



Appeal Decision

Site visit made on 8 October 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2024

Appeal Ref: APP/B1550/W/24/3339002

Oakwood, Trenders Avenue, Rayleigh, SS6 9RG

- 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 Tony Buckley against the decision of Rochford District Council.
 - The application Ref is 23/00428/FUL.
 - The development proposed is demolish existing stables on the site construct a 1 bedroom bungalow with private parking and large rear garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
3. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework as published in December 2023, and any reference to paragraph numbers are to this version.
4. The appeal site is located within the Green Belt. The Framework confirms that the Government attaches great importance to Green Belts. The identified 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.
5. The Council originally refused the scheme as the proposal would have resulted in a new building that would have a greater visual impact on the openness of the Green Belt. The Council therefore considered the proposal as inappropriate development within the Green Belt, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. However, the Council were made aware by the appellant that their assessment was erroneous, as they had assessed an unrelated parcel of land to the south of the appeal site which had been subject to a previous planning application. The Council has acknowledged this error and have confirmed that they

consider the appeal site is previously developed land (PDL) containing buildings of permanent and substantial construction. The Council consider that the proposal would result in the redevelopment of PDL and would not have a greater impact on the openness of the Green Belt than the existing development. Therefore, the development would not be inappropriate development under the exceptions in paragraph 154 of the Framework. As such, the Council no longer contests the first reason for refusal.

7. Based on the plans before me and my observations on site I see no reason to take a different view. Accordingly, the proposal is not inappropriate development in the Green Belt and does not conflict with policy as set out in the Framework on this matter. Therefore, I have confined my assessment of this appeal scheme to the remaining reason for refusal.

Main Issue

8. The main issue is the effect of the proposal on ecology and biodiversity value at the site.

Reasons

Ecology and biodiversity

9. From the evidence before me, there is no information in the form of a preliminary ecological appraisal or other similar ecological assessment to establish the biodiversity value of the site, or indeed if any protected species, priority species or priority habitats are present on site. Consequently, an assessment of ecology and biodiversity could not be reasonably undertaken. Without robust evidence, I cannot be confident that development could be carried out in this location without adversely affecting species and habitats that may be present on site, or whether any suitable mitigation measures could be provided. Given this uncertainty, I am not satisfied that it would in this case, be appropriate to defer consideration of this matter to a planning condition.
10. Accordingly, I am unable to conclude that the proposed development would not result in adverse impacts on ecology and biodiversity and must adopt a precautionary approach. I find that the proposal would conflict with Policy DM27 of the Rochford District Council Development Management Plan (RDMP), adopted December 2014, which seeks development to protect priority species and habitats unless it can be clearly demonstrated that the proposal outweighs the need to safeguard the nature conservation value of the species/habitat. I find it would also conflict with the Framework, which sets out the principles for the determination of planning applications to protect and enhance biodiversity.

Other Matters

11. The appellant statement highlights the Council should have requested the ecological information at the validation stage. National Planning Practice Guidance (PPG) advises that local planning authorities (LPA) may request supporting information with a planning application. Its requirements should be specified on a formally adopted 'local list'.
12. The local list is prepared by the LPA to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the LPAs website,

information requested with a particular planning application must be about a matter which it is reasonable to think will be a material consideration in the determination of the application.¹

13. I have not been provided with any evidence regarding whether information on this matter is contained on the Council's local validation list. In any event, as I am dismissing the appeal for the above reasons, I do not need to consider this matter further, as no significant likely effects would arise from my decision.

Conclusion

14. The proposed development conflicts with the development plan when taken as a whole, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. The scheme also fails to accord with the requirements of the Framework.
15. For the reasons given above I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR

¹ Paragraph: 040 Reference ID: 14-040-20140306