



Appeal Decision

Site visit made on 2 December 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2025

Appeal Ref: APP/V1505/W/24/3344054

Orchard Avenue, Ramsden Bellhouse, Billericay, Essex, CM11 1PH

- 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 and Mrs S Wane against the decision of Basildon Borough Council.
 - The application Ref is 23/01445/FULL.
 - The development proposed is a new dwelling to replace existing barn and stables including change of use from equestrian to residential
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. The main parties were given an opportunity to comment on this matter and I have taken the comments made into account.

Main Issues

3. The main issues are :
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the Framework including the effect upon the openness of the Green Belt;
 - whether the proposal would harm the character and appearance of the area
 - whether the proposal would have a harmful effect on protected species and the Essex Coast Habitats sites; and
 - if inappropriate, 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

Whether inappropriate development

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy BAS GB1 of the Basildon District Local Plan Saved Policies 2007 (the Local Plan) defines the extent of the Green Belt.

5. The appeal site is located within the Green Belt and within a semi-rural area beyond the main built confines of the settlement of Ramsden Bellhouse. Although the surrounding area also contains numerous trees the land surrounding the settlement comprises a predominantly an open landscape consisting of fields. The appeal site comprises garden land associated with residential property fronting Orchard Avenue, a narrow road with sporadic development. It also includes a large paddock with a barn, attached stable which is situated alongside a menage and a horse-walker. The application form states the site area is 0.94 Ha, and the majority of this area is partially fenced off from the structures.
6. Planning permission 14/00932/FULL was granted for the change in the use of the paddock land and building to an equestrian use. The proposal seeks to remove, the existing structures and construct a new three bedroom dwelling with a vehicular access from Orchard Avenue. This long access runs along the southern boundary of the appellants land, before crossing to the northern side between existing substantial outbuildings.
7. The Framework confirms that development in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. These exceptions include criterion g) limited infilling or the partial or complete redevelopment of previously developed land (PDL) providing it would not cause substantial harm to the openness of the Green.
8. The Framework provides a definition for previously developed land. This definition includes land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed.
9. The Council's evidence states that any initial agricultural use undertaken of the building was limited, if at all, and that the land is not actively farmed. I have no evidence that the permission 14/00932/FULL was not lawfully implemented. Where land is currently occupied by a permanent building which has a different use, having changed its use from agricultural or forestry use, it will be previously developed land.
10. However, the definition of PDL excludes residential gardens. Furthermore because a site contains structures that would meet the definition of previously developed land does not mean that the whole site should be considered as such. I observed on my site visit that the part of the site consisting of the open paddock does not appear to have been occupied by a permanent structure. There is also a clear visual separation and a physical change between the open paddock and the land around the barn. The paddock is largely indistinguishable from the open countryside beyond. Therefore, although part of the site could be described as PDL the remainder of the site and that proposed for the access cannot therefore reasonably be described as such. On this basis, the exception set out in paragraph 154 g) of the Framework would not be applicable to the site as a whole.
11. The proposed dwelling would have a smaller footprint and volume than the barn and stables. The proposal would result in the removal of an open menage and relatively low and open horse-walker. The removal of these structures would be off-set by the provision of parked cars, but overall there would be a neutral impact

on the openness on this part of the Green Belt which is currently closely associated with the barn and stables, menage, horse-walker and hardstanding where it exists.

