



Appeal Decision

Site visit made on 31 March 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th April 2025

Appeal Ref: APP/B1550/W/24/3353859

Land Adjacent 1 Disraeli Road, Rayleigh, Essex SS6 8XP

- 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 Carmine and Irene Tulino and Wells against the decision of Rochford District Council.
 - The application Ref is 24/00196/FUL.
 - The development proposed is to demolish existing garage/outbuildings, subdivide the site and construct 1no. new dwelling with new vehicular access off Disraeli Road.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing garage/outbuildings, subdivide the site and construct 1no. new dwelling with new vehicular access off Disraeli Road at Land Adjacent 1 Disraeli Road, Rayleigh, Essex SS6 8XP in accordance with the terms of the application, Ref 24/00196/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above has been taken from Part E of the appeal form, since the appellant has provided written confirmation that a revised description of development has been agreed.
3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties were invited to provide comments on this matter and the comments received have been taken into account in my determination of the appeal.

Main Issues

4. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the Framework.

Reasons

5. The appeal site is 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; the essential characteristics of Green Belts are their openness and their permanence.
6. Paragraph 155 of the Framework includes that the development of homes in the Green Belt should not be regarded as inappropriate where all the following apply:
 - a) the development 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; b) there is a demonstrable unmet need for the type of development proposed; c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and d) where applicable the development proposed meets the 'Golden Rules' requirements. I will consider each point in turn.

7. The Framework defines grey belt as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes a), b), or d) in paragraph 143.
8. The appeal scheme seeks to construct a new dwelling on land that forms part of the garden of 1 Disraeli Road. As the site falls outside of a defined built-up area boundary, the development of garden land in this case would meet the definition of previously developed land.
9. The appeal scheme seeks to replace an existing garage and outbuildings. The characteristics and location of the site dictate that the land in question does not strongly contribute to any of the Green Belt purposes a), b) or d), as set out at paragraph 143 of the Framework. Therefore, as grey belt land would be utilised and the purposes (taken together) of the remaining Green Belt would not be fundamentally undermined, the proposal would satisfy criterion a).
10. The appellant suggests that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, which is not disputed by the Council. This identifies a demonstrable unmet need for housing. As such, criterion b) would be met in this case.
11. The appeal site is located close to local services and there is a bus stop nearby which connects the area with regular services to Rayleigh, Battlesbridge, Southend-on-Sea and Rochford. The site is not far from Rayleigh town centre, which offers a full range of services and facilities. On this basis, the development would be in a sustainable location having particular regard to paragraphs 110 and 115 of the Framework. The proposal would therefore accord with criterion c).
12. For completeness, the proposed development is not major development, and therefore the requirement of criterion d) of the Framework, to satisfy the 'Golden Rules', is not applicable to the appeal proposal.
13. The proposed development would satisfy all the relevant criteria of paragraph 155 of the Framework. For this reason, the proposal would not be inappropriate development in the Green Belt. On this basis, there is no need for me to consider other possible exceptions under paragraph 154 of the Framework. Further, the exception at paragraph 155 does not expressly state a need to assess the development's effect on Green Belt openness. Thus, consistent with footnote 55 of the Framework, the proposal should not be regarded as harmful to the openness of the Green Belt.

Conditions

14. I have considered the Council's suggested conditions in light of the advice contained within the Framework and the Planning Practice Guidance (PPG). I have undertaken some minor editing, in the interests of precision and clarity.

15. In addition to the standard time limit for implementation of the planning permission, it is necessary to impose a condition specifying the approved plans to provide certainty.
16. The conditions securing approval of details of materials and landscaping are necessary to ensure a satisfactory appearance for the proposed development. The conditions relating to boundary treatment and external lighting are necessary to protect the character and appearance of the area and the living conditions of neighbouring occupiers.
17. To encourage the uptake of ultra-low emission vehicles and promote sustainable modes of travel such as cycling, it is reasonable to impose conditions requiring the provision of an electric vehicle charging point and cycle storage facilities. The condition requiring details of a surface water drainage scheme is necessary for the effective management of surface water.
18. Conditions related to the layout of the proposed access, surfacing of the access to the site, provision of on-site vehicle parking spaces and designated areas for the reception and storage of building materials are necessary in the interests of highway safety.
19. To safeguard nesting birds, it is necessary to ensure that if any removal of vegetation or the demolition of a building is carried out during bird nesting season, this is undertaken following a detailed survey to check for nesting birds. To enhance protected and priority species and habitats a condition requiring the submission of a biodiversity enhancement strategy is necessary. To ensure a high standard of landscaping in the interests of the appearance of the development in the locality, a condition requiring the submission of an updated arboricultural report is necessary. It is a pre-commencement condition because the tree protection measures need to be agreed before the start of work on site.
20. Even though the Council suggest a condition removing permitted development rights, no clear justification for doing so has been demonstrated. Therefore, I am not satisfied that it would pass the test of reasonableness and necessity, as required by the Framework and the PPG.

