



Appeal Decision

Site visit made on 11 December 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 11th February 2025

Appeal Ref: APP/V1505/W/24/3346217

Oakwood, Branksome Avenue, Wickford SS12 0JU

- 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 M Whiting against the decision of Basildon Borough Council.
 - The application Ref is 23/01452/FULL.
 - The development proposed is single dwelling with associated amenity space and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submissions from the parties on this matter. The appellant provided a response which has been considered in my determination of this appeal.
3. On the same date the Government published the results of the 2023 Housing Delivery Test (HDT). Over the preceding three years 35% of the Council's housing requirement was delivered, this has decreased from 46% which was the measurement in the 2022 HDT. The consequence of the underperformance is that the presumption in favour of sustainable development applies. It was not necessary to consult the parties on the 2023 HDT as the consequence has not changed and the result of the updated HDT is not materially different to the previous result.
4. The description of development in the banner above is taken from the application form. However, I have removed the phrase "Full Planning Application for ..." as this does not refer to an act of development.
5. Within the Delegated Report the Council referred to the Essex Coast Recreational Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) which was adopted by the Council in October 2020. As a copy of the SPD has not been provided, I have reviewed it online and it has formed part of my assessment of the appeal proposal. As the SPD was explicitly referred to in the evidence there is no breach of natural justice by me considering its content.

Main Issues

6. The main issues are:
 - the effect of the proposal on Blackwater Estuary Special Protection Area (SPA);

- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and appearance of the area; 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.

Reasons

Blackwater Estuary SPA

7. The appeal site is in proximity to the Essex Coast Habitat Sites¹. In particular, it is within the zone of influence of the Blackwater Estuary SPA. The Conservation of Habitat and Species Regulations 2017 (as amended) imposes a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other proposals.
8. Together the Essex Coast Habitat Sites are recognised for their value as coastal habitats which are home to internationally important breeding and non-breeding birds. The proposed development would result in an increase in residents living in the area. This would result in increased recreational pressure which could lead to disturbance at the SPA. Therefore, this development alone, and in combination with other developments, would have a likely significant effect on the integrity of the SPA and would be harmful to the site's conservation objectives.
9. The SPD seeks a per dwelling contribution which would fund mitigation measures to offset the effect of a proposal on the Essex Coast Habitat Sites. These measures include the employment of rangers, installation of signage, and works to discourage visitors, in particular dog walkers. Natural England have informed and endorsed the approach set out within the SPD.
10. As the competent authority in this case, I am obliged to ascertain that there would be no harm to the conservation objectives of the Blackwater Estuary SPA before granting planning permission. The proposal would have a harmful effect on the SPA therefore mitigation measures are required. A condition which secures an assessment to identify any measures and/or requires an obligation to be secured would not offer certainty that the harm to the SPA would be fully mitigated. Furthermore, without further details on the mitigation measures, the amount of the contribution and who that would be paid to and for what, the proposed condition would not offer sufficient assurance that the mitigation would be appropriate.
11. Overall, I conclude that the proposal would have a harmful effect on the Blackwater Estuary SPA. The proposal would be contrary to paragraph 187 of the Framework which indicates that planning decisions should contribute to and enhance the natural environment by protecting sites of biological importance.

Green Belt

12. Saved Policy BAS GB1 of the Basildon District Local Plan Saved Policies, September 2007 (LP) states that the boundaries of the Green Belt are drawn with

¹ As identified within the Essex Coast Recreational Avoidance and Mitigation Strategy Supplementary Planning Document.

reference to the foreseen long-term expansion of the built-up areas acceptable in the context of the stated purposes of the Green Belt. The Framework indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and within paragraph 143 sets out the five purposes of the Green Belt. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and paragraph 154 indicates that development in the Green Belt is inappropriate unless one of the specified exceptions applies.

