



Appeal Decision

Site visit made on 8 April 2025

by **C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Appeal Ref: APP/V1505/D/24/3351957

The Willows, Buckwyns Chase, Billericay, Essex CM12 0TL

- 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 Kiddie against the decision of Basildon Borough Council.
 - The application Ref is 24/00452/FULL.
 - The development proposed is two storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for two storey side extension at The Willows, Buckwyns Chase, Billericay, Essex CM12 0TL in accordance with the terms of the application, Ref 24/00452/FULL, and the plans submitted with it, subject to the following 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:

Location Plan PP-13000720v1

Plans and Elevations 01

Plans and Elevations 02
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 4. Prior to the commencement of the development, a bat survey and impact assessment in relation to the proposal shall be carried out by an appropriately qualified individual. The results of the bat survey and impact assessment including any required mitigation measures, will be submitted to and approved in writing by the local planning authority before any works are carried out above ground. Thereafter, the development shall only be undertaken in accordance with any approved mitigation measures.

Preliminary Matters

2. The appeal site is referred to as "Pilton" on the planning application form, but thereafter as "The Willows" and I saw this name of the property at my site visit. Although I have sought clarity from the appellants in relation to this, it has not been forthcoming. I have therefore used "The Willows" within my decision.

3. The appeal form identifies the appellant as “Mrs Rachel Kiddie”, however it has since been clarified that the appeal has been made by “Mr and Mrs Kiddie”, and I have proceeded on this basis.

Main Issues

4. The main issues are:
- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (‘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 upon protected species, and;
 - if any harm is found, whether such harm is outweighed by the personal circumstances of the appellant.

Reasons

Whether inappropriate development

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state 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 development in the Green Belt is inappropriate, subject to the exceptions listed.
6. One of these exceptions, set out at Paragraph 154 (c) of the Framework, is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not define what constitutes a *disproportionate addition*, but does define, within the Glossary of the Framework, that the *original building* is as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
7. Policy GB1 of the Basildon District Local Plan Saved Policies (‘BDLP’) defines the Green Belt and its purposes. BDLP Policy GB4 states that within the Green Belt that dwellings will be allowed to extend to 90 square metres or by 35 square metres over and above the original floor area of the dwelling (or the area as at 1 July 1948), whichever is the greater and subject to a number of criteria.
8. I understand that the existing dwelling replaced a previous bungalow, and it is not disputed that the floor area of this building was around 110 square metres (‘sqm’). It is not clear whether this bungalow existed on 1 July 1948, but even if it did not, there is no evidence before me which would indicate that it replaced another, larger building. Accordingly, having regard to the wording of BDLP Policy GB4, I have taken this previous bungalow as the starting point for consideration.
9. The current dwellinghouse has a floor area of 97.5sqm at ground floor and 75sqm at first floor, which amounts to a total of 173sqm. This means that the existing building is already significantly larger than the original building. The proposal would, over two storeys, add a total floorspace of 31.5sqm, albeit it would involve the removal of an existing utility room of around 5sqm.

10. Consequently, while the proposal itself would be of modest proportions, when taken in the context of the resultant building, which would amount to around 200sqm, and therefore about twice the size of the original building in floorspace terms, it would result in cumulative additions significantly beyond the 35sqm stated maximum increase, set out within BDLP Policy GB4. It would therefore represent a disproportionate addition for the purposes of this policy.
11. The proposed development would therefore be inappropriate development in the Green Belt and would cause to harm to it as a result, by definition. Accordingly, it would conflict with BDLP Policies GB1 and GB4, which together seek to maintain the purpose, function and character of the Green Belt.

Openness

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and its essential characteristics are therefore its permanence and openness. Due to the location, scale and massing of the proposed extension, it would fail to preserve the openness of the Green Belt.
13. However, the proposal would include the demolition of an existing side extension, and the appeal property is a dwelling set within a large garden which is notably open character which would predominantly remain. These factors would reduce the resultant harm to an extent.
14. Overall, the proposal would cause harm, albeit lessened by its context, to the openness of the Green Belt.

Protected Species

15. Section 40 of the Natural Environment and Rural Communities Act 2006 requires me to have regard to the purpose of conserving biodiversity. Bats are protected under the Wildlife and Countryside Act 1981 and The Conservation of Habitats and Species Regulations 2017.
16. There is no evidence before me in the form of either a Preliminary Ecological Assessment or a Bat Survey. However, the appeal property is a detached dwelling located within a large garden plot and set among sizeable areas of woodland and agricultural land. The building appeared, at the time of my visit, to be occupied and in sound condition. Nevertheless, given the nature of the site and its surroundings, I consider that there is a reasonable likelihood of protected species, in the form of bats, being present at or around the site.
17. The proposed two-storey extension would be set down from the ridgeline of the existing property, but would involve construction work around the roof structure. There is the possibility, therefore, that the construction of the proposal could lead to disturbance, should any bats or bat roosts be present.
18. Ultimately, with no substantive evidence before me, it is simply not known whether protected species are present and, if there are, whether or what mitigation measures would be appropriate.
19. With regard to Biodiversity Net Gain ('BNG'), I note that the planning application relates to householder development, and therefore the provisions of The Biodiversity Gain Requirements (Exemptions) Regulations 2024 apply in this instance, and there is no statutory requirement for BNG to be delivered by the

proposal, nor have I been presented with any development plan policy in relation to this.

20. Overall, it has not been shown that the proposal would avoid harm to biodiversity and protected species. It would be contrary to Chapter 15 of the Framework, which states that development should seek to avoid, mitigate or compensate for any adverse impacts on biodiversity.

Other considerations

21. I understand that the appeal property is occupied by a person with significant medical conditions and who has associated lifelong care needs, which are likely to increase over time. Although it is not stated explicitly, the evidence refers to this person managing a disability as a result of these medical conditions and I have no reason to doubt this.
22. I have therefore had regard to Article 8 of the Human Rights Act 1998 and the Public Sector Equality Duty ('PSED') set out at Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic, such as a disability, and people who do not share it.
23. The care needs, as set out in the evidence before me, indicate that separate secure space for the storage and preparation of medical supplies, drugs and nutrition are required in the interests of sterility and safety. The nature of the medical conditions means that these areas need to be close to hand and able to be accessed regularly throughout the day and night. The evidence also indicates that conveniently located and appropriately sized and equipped bathrooms are also required, at both ground and first floor levels and at all times of the day and night.
24. I also understand that the medical conditions mean that the person also uses a wheelchair on an intermittent basis, and that the proposal would allow greater accessibility to the utility and bathroom areas during these times in comparison to the existing situation.
25. A statement from an occupational therapist highlights the necessity and quality of life benefits that would derive from the additional space which would be provided by the proposal.
26. Overall, the proposed extensions would advance the equality of opportunity for a user with a protected characteristic. Accordingly, these benefits in assisting the needs of a person in a protected group, weigh in favour of the proposal. I return to this matter below.

Green Belt Balance

27. For the reasons set out above, the development constitutes inappropriate development in the Green Belt. Furthermore, there would be limited harm to the openness of the Green Belt in addition to the potential harm to protected species. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt. The proposal would also conflict with the development plan in this regard.

28. Against this, I must balance the fact that the proposal would allow the property to be adapted such that it would meet the specific needs of a person with significant and lifelong medical conditions.
29. Overall, while the PSED does not necessarily override other considerations, the evidence before me in this case is detailed and compelling. I find that the scale of the proposal does not exceed the necessary requirements of the person with the protected characteristic and would bring about associated significant improvements to their quality of life and standard of care. This weighs heavily in favour of the proposal.
30. For these reasons, I find that the benefits of the proposal would clearly outweigh the harm to the Green Belt and protected species in this instance, and resultant conflict with the development plan. Therefore, I find that the very special circumstances needed to justify the development in the Green Belt have been demonstrated.

Conditions

31. I have attached the standard conditions in relation to the commencement of development and carrying it out in accordance with approved plans in the interests of certainty and achieving a satisfactory form of development in the interests of the openness of the Green Belt. A condition relating to the materials to be utilised is required in the interests of the character and appearance of the area.
32. It has been put to me that further survey work and mitigation in relation to protected species could be secured by means of planning condition. I am aware that Circular 06/2005 advises that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, should be established before planning permission is granted, and I have sought the views of the main parties in relation to the imposition of such a condition.
33. While I have considered the precautionary principle in relation to protected species, such a condition, particularly in pre-commencement form, would reduce the level of risk that would result from the proposal in terms of its potential effect upon protected species, and I have taken account of this in my balancing exercise. Accordingly, the condition is necessary in order to make the development acceptable, having regard to the nature of the proposal, the likelihood of protected species being present, and the particular circumstance of this case.

Conclusion

34. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be allowed.

C Harding

INSPECTOR