Conclusion

21. For the reasons given above the appeal should be allowed.

P Terceiro

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4099-02-1-B and 4099-02-2.
- 3) Notwithstanding the submitted Arboricultural Report produced by Andrew Day Arboricultural Consultancy, dated 5 April 2024, no site works or development (including any temporary enabling works, site clearance and demolition) shall take place until an updated arboricultural report and tree protection plan have been submitted to and approved in writing by the local planning authority.

The updated arboricultural report shall include a dimensioned tree protection plan and arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the local planning authority. The submitted method statement shall include (but not be limited to) information about precautions and methods to minimise damage to existing tree(s) during the alteration/installation/renewal of any services and hard surfacing near to retained tree(s) and also details of precautions and protection measures to be put in place to minimise damage to retained tree(s) during construction activities such as access to/from the site.

- b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.
- 4) Prior to the removal of any vegetation or the demolition of buildings between 1 March and 31 August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- 5) No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
- 6) No development above ground level shall take place until details of the positions, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the local planning

authority. The approved details shall be implemented before first occupation of the development hereby permitted and thereafter retained.

- 7) No development above ground level shall take place until plans and particulars showing precise details of the hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The scheme shall show the retention of existing trees, shrubs and hedgerows on the site and include details of:
- schedules of species, size, density and spacing of all trees, shrubs and hedgerows to be planted;
 - existing trees to be retained;
 - areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
 - paved or otherwise hard surfaced areas;
 - existing and finished levels shown as contours with cross-sections if appropriate (including any level thresholds);
 - car parking layouts and other vehicular access and circulation areas.

The agreed scheme shall be implemented in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 8) No development above ground level shall take place until a Biodiversity Enhancement Strategy for protected and Priority species has been submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs or product descriptions to achieve stated objectives;
 - c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
 - d) persons responsible for implementing the enhancement measures; and
 - e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and retained in that manner thereafter.

- 9) No development above ground level shall take place until details of a surface water drainage scheme for the site, based on sustainable drainage principles, have been submitted to and approved in writing by the local planning authority. Those details shall include a timetable for the scheme's implementation; and a management and maintenance plan for the lifetime of the development. The development shall be carried out in accordance with the approved details. The surface water drainage scheme shall be managed and maintained in accordance with the approved management and maintenance plan.

- 10) The development hereby permitted shall not be occupied until the new vehicular access has been constructed at right angles to the existing carriageway. The width of the access at its junction with the carriageway shall not be more than 6 metres and shall be provided with an appropriate vehicular crossing. The full layout details shall be agreed with the local planning authority prior to any development above ground level.
- 11) The development hereby permitted shall not be occupied until electric vehicle infrastructure has been provided to the following specification:
 - a single Mode 3 compliant Electric Vehicle Charging Point for the property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW Fast charging or the best available given the electrical infrastructure.
 - should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to the local planning authority prior to discharge.
 - Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted.

The infrastructure shall be maintained and operational in perpetuity.
- 12) The development hereby permitted shall not be occupied until each dwelling has been provided with two off-street parking spaces, which shall each have minimum dimensions in accordance with current parking standards. The parking spaces shall thereafter be kept available for the parking of vehicles at all times.
- 13) The development hereby permitted shall not be occupied until cycle parking has been provided in accordance with the EPOA Parking Standards. The facility shall be secure, convenient and covered. Thereafter, the cycle parking shall be retained for the life of the development.
- 14) No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 15) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the carriageway boundary.
- 16) Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.