



Appeal Decision

Site visit made on 22 May 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2025

Appeal Ref: APP/M1520/W/24/3355554

Land to the South of 125 Mount Road, Thundersley, Benfleet, Essex SS7 1AD

- 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 Paul Cano Lopez against the decision of Castle Point Borough Council.
 - The application Ref is 24/0174/FUL.
 - The development proposed is described on the application form as 'new 3 bed chalet bungalow residential dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the construction of 1 No dwelling. The Council dealt with the proposal on this basis and so shall I.

Main Issues

3. The main issues are:
 - whether the proposed development 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 proposed development on habitats and biodiversity;
 - the effect on designated nature conservation sites; 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 development.

Reasons

Whether inappropriate development

4. The appeal site comprises a parcel of land positioned at the junction of Mount Road with Mount Crescent. Several established dwellings exist within the road, typically set within large garden plots. The site has historically contained a garage structure but is otherwise undeveloped.

5. National Green Belt policy in the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved 'except in very special circumstances.' There are, however, certain exceptions. One of those, at paragraph 154(e), is limited infilling in villages.
6. The Framework does not define what constitutes either a village or 'limited infilling.' This is a matter of judgement for the decision maker, having regard to the nature and amount of development, the location of the appeal site and its relationship to existing adjoining development. The Council is of the view that the site does not fall within a village. I have taken into account the evidence before me given that no such specificity exists within the Framework. That includes potential indicators put forward by the appellant, together with my own observations.
7. Firstly, the site could not be described as isolated, with a reasonably high number of residential properties positioned close to the site. Some commercial and community uses, including public houses, places of worship and convenience stores exist near to the site, along London Road. These can be readily accessed from the site via Mount Road. Based on these indicators and observations, for the purposes of Green Belt policy in this particular case, I consider the site to fall in what is tantamount to a village context.
8. My findings in that respect are consistent with the principles of *Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015]*, in that assessing whether or not a proposed development constitutes limited infilling in a village is a question of planning judgement which includes assessment of the position on the ground.
9. In respect of 'limited infilling', the appellant sets out that the site forms part of an existing ribbon development. As outlined above, I do not disagree that there are established properties to the north and east of the site, with some scattered properties to the south. Nevertheless, the appeal site has a wide frontage, is positioned on a corner plot and is surrounded on two sides by roads with no obvious continuation of built form. This, together with the open and verdant nature of the site, defined by mature landscaping, forms a clear visual break between denser development to the north and the more scattered development within verdant surroundings to the south. Taking the context of the site into account, the proposed development could not reasonably be regarded as 'limited infilling'.
10. Consequently, although I have found the site to fall within a 'village' setting, the proposed development would not form 'limited infilling' and would not fall within any of the exemptions listed in paragraph 154 of the Framework. I therefore conclude that it would be inappropriate development in the Green Belt. Substantial weight should be given to this harm. There are no relevant development plan policies before me which conflict with these findings.

Openness

11. The Framework indicates that openness is an essential characteristic of the Green Belt. A fundamental aim of Green Belt policy is to keep land permanently open. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.

12. In this case, the site contributes to a verdant and open character in the local area. The openness of the Green Belt is also apparent within the area surrounding the site, through the existence of mature trees, wooded areas and other parcels of open land. Nearby properties are typically large, set within large garden plots.
13. Notwithstanding the existence of other buildings within the surrounding area, and that the proposed development has been designed with sensitivity to prevailing built forms, materials and detailing, it would nonetheless introduce additional built development to the site where this is currently very limited. The footprint of the dwelling, its bulk and the inevitable accompanying domestic paraphernalia would all lead to a loss of openness, both physically and visually.
14. Although I accept that it is proposed to retain the site's mature vegetation, and that the proposed development would be seen within the context of established residential development, views can, and would, be obtained of the site from Mount Road and Mount Crescent, particularly from the site entrance. As outlined above, openness can be harmed even when development is not readily visible.
15. Accordingly, the proposed development would fail to preserve openness. The adverse effects would be moderate.