13. Paragraph 154e) advises that limited infilling in villages is not inappropriate. The appeal site is in an area known as “plotland” which is connected to Wickford. This area has a grid like pattern of development. Whilst originally the area comprised of temporary dwellings, the vast majority have been replaced with permanent dwellings. The roads tend to have metalled surfaces and there are several examples of street furniture including street signs, telegraph poles, and road names. Although this side of Branksome Avenue is less developed than the opposite side, it still forms part of the main core of the area, which has the character of a residential suburb. The appeal site is therefore within a village.
14. On the other side of Branksome Avenue there is residential development. However, to the east and west of the appeal site are several parcels of land which are used to site mobile homes and one which accommodates a storage container. To the north is land owned by the appellant which would remain vacant land. Therefore, the proposed development would not fill a gap between built development and, consequently, would not be limited infill in a village. Moreover, due to the nature of the surrounding development it is materially different to the dwelling on Branksome Avenue which was allowed at appeal².
15. Paragraph 154g) indicates that limited infilling or the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt would not be inappropriate. In March 2014 a certificate of lawfulness application to establish the use of the site for storage of containers and lorry bodies together with vehicles was refused. There is no evidence that this use of the site has subsequently been approved and there has been no challenge to that decision. The appellant also provided conflicting evidence. In the Planning Statement they have indicated that the appeal site is vacant and within the Appeal Statement they have indicated that it is an area of hardstanding that is used for the stationing of motor vehicles and outbuildings. There is no substantive evidence to indicate that the site is being lawfully used for storage.
16. Based on the evidence before me, I conclude that the last lawful use of the wider site was as a dwelling and associated grounds. However, that dwelling was sited outside of the appeal site. Furthermore, it was damaged in World War II and any remnants of associated infrastructure on the appeal site have subsequently blended into the landscape. Therefore, the appeal site is not previously developed land as defined by the Framework.
17. Paragraph 155 of the Framework indicates that the development of homes in the Green Belt should also not be regarded as inappropriate where the development would utilise Grey Belt and meets the remaining parts of the criteria. The definition

² Appeal Ref. APP/V1505/W/21/3278853, date issued 6 April 2022

of Grey Belt in the Framework states it excludes land where the application of the policies relating to the areas in footnote 7 would provide a strong reason for refusing development. One of the areas identified within footnote 7 of the Framework is habitat sites. As above, the proposal would be harmful to the Blackwater Estuary SPA. For this reason, the appeal site would not be Grey Belt, and the proposal would not meet the criteria set out within paragraph 155 of the Framework.

18. Whilst the site only makes a limited contribution to the five purposes of the Green Belt set out in paragraph 143 of the Framework, the proposal would be inappropriate development in the Green Belt.
19. I acknowledge that the site is currently used for the storage of items and there are areas of hardstanding throughout the site. However, based on the evidence the lawful use of the site is as a vacant piece of land. The proposal would lead to the introduction of built form which would be highly visible from the road. Therefore, the proposal would have a harmful effect on the openness of the Green Belt, in both visual and spatial terms. The proposal would be contrary to saved LP Policy BAS GB1 and the provisions of the Framework, for the reasons given above.

Character and appearance

20. As above, the appeal site is located in the “plotland” area. Due to the historic development and renewal of the area, there is not a consistent design to the dwellings. However, most are modest in size and set within spacious plots with circulation space to the sides and front. There are some vacant plots within the area, which often appear overgrown. These factors combine to create a verdant but suburban character.
21. The proposed dwelling in terms of its scale, bulk and height would assimilate with the urban grain. Although the property would not be surrounded by built development it would not appear discordant or over dominant as it would continue the grid pattern of development interspersed with vacant plots from elsewhere in the area. Therefore, in principle the proposed dwelling would conserve the character of the area.
22. However, the lack of consistency in terms of the alignment and proportion of the proposed fenestration would make the proposed dwelling appear odd. Although the design of the dwellings in the area is not consistent, the properties tend to include well proportioned and aligned fenestration. Therefore, the proposed dwelling would appear incongruous within the street scene.
23. Overall, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. The proposal would therefore be contrary to saved LP Policy BAS BE12 which indicates that planning permission will be refused where it causes material harm to the character of the area. It would also be contrary to the guidance within the Framework which advises that the creation of high-quality buildings is fundamental to what the planning process should achieve, and that planning decisions should ensure that developments are visually attractive as a result of good architecture.

Other considerations

24. The Framework identifies that small and medium sites can make an important contribution to meeting the housing requirement of an area. The proposed dwelling would help address the historic under delivery of housing in Basildon. It would also comply with the Nationally Describe Space Standard and Essex parking standards and provide a substantial amount of private external amenity space. Whilst the proposal would be inappropriate development in the Green Belt, it would relate sensitively to an existing settlement. Also, an increase in the population would boost the vitality and viability of local rural services. Given the scale of the proposal but considering the historic underperformance in relation to the HDT, moderate weight is ascribed to the other considerations in favour of the proposal.
25. Notwithstanding this, the Framework is clear that substantial weight shall be given to any harm to the Green Belt. In this instance, the harm to the Green Belt by reason of inappropriateness and its openness, and the harm to the character and appearance of the area is not clearly outweighed by other considerations. As such, very special circumstances do not exist to outweigh the identified harm.
26. As the proposal would be harmful to the Green Belt and Blackwater Estuary SPA, as per footnote 7 of the Framework, the application of policies in the Framework that protect areas provides a strong reason for refusing the development proposed. Therefore, despite the underperformance in relation to the HDT, the presumption in favour of sustainable development does not apply in this instance.

Conclusion

27. The proposal conflicts with the development plan when considered as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR