



Appeal Decisions

Site visit made on 11 March 2025

by Mr Edwin Maund BA(Hons) Dip UP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Appeal A Ref: APP/H1515/W/24/3347695

Land at Beggar Hill, Fryerning, Essex, CM4 0PN

- 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 Mr and Mrs Sharp of Fristling Hall Farms Limited against Brentwood Borough Council.
 - The application Ref is 23/01502/FUL.
 - The development proposed is to Erect Hay Barn.
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Appeal B Ref: APP/H1515/W/24/3347697

Land at Beggar Hill, Fryerning, Essex, CM4 0PN

- 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 Mr and Mrs Sharp of Fristling Hall Farms Limited against Brentwood Borough Council.
 - The application Ref is 23/01503/FUL.
 - The development proposed is to Erect Cow Barn.
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Appeal C Ref: APP/H1515/W/24/3347699

Land at Beggar Hill, Fryerning, Essex, CM4 0PN

- 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 Mr and Mrs Sharp of Fristling Hall Farms Limited against Brentwood Borough Council.
 - The application Ref is 23/01504/FUL.
 - The development proposed is to Erect Cow Barn.
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Appeal D Ref: APP/H1515/W/24/3347702

Land at Beggar Hill, Fryerning, Essex, CM4 0PN

- 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 Mr and Mrs Sharp of Fristling Hall Farms Limited against Brentwood Borough Council.
 - The application Ref is 23/01505/FUL.
 - The development proposed is to Erect Cow Barn.
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Decision

1. Appeal A is dismissed and planning permission to Erect a Hay Barn is refused.

2. Appeals B, C, and D are dismissed and planning permission to Erect 3 Cow Barns are refused.

Applications for costs

3. An application for costs was made by Mr and Mrs Sharp of Fristling Hall Farms Limited against Brentwood Borough Council in respect of each appeal. These applications are the subject of a separate Decision.

Preliminary Matters in respect of Appeals A, B, C and D

4. In the Council's case the first issue raised indicates that the appeals should not progress as the section of land between the field boundary and the highway, forming the access into the site for each of the appeal proposals is unregistered and the Certificate provided by the Applicant cannot be relied upon.
5. In considering these assertions, the Inspectorate sought confirmation from the Applicant of their position, where the Applicant has once again confirmed that the land was owned by them and the Certificate of ownership provided remains accurate.
6. Despite what the Council says, I do not find their arguments persuasive. The fact that a piece of land has not been registered with the Land Registry does not infer that there is a third party with an additional land interest, or provide evidence there is a third-party owner who should have been notified of an application.
7. No evidence has been presented to me that provides any indication that the land is owned by anyone other than the Applicants, in light of this I consider that it is appropriate to determine each of the appeals before me.
8. The Applicant has also provided a Unilateral Undertaking which if the appeals were to be allowed aims to ensure that four previous permissions for a similar set of buildings to those now sought would not be completed. The Council have not indicated they have any concerns in this respect, and I consider this to be a material consideration to be taken into account in my decisions.
9. In light of the publishing of the NPPF in December 2024, the main parties were invited to consider if this would change any aspect of their case, the Council and the Appellant raised new matters for my consideration, however a consultant acting for objectors made further representations. I have taken these objections into account in my consideration of each appeal.

Main Issues

10. From my reading of the evidence before me I consider the main issues for all four cases to be:
 - Whether the details provided in respect of sustainable drainage allow a clear understanding of the issues and potential mitigation for drainage within a Critical Drainage Area (CDA),
 - Whether the proposed development would adversely affect trees or hedgerows, and

- Whether the proposed development would have an adverse effect on protected species.

Reasons

Sustainable Drainage

11. The Council evidence indicates the appeal sites lie within a CDA where policies BE05 and NE09 of the Brentwood Local Plan (BLP) apply. The Appellant does not dispute this.
12. Policy BE05 states “*All developments should incorporate appropriate Sustainable Drainage Systems*” and goes on to say that development within the CDA “*should optimise the use of Sustainable Drainage Systems by providing an individually designed mitigation scheme to address the site specific issues and risk, as informed by a site specific Flood Risk Assessment.*”
13. The policy then requires that all development within a CDA must achieve a greenfield runoff rate.
14. This approach is reinforced by Policy NE09 which reiterates the need for an FRA for all development within a CDA.
15. The Appellant states that there is ample space within the fields in which the appeal buildings would be situated to provide for a sustainable drainage system and that the barns would be fitted with water storage facilities to capture rainwater from the roofs.
16. The plans and application forms, however, provide no details of what these might be, nor is there any detail as to the volume of water storage that might be provided, or how this would relate to the expected volume of rainfall that might be collected from the surface area of each roof. To my mind this information does not provide the necessary detail to respond to the specific issues that could have been revealed had a site specific FRA been provided as the Policies require.
17. The Appellant also references that the fields “*poach (i.e. become water logged, slippery and boggy)*” this further brings into question what might be the appropriate solution to achieve a sustainable means of drainage.
18. It is therefore not possible from the evidence before me to assess whether the systems that the Applicant refers to would achieve a greenfield runoff rate as required by the policy or how the site specific issues and risks of building within a CDA have been identified and consequently whether this could be appropriately mitigated.
19. In the absence of this detailed information, I find that each appeal is contrary to the requirements of Policies BE05 and NE09 and that the potential risk in respect of developing within a CDA have not been addressed, as such the aims of achieving a sustainable drainage system and minimising flood risk have not been met.