Habitats and biodiversity

16. The Council's second reason for refusal relates to insufficient information having been submitted to demonstrate that the proposed development would not adversely affect protected species and habitats.
17. The appellant contends that the proposed development would not harm habitats or biodiversity due to the site's history. It is also suggested that any safeguards could be secured by condition. An 'Ecological Biodiversity Desktop Study Assessment', produced by the appellant, has been submitted in support of the appeal.
18. The submitted report provides a description of the site and its existing features, including areas of grassland, boundary hedging and several trees. It notes that most of these features would be retained, with development limited to the footprint of the building and the associated driveway. The report also outlines several proposed enhancements, such as additional planting and the installation of bird boxes. While these intentions are acknowledged, the report does not provide a clear or sufficiently detailed assessment of the potential presence of habitats or protected species at the site currently, or the risks to these habitats and species as a result of the proposed development.
19. Without clarification, it is not possible for me to satisfactorily conclude that the proposed development would have an acceptable effect on any protected species or habitats that may exist on the site, or that the proposed development would comply with the requirements of planning policies in this regard.
20. Overall, I conclude that there is insufficient evidence before me to demonstrate that the proposal would have an acceptable effect on biodiversity, in particular protected species and habitats. This would be contrary to the relevant provisions of paragraph 193 of the Framework. This, in summary, seeks to ensure that development proposals avoid adverse impacts on biodiversity and protected species. There are no relevant development plan policies before me that conflict

with these findings. Even were I to find no harm in respect of this main issue, this would not outweigh or overcome the harm identified under the other main issues.

The effect on nature conservation sites

21. The site lies within the Zone of Influence of the Benfleet and Southend Marches Special Protection Area and that of the Blackwater Estuary Special Protection Area. Any new residential development within these areas has the potential to result in significant effects through increased recreational pressure.
22. The Conservation of Habitats and Species Regulations 2017 (the Regulations) require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on protected sites, alone or in combination with other plans or projects.
23. I note that a unilateral undertaking was submitted to the Council to ensure that appropriate mitigation measures, namely the payment of a tariff, could be secured. Whilst the Council has raised issues with that document, given my reasoning in respect of the other main issues and that the appeal is dismissed, there is no requirement upon me to consider this aspect any further. Even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

Other considerations

24. I acknowledge that the site is located within a reasonably sustainable location and the proposed development would make efficient use of a small site. I also note that the development would meet a number of other planning objectives, including in respect of living conditions and highway safety, and acknowledge the appellant's comments in respect of neighbour support. However, these considerations, and the lack of harm associated with them, are effectively neutral in my assessment of the appeal. I therefore afford these considerations limited weight.
25. The appellant sets out the environmental and biodiversity benefits of the proposed scheme, as well as the potential to address issues such as fly tipping and the unauthorised use of the site. However, the enhancement of the site for biodiversity, or the prevention of unauthorised activities, are not outcomes that are inherently dependent on the development of the site. I afford these considerations only limited weight.
26. I also acknowledge that there would be some social and economic benefits to the proposed development, including the provision of construction jobs and increased local spend once the dwelling was occupied. However, these benefits would inevitably be limited by reason of the scale and nature of the proposed development. I therefore afford this consideration limited weight.
27. The Council is currently unable to demonstrate the necessary forward supply of housing sites as required by the Framework. In this regard, the proposal has the potential to generate one additional home which would make a positive, albeit very limited, contribution to the current undersupply. This would support the Government's objective of significantly boosting the supply of homes. That is a consideration I give moderate weight.

Other Matters

28. I note the appellants frustration in respect of the communication with the Council and the availability of pre-application advice. Nevertheless, this would not be binding on the appeal decision. I have assessed the scheme based on the evidence provided and my own observations. Concerns in respect of communication would be best dealt with via an application for costs.
29. The appellant has queried whether the appeal site still falls within the Green Belt due to the age of local plan maps and as it is located near to existing built form. Based on the evidence before me, I have no reason to disagree with the Council's findings in this regard. Neither the age of the local plan nor the existence of built form would automatically remove Green Belt status.

Green Belt Balance

30. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on openness here. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
31. For the reasons given above, the cumulative weight attached to the other considerations does not clearly outweigh the substantial harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development do not exist. The proposed development would not therefore accord with the Green Belt protection aims of the Framework.
32. The lack of a five-year housing supply means that the policies which are most important for determining the proposal are deemed out-of-date in accordance with paragraph 11.d of the Framework. However, bullet (i) of paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As I have explained above, there would be harm to the Green Belt that would not be clearly outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

33. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

A Price

INSPECTOR