12. However, the development would reduce openness through the creation of a very long and contrived access. This would introduce additional development in the locality. It may require lighting and thus and would give a more suburban feel to the surroundings. Although the visibility of the access track would be relatively well concealed, there would still be harm to openness arising from the above physical changes and use of the access track by vehicles.
13. The landscape proposals show the creating of a lake, wild meadow and proposed hedging. However, once undeveloped land becomes a garden its appearance would change through planting, hard landscaping such as rockery or paving and the erection of structures such as greenhouses, sheds or children's climbing frames, which could spread across the substantial site. Although I appreciate the natural features proposed, I have no details of site levels, and overall this would still change the appearance of the site and give the site a more domestic character which emphasises the encroachment of a residential use and activity. The significant extent of the site adds weight to my concerns about the resulting encroachment and the subsequent harm to the openness and purposes of the Green Belt.
14. However, unlike previous iterations, the updated Framework at paragraph 155 now states that development of homes need not be regarded as inappropriate subject to satisfying all the criteria a) to d). Given its location at the end of a lengthy garden where there is a marginal pattern of development, the appeal site would not be located close to a built-up area; would not merge towns, nor affect the setting and special character of a historic town. Consequently, the appeal site would not strongly contribute to purposes a), b), or d) in paragraph 143 of the Framework, and thus would be considered 'any other land' for grey belt purposes. The proposal would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Subsequently, it would accord with paragraph 155 a) of the Framework.
15. The Council's officer report identifies that the Council has a 1.88 year housing land supply. As such, this demonstrates that there is currently a shortfall and a demonstrable unmet need for the type of development proposed. Thus the proposal would be in accordance with criterion b) of Framework paragraph 155.
16. There are no paved footpaths or street lighting along this part of Orchard Avenue. Furthermore the access to the dwelling is long. This is likely to discourage walking. Although I did note bus stops along Church Road, these would not be relatively easy to access from the appeal site. By virtue of the lengthy access the appeal site would be even more isolated from sustainable transport options than existing homes. Therefore, whilst highway safety issues have not been raised the site's location with poor access to local facilities and services would not align particularly well with the aims of supporting sustainable transport solutions. However, taking into account that opportunities to maximise sustainable transport solutions varies between urban and rural areas, on balance the scale of development of one home would not be extensive and would satisfy criterion c).

17. Criterion d) sets out that for a development not to be regarded as inappropriate, it needs to meet the 'Golden Rules' requirements set out in paragraphs 156-157 of the Framework. Paragraph 156 deals with major development. Notwithstanding that the proposed development was not advertised as such, it meets the definition of major development contained within the glossary of the Framework as it has an area of more than 0.5 hectares. I have no evidence before me that the Golden Rules would be met. It therefore follows that the proposed development would not meet the exception in paragraph 155.
18. As outlined above, the fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. Although the proposal would not conflict with many of the purposes of the Green Belt, given the important role the appeal site plays in acting as a transition between the open countryside and the existing built form the introduction of the proposed dwelling and garden on land behind existing domestic gardens would fail to keep land permanently open and fail to assist in safeguarding the countryside from encroachment.
19. Consequently, even if I were to find that the entire site could be defined as the partial redevelopment of previously developed land, the proposal would result in substantial harm as it would diminish the openness of the Green Belt and would be in conflict with the purposes of including land within it. I conclude that it would be inappropriate development. The proposal does not accord with Saved Policy BAS GB1 of the Local Plan or paragraph 154 of the Framework which identifies forms of development that are not inappropriate. I attach substantial weight to this harm.

Character and appearance

20. The proposal is located at the rear of a substantial plot. The extent of this is naturally defined by existing trees. Beyond this, the rural character of the area is particularly noticeable and built development is very limited. Although the proposal would be substantially similar in scale as the barn being a single storey building finished primarily in timber cladding, the steeply pitched roof, and large glazed windows would mark it apart from a simple rural building. It would be a very prominent feature. The suburban appearance and additional parking would be discordant in juxtaposition with the rural surroundings.
21. There are examples of buildings set behind the existing frontage development in the immediate vicinity of the site. However, these appear to be within existing gardens. The overall plot layout is somewhat at odds with the more elongated plots in the area. The isolated position of the dwelling and extensive garden area on land where there are no other dwellings would fail to reflect the existing pattern of development.
22. The change of use of the land to residential garden, which is likely to include in places a maintained lawn introduces built form and a distinctly different character of use compared to the prevailing undeveloped rural character of this part of the area. As such the development fails to harmonise with the character and appearance of the surrounding countryside.
23. Overall, the proposal represents an incongruous form of development, out of keeping with the pattern of development in this location, substantially increasing the proliferation of buildings with those already present from Orchard Avenue.

24. The appellant has drawn my attention to development which they consider to be similar to this appeal proposal. Whilst each proposal is judged on its own merits, I have carefully considered these examples, and I note the similarities with the context in that they do not all have a road side frontage. However, I have not been provided with the full details and they will have been determined under a different set of circumstances, planning policies and other evidence which is not before me in this appeal. There is a degree of subjectivity in consideration of these matters and those put forward in support of those proposals which require site specific judgements to be made. However, I am not convinced that the sites are the same or as isolated as the proposal before me, and for these reasons they do not alter my decision.
25. I conclude that the proposal would harm the character and appearance of the area. It would be contrary to Saved Policies BAS BE12 and BAS BE13 of the Local Plan. Together these seek, amongst other things, to ensure that development is acceptable to its surrounding and accords with specific guidelines for minimising the impact of new development in Ramsden Bellhouse on the relatively open surrounding countryside.

