



Appeal Decision

Site visit made on 24 September 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2024

Appeal Ref: APP/V1505/W/24/3337443

Land North of 6 Bakers Farm Close, Wickford, Essex SS11 8FR

- 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 G Hyde, HBH Wickford Ltd against the decision of Basildon Borough Council.
 - The application Ref is 23/01210/FULL.
 - The development proposed is 2 No. detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework was revised in December 2023. I have referred to the updated paragraph numbers in my decision.
3. An Ecological Survey and Assessment¹ (ESA) was submitted with the appeal. Although the Council has not provided an appeal statement or otherwise provided comments on the ESA, the Council and interested parties have had an opportunity to consider it during the appeal process. I have therefore taken it into account in the decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework including the effect on the openness and purposes of the Green Belt;
 - whether the proposed development would harm the living conditions of the occupiers of No 11 Alicia Way with particular regard to privacy;
 - whether the proposal would have an adverse effect on Protected and Priority species and the integrity of designated Habitats sites; and
 - 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.

¹ Ecological Survey and Assessment August 2023

Reasons

Whether inappropriate development

5. The proposal involves the erection of two detached dwellings. The appeal site is an enclosed undeveloped parcel of land situated beyond an existing cul-de-sac called Bakers Farm Close. Surrounding land uses to the west and south of the appeal site comprise residential development on the edge of Wickford. There is countryside to the north and east and several parcels of land bordering the appeal site comprised a former housing allocation (H13: Land north of Southend Road) within an emerging Local Plan that was withdrawn in March 2022. That former allocation and the appeal site are located within the Green Belt. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
6. The council has not referred to any development plan policies relating to the general principles of development in the Green Belt in its refusal reason, instead relying on policies contained within the Framework. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions a) to g). The proposal for two detached dwellings does not fall within any of the listed exceptions. The proposal before me amounts to inappropriate development.
7. Openness is an essential characteristic of the Green Belt and is capable of having a spatial aspect as well as a visual aspect. From a spatial perspective, Both dwellings would follow the existing alignment of No 6 Bakers Farm Close, extending the existing enclave of dwellings served by this road. The proposed dwellings would appear bulkier than No 6 due to the presence of dormer windows on the front roof slope and would have substantial mass taking up a considerable amount of space above the flat site. The introduction of large elements of built form, essentially filling the width of each plot, alongside hardstanding and activity arising from the associated residential occupancy would all add appreciably to the presence of development and reduce spatial openness.
8. From a visual perspective, the orientation of the existing dwellings on Bakers Farm Close would effectively screen the proposals from public views from the direction of the A129. Views of the development from the north and east would be mitigated by the presence of landscape features obscuring and containing the site. However, the development would be highly visible when viewed from the turning head of Alicia Way and Bakers Farm Close. From these locations, the site appears as a gap and allows views across the appeal site. There would be little to mitigate the visual appearance of the development from these locations.
9. The appeal site is located on both the edge of a built up area and the countryside. As such I find that there would also be conflict with the Green Belt purposes contained in paragraph 143 a) and c) of the Framework. Although the proposal would square off the residential pattern of development, it would expand the existing built up area beyond a clearly defined edge of residential development at No 11 and No 6 Bakers Farm Close. For similar

reasons there would be encroachment into the countryside. Despite being enclosed the effect of development as encroachment on the countryside may also be in the form of loss of openness as well as intrusion.

10. Taking all of the above together, the proposal would result in moderate harm to openness and limited harm to two of the purposes of the Green Belt. Regardless of the level of harm the impact on openness, and the inappropriateness of the proposal in principle, both carry substantial weight.
11. I therefore conclude that the proposal would conflict with paragraphs 152, and 154 of the Framework, which together seek to prevent inappropriate development in the Green Belt. However, it is necessary in this case to consider whether very special circumstances clearly outweigh the substantial weight attributed to the aforementioned Green Belt harm and any other harm resulting from the proposal. I therefore return to whether the proposal would conflict with Framework paragraph 153 within the final balance.

Living conditions

12. The front elevations of the proposed dwellings would face the side of the property and the garden boundary of No 11 Alicia Way. I have not been referred to any relevant separation distances and none are referred to within Local Plan policy BAS BE12. However, the Council has identified that the proposals would be 13.5m to 14m away from the site boundary of No 11. Although in some circumstances this can be acceptable, and some overlooking can be expected within close knit residential areas, there are two windows positioned on the side of No 11 at first floor. The side and garden of No 11 also has a relatively open aspect along the side boundary as is not significantly surrounded by residential properties, and therefore relatively protected at present.
13. The proposed dwellings both have two windows on their front elevations. These are relatively wide and serve bedrooms. Because of the elevated position of the windows, the orientation of the proposed dwellings, and as there is little in the way of screening above the fence between the properties, it would be possible to have unobstructed views across the proposed parking and turning areas directly towards the property and garden of No 11.
14. At those distances it would be possible to see people within the rooms. The bedroom windows on the proposed development would increase the potential for overlooking as well as be likely to increase the perception of being overlooked. This would be detrimental as it would expose the home and full length of the garden area of No 11, making them both less comfortable and enjoyable to use as a result.
15. I conclude that the proposal would therefore harm the living conditions of the occupiers of No 11 with particular regard to privacy. It would be contrary to Local Plan policy BAS BE12. This policy seeks to prevent harm caused by overlooking.

Protected species and Habitat sites

16. The Council's Ecological Consultant identified there are likely to be effects on protected and Priority species from the development. The subsequent ESA addresses the species that were identified by the Council. The Council has not provided any comment on the adequacy of this document. Therefore the

undisputed findings and conclusions of the submitted ESA with the appeal are broadly that there would be no or negligible impact on Protected or Priority species within the appeal site subject to mitigation measures. No evidence to the contrary has been advanced. Furthermore, the ESA puts forward opportunities for habitat creation and enhancement within the site.

17. The Council's Ecological Consultant concluded that the proposed works, whilst being located within an impact risk Zone for the Crouch and Roch Estuaries Site of Special Scientific Interest, would be unlikely to have an impact upon designated sites. I have no evidence to disagree on this matter.
18. However, the site falls within the recognised 'Zone of Influence' for one or more of the European designated sites within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). These are also afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Regulations). The Regulations require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of these sites.
19. As I am dismissing the appeal on other grounds, I do not need to undertake an Appropriate Assessment. However, Given that that the development is for additional housing, there is reasonable likelihood that the areas would be accessed for recreational purposes by the occupants of the development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a likely significant effect on the European Sites.
20. The officer report outlines that the aim of the RAMS work is to secure financial contributions from developers to projects that would mitigate the likely impact of development. The Council have indicated that the tariff to fund the mitigation, which is payable for all additional new dwellings is currently set at £156.76 per dwelling. Even though the appellant has indicated a willingness to enter into an agreement to address any mitigation required to address concerns related to the RAMS I have no such agreement before me.
21. In the absence of appropriately secured mitigation, I do not have sufficient certainty that the proposal would not have a significant in combination effect on the designated sites through recreational disturbance and damage. As a result, I cannot rule out that the condition and integrity of the Habitats Sites would deteriorate. A scheme for two dwellings would not provide reasons of overriding public interest to justify allowing the appeal.
22. Notwithstanding my findings on protected and Priority species and absence of conflict with Framework paragraph 180 d) in this respect, consequently, I conclude that the proposed development has not demonstrated that it will adequately mitigate the recreational impacts of the proposal. It would therefore fail to comply with the requirements of the regulations and Species Regulations 2017 as well as Paragraph 186 a) of the Framework which states that if significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