Trees and hedgerows

20. Policy NE03 of the BLP 'Trees Woodland and hedgerows' states that proposals should, so far as possible and practicable seek to retain existing trees woodlands and hedgerows where they make a positive contribution to the local landscape.
21. From my site inspection I was able to view the trees and hedgerows around and within the site. The mixed hedgerows along the site boundaries interspersed with trees make a positive contribution to the locality and would both provide a backdrop to or assist in screening the buildings subject to these appeals.
22. Neither the trees or hedgerows are within the application sites, and they would not be directly affected by any of the four appeal proposals. The Council suggest that the alteration of the access may result in damage to the trees at the entrance, however there are no proposals to alter the access. In these circumstances I cannot agree with the Council's assertion.
23. While I accept that the access for each of the appeal buildings is detailed to go between the trees within the field which would contain each of the appeal buildings, there is ample space to ensure that the buildings and access could be accommodated without harm to these trees in my view.
24. In respect of Appeal A the building would be located in close proximity to one of the trees within the field, and while the Applicant has not undertaken a detailed tree survey which would have been preferable to precisely identify the location, canopy spread and root protection zone, I see no reason why in this instance this could not be done by condition had I found in favour of the proposal overall.
25. I therefore do not consider there is a conflict with Policy NE03 of the BLP which seeks to protect woodland trees and hedgerows, and this reason is not sustained.

Protected Species

26. It is evident from the information before me that neither main party has undertaken a detailed bat survey, to assess whether as claimed by the Council that these protected species or their foraging, or roosts would be harmed.
27. In my view it is not sufficient to suggest there would be harm, without some reasoned justification for doing so. It would be too easy to prevent development that would otherwise be able to progress, nor is it supported by the Natural England standing advice when dealing with bats.
28. This states that a survey should be requested where a development proposal is likely to negatively affect bats or their roost, foraging or commuting habitats. While the large trees within the field may be a suitable roost site, they are outside the application site, not indicated to be felled, and there is space for them to remain.
29. While the absence of specific evidence of bat activity does not rule out that they may be present in the locality, there is nothing before me that indicates that there would be harm to these protected species.
30. The evidence provided in respect of badger shows that setts within the area are sufficiently far from the proposed buildings that they would not be directly harmed by any of the proposed buildings. The Council's own ecologist has identified the fields within which the appeal buildings would be located would be of limited

foraging value. I agree with the findings that conditions could be imposed that would provide appropriate protection in the event that I had allowed the appeals.

31. In these circumstances I do not consider the proposed appeals would conflict with Policy NE01 which amongst other things aim to protect the natural environment.

Other Matters

32. The Appellant and the Council agree that each of the appeal proposals being agricultural buildings, are not inappropriate development in the Green Belt. I see no reason to disagree with this approach. While objectors have referred to a need case, this references the tests for permitted development rights and conflates the tests to be applied for Green Belt proposals in my view. It is therefore not necessary to consider whether very special circumstances apply.
33. Regarding the effect on openness, a concern which has been raised by a number of the objectors. As can be seen from paragraph 154 of the NPPF, exception a) buildings for agriculture and forestry, do not fall into the category of exception set out under paragraph h) where a secondary test of the effect on openness needs to be applied.
34. Agricultural buildings by being specifically included within the exception listed under paragraph 154 a) are implicitly accepted within a Green Belt setting, under these circumstances the effect on openness does not need to be assessed further.
35. From the evidence before me I do not consider that there would be any harm to the broader purposes of Green Belt policy if these appeals were to be allowed.
36. The Appellant has also referred to a fallback position which they regard as a material consideration, and while I do not disagree with this in principle, the mere fact that a permission exists elsewhere on the holding does not overcome the specific problems I have identified with the appeal proposals before me. Nor do I consider that the completed Unilateral Undertaking could address these concerns.
37. Objectors have also referred to a range of other matters including access and the suitability of the local road network, adverse effect on residential amenity (particularly with regard to noise, smell and the potential for fly infestation), contamination of water sources, the need for an environmental statement and the right to light. Due to my findings on the main issues, I have not addressed these matters further.

Conclusion

38. For the reasons given above Appeals A, B, C and D should be dismissed and planning permission refused in each case.

Mr Edwin Maund

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/H1515/W/24/3347695	Mr and Mrs Sharp of Fristling Hall Farms Limited
Appeal B	APP/H1515/W/24/3347697	Mr and Mrs Sharp of Fristling Hall Farms Limited
Appeal C	APP/H1515/W/24/3347699	Mr and Mrs Sharp of Fristling Hall Farms Limited
Appeal D	APP/H1515/W/24/3347702	Mr and Mrs Sharp of Fristling Hall Farms Limited