Protected species and Habitats sites

26. A Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment (the PEA) was submitted with the appeal. Therefore the Council had the opportunity to comments on it. The PEA indicated that there was no evidence of the buildings being used for bats or nesting birds. The wider site had negligible potential for supporting reptiles, Great Crested Newts and ground nesting birds. Although no evidence of setts were found Badgers may enter the site and bats could forage in the surrounding areas.
27. The PEA identifies that the site currently has low ecological value due to the presence of species-poor grassland and hardstanding. No additional protected species surveys are required. It is considered that the scheme would not have any significant ecological effects. As such I am satisfied that the mitigation measures and opportunities to achieve biodiversity enhancements through the diversity of the grassland, new tree, shrub and hedge planting, construction of a large wildlife pond and provision of new integral bird boxes within the new building could be secured by a suitably worded planning condition.
28. The Proposed Development is located within the recognised 'Zone of Influence' for one or more of the European designated Habitats sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). These are classified for bird species and habitats that are rare and/or vulnerable. The Conservation of Habitat and Species Regulations 2017 (as amended) (the Regulations) 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 plans and projects within the context of an Appropriate Assessment (AA).
29. The proposed dwellings would be likely to result in additional recreational pressure locally on sensitive coastal areas and such activity could cause disturbance to birds and their habitats. The increase from the development alone would be small, but it is likely that in combination with other developments, the proposal could have a significant impact on the integrity of the Habitats sites.

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31. In this case, the appropriate contribution has been secured through a direct payment to the Council. This is clearly identifiable under the planning application reference. I have no clear reason to doubt that the Council, as a responsible public body, would not spend the money in the way as envisaged by the RAMS SPD, or within a specified timetable.
32. As I am dismissing the appeal for other reasons, I am not required to undertake an AA. However, I am satisfied that the contribution may be taken into account as mitigation to effectively mitigate the recreational impacts of the proposed development on the nature conservation interest of the Habitats sites and avoid adverse effects to their integrity and used for the intended purpose.
33. I conclude that the proposal would not result in an adverse effect on protected species and the Essex Coast Habitats sites. The Council has not referred to any conflict with development plan policies in this respect. However, the proposal would not be in conflict with chapter 15 and paragraph 193 of the Framework which requires that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other considerations

34. The proposed development would result in limited economic benefits during construction, and once complete limited on-going benefits to the local economy, including through on-going spend, and small contributions to the vitality of local and rural communities, services, and facilities.
35. The Council does not currently have a deliverable 5-year housing land supply. The appeal scheme would provide a small development of a single dwelling that would make a modest contribution given the current 1.88 year supply. I attach moderate weight in this respect.
36. Subject to the imposition of suitably worded conditions the proposal could secure biodiversity enhancements. I am of the view these benefits, attract moderate weight in favour of the scheme.
37. The proposal does not raise significant concerns in respect of neighbouring residential living conditions, the quality of accommodation and highway safety. Suitable conditions would also ensure that the proposed development would be or suitable for end users and adequately deal with matters such as protected species. However, these would be neutral matters in the balance.

Planning and Green Belt Balance

38. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, I have found that the development would lead to a loss to the openness. As directed by the Framework, I attach substantial weight to the Green Belt harm. The proposal would also harm the character and

appearance of the area. In these respects, the proposed development would not accord with the development plan policies and the Framework.

39. 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. I have examined all the benefits and arguments in favour of the appeal proposal advanced by the appellant. However, individually and cumulatively these other considerations do not clearly outweigh the totality of harm by reason of inappropriateness and any other harm of the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.
40. In-light of the foregoing, in accordance with paragraph 11 d) of the Framework, the application of policies that protect areas or assets of particular importance provide a strong reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply, and the harm from the development significantly outweighs the benefits.

Conclusion

41. My above findings bring the proposal into conflict with the development plan when read as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. I, therefore, conclude that the appeal should be dismissed.

K Williams

INSPECTOR