Other Considerations

23. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
24. The evidence presented suggests that the land surrounding the appeal site was evaluated and assessed as being suitable for housing development as part of the Local Plan process. The Maitland Lodge appeal decision² and the appeal at Land North of Kennel Lane³ were both part of former withdrawn housing allocations. Both are within the same Council administrative area within the Green Belt and allowed at appeal citing weight to be given to the withdrawn local plan proceedings in light of the significant housing shortfall within the borough.
25. However, the Maitland Lodge Inspector established that proposal was 'not inappropriate' development. Furthermore the Green Belt element of that appeal site was all previously developed land and it did not require the existence of very special circumstances.
26. Whilst it was identified in the Kennel Lane decision that the proposal amounted to inappropriate development, unlike this case, the Inspector found no other harms. The Inspector concluded considered the range of benefits including a significant contribution to the housing shortfall, increased permeability within the local area, flood risk betterment, significant biodiversity net-gains and contributions to training opportunities contributed to very special circumstances, these are in excess of what it before me with this appeal.
27. Ultimately, both appeals are materially different to the circumstances before me. They both involve site specific factors and so limits the weight I can give to these decisions.
28. I have also been made aware of an outline planning application⁴ for 250 dwellings and associated landscaping, open space, drainage infrastructure and associated works on the adjacent land, which roughly formed part of the housing allocation H13. Although residential development could surround the appeal site, the site layout could change with any reserved matters application and I have not been provided with any details showing the indicative disposition of homes or landscape. I have been given no certainty that that this application is progressing or likely to be approved, despite it being located on the former housing allocation.
29. Even though that planning application site has been submitted to the Council as part of the call for sites process, insufficient evidence has been provided that that the appeal site and the adjacent land is still being considered by the Council for release from the Green Belt. I have had regard to the submitted evidence from the Basildon Outline Landscape Appraisals of Potential Strategic Development Sites 2017. However, from the evidence before me, this provided part of the evidence base for the allocation H13 assessed the

² Appeal Ref: APP/V1505/W/22/3296116

³ Appeal Ref: APP/V1505/W/22/3298599

⁴ Council Ref: 23/01018/OUT

landscape sensitivity as opposed to the effect on the openness or purposes of the Green Belt through any Green Belt Review.

30. It is common ground between the parties that the Council does not currently have a deliverable 5-year housing land supply. However, footnote 7 of Paragraph 11 of the Framework states that the presumption in favour of sustainable development is not engaged where policies in the Framework, that protect areas or assets of particular importance, provide a clear reason for refusing the development proposed. Footnote 7 sets out that these policies include those relating to land designated as Green Belt and habitats sites. Given my findings in relation to the harm to the Green Belt and in the absence of mitigation for the designated habitats sites there are clear reasons for refusing the development proposed, I am not required to apply the presumption in favour of sustainable development in this respect.
31. However, the appeal scheme would provide a small development of two dwellings that could be built quickly and would make a small contribution to the Council's housing undersupply. This is an important consideration given it is sufficient for only 1.85 years. The proposal would also result in small scale economic benefits from the construction and occupation of the development. Although small scale, set against the undersupply, this attracts moderate weight in its favour.
32. The Council raises no concerns about the design and effect on the character and appearance of the area. The dwellings would provide acceptable living conditions for any future occupants. The proposal would be satisfactory in terms of highway safety, parking provision and flood risk. A condition could be imposed to secure a programme of archaeological evaluation. These matters weigh neither for nor against the development.

Planning and Green Belt Balance

33. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in harm to the openness of the Green Belt and the purposes of including land within it, although the scale or the harm would be limited this attracts substantial weight.
34. I have found that the proposal would be harmful to the living conditions of the occupiers of No 11. I give the identified policy conflict significant weight. I afford significant weight to the potential harm that might arise as a result of the unmitigated effect on the habitat sites as I am required to take a precautionary approach.
35. As explained above I give modest weight to the other material considerations cited in support of the proposal, including the previous allocation of the site. However, the circumstances do not clearly outweigh the harm the scheme would cause. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. I conclude the proposal is therefore in conflict with paragraph 153 of the Framework.

Conclusion

36. My above findings bring the proposal into conflict with the development plan, as a whole and the Framework. There are no material considerations, that

indicate that I should take a decision otherwise than in accordance with it.
Therefore, I conclude that the appeal is dismissed.

K Williams

INSPECTOR