would lead me to a different conclusion to the Council on these matters, subject to appropriate conditions were the appeal to be allowed.

12. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property.

13. For the above reasons, I conclude the appeal scheme would be acceptable and there would be no conflict with the relevant policies of the development plan identified in the Council's statement, or with the Framework.

Conditions

14. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I gave the parties an opportunity to comment on the conditions and have taken account of their responses. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.

15. A Construction Method Statement is necessary for highway safety and to protect the living conditions of neighbouring occupiers. It is secured via a pre-commencement condition to ensure the necessary measures are in place before work starts on site. The appellant has agreed this in writing.

16. The conditions regarding contamination are necessary to protect the health and safety of construction workers, neighbouring occupiers and other off-site receptors. For clarity and certainty, I have included a separate condition to cover the measures required if previously unidentified contamination is found.

17. The conditions relating to external materials and removing permitted development rights are necessary to secure a satisfactory appearance for the development. The landscaping conditions are necessary for the same reason, and to secure biodiversity and effective surface water drainage.

18. The conditions regarding access, parking and vehicle turning are necessary in the interests of highway safety. The condition securing Residential Travel Information Packs is necessary to promote alternatives to the private car.

Conclusion

19. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - 23.8006.100 Site Location Plan
 - 23.8006.101 Rev E Site Plan
 - 23.8006.102 Rev G Site Comparison Plan Existing
 - 23.8006.103 Rev G Site Comparison Plan Approved
 - 23.8006.120 Rev C Proposal Plans and Elevations (Plot 1)
 - 23.8006.121 Rev C Proposed Plans and Elevations (Plots 2-3)
 - 23.8006.122 Rev G Proposed Plans and Elevations (Plot 4)
 - 23.8006.123 Rev D Proposed Plans and Elevations (Plot 5)
 - 23.8006.130 Rev A Proposed Street Scene
 - JBA 21/229-01 Rev F Detailed Soft Landscape Proposals for plots
 - JBA 21/229-03 Rev F Landscape Masterplan
 - JBA 21/229-02 Rev D Detailed Hard Landscape Proposals
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) construction traffic management;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) delivery, demolition and construction working hours;
 - x) details of a nominated developer/resident liaison representative with a contact telephone number to be circulated to neighbouring residents; this person will act as the first point of contact for resident questions or concerns during construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Notwithstanding condition 2, no development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Before the development is first occupied, the remediation strategy in Section 4 of the Remediation Method Statement Ref 2916/Rpt 3v2 by Brown 2 Green Associates Ltd, dated March 2023, shall be implemented in full and the specified remediation verification report shall be submitted to and approved in writing by the local planning authority. The remediation verification report shall include a certificate, signed by the developer, confirming that the required remediation works have been carried out in accordance with the Remediation Method Statement.
- 6) Any contamination that is found during construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development or relevant phase of development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 7) No dwelling shall be occupied until the access road has been upgraded in accordance with the approved details shown in drawing no 23.8006.101 Rev E and a dropped kerb crossing of the footway and highway verge has been provided.
- 8) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 23.8006.101 Rev E for eleven cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 9) No dwelling shall be occupied until the hard landscaping works comprised in the approved details shown on drawing no JBA 21/229-02 Rev D have been completed. New hard-surfaced areas provided within the site shall be constructed of permeable materials in accordance with the details on drawing no JBA 21/229-02 Rev D. There shall be no discharge of surface water onto the highway.
- 10) All planting, seeding or turfing comprised in the approved details shown on drawing nos JBA 21/229-01 Rev F and JBA 21/229-03 Rev F shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 11) No dwelling shall be occupied until one Residential Travel Information Pack approved by Essex County Council has been provided for each dwelling. Each Residential Travel Information Pack shall include six one day travel vouchers for use with the relevant local public transport operator.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A and B of Part 1 of Schedule 2 to the Order shall be undertaken.

End of schedule