



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: 26 June 2025

Appeal Ref: APP/V1505/W/24/3347517

Land West of Corner Road, North of Approach Road, Crays Hill, Basildon CM11 2UT

- 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 Jason Day on behalf of Marden Billericay Ltd against the decision of Basildon Borough Council.
 - The application Ref is 23/00805/FULL.
 - The development proposed is development of two dwellings, hard and soft landscaping and associated parking and infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two dwellings, hard and soft landscaping and associated parking and infrastructure at Land West of Corner Road, North of Approach Road, Crays Hill, Basildon CM11 2UT in accordance with the terms of the application, Ref 23/00805/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

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 having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal upon Blackwater Estuary Special Protection Area, Blackwater Estuary Ramsar and Essex Estuaries Special Area of Conservation ('the European Sites'), and;
 - the effect of the proposal upon the character and appearance of the area, including existing trees.

Reasons

Whether inappropriate development

4. Saved Policy BAS GB1 of the Basildon District Local Plan Saved Policies, September 2007 ('BDLP') states that the boundaries of the Green Belt are drawn with reference to the foreseen long-term expansion of the built-up areas

acceptable in the context of the stated purposes of the Green Belt. The Framework indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and within paragraph 143 sets out the five purposes of the Green Belt. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and paragraph 154 indicates that development in the Green Belt is inappropriate unless one of the specified exceptions applies.

5. It is stated that the proposal would amount to limited infilling within a village which is identified as an exception to inappropriate development at paragraph 154(e) of the Framework. The appeal site is a corner site, and while a residential property adjoins the site to the north, it is otherwise surrounded by further woodland or domestic gardens which are open in character. In these circumstances, the proposal would not amount to an infill development. Therefore, even if I were to agree that the appeal site is located within a village, the loose grain of development in the area means that it would not amount to infilling. Accordingly, it has not been shown that the proposal would meet any of the exceptions set out at paragraph 154 of the Framework.
6. However, paragraph 155 of the Framework indicates that the development of homes in the Green Belt should also not be regarded as inappropriate where the development would utilise Grey Belt land, where there is a demonstrable unmet need for the type of development proposed, and that the development would be in a sustainable location.
7. There is agreement between the parties that the appeal site comprises Grey Belt land, and having regard to the definition of Grey Belt land set out within the Framework, I have no reason to disagree. With the Council being only able to identify a supply of housing land amounting to around 1.88 years, there is a demonstrable unmet need for the type of development proposed. The proposal therefore meets these criteria.
8. The Council has not contended that the appeal site is in an unsustainable location, having regard to access to facilities and services. I saw that the roads immediately adjacent to the site are quiet in nature, and although they do not have footpaths or streetlighting, there is no suggestion that pedestrian access would be unsafe. Access by pedestrian means would not always be attractive, particularly in darkness, but these stretches of road are relatively short, and a footway and lighting can be found once London Road is reached. The evidence also indicates that access to public transport can be found in Crays Hill, within reasonable walking distance.
9. For these reasons, I find that the proposal would be in a sustainable location for the purposes of paragraph 155 of the Framework. As criterion (d) of paragraph 155 would not apply in this instance as the proposal would not amount to major development, and having found that the proposal would otherwise meet the relevant criteria for Grey Belt development, I conclude that it would not comprise inappropriate development in the Green Belt.
10. The proposal would accord with paragraphs 153 and 155 of the Framework, and it is not, therefore, necessary for me to consider the effect of the proposal upon the openness of the Green Belt, nor is it necessary for very special circumstances to justify a grant of planning permission to be demonstrated.

European Sites

11. The appeal is located within the Zone of Influence of the Blackwater Estuary Special Protection Area, Blackwater Estuary Ramsar and Essex Estuaries Special Area of Conservation ('the European Sites'). The Conservation of Habitat and Species Regulations 2017 (as amended) 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 proposals.
12. The Essex Coastal Habitat Sites, of which European Sites are a part, are recognised for their value as internationally important coastal breeding and non-breeding habitat sites for birds. The proposal would lead to an increase in the number of residents living within the Zone of Influence, with an associated increase in recreational pressure upon the European Sites, potentially leading to the disturbance of habitat. Taken together with other developments, the proposal would lead to a likely significant effect on the European Sites and be harmful to their conservation objectives.
13. The Essex Coast Recreational Avoidance and Mitigation Strategy Supplementary Planning Document ('the SPD') which is endorsed by Natural England, identifies that a financial contribution proportionate to the scale of the development can be provided in order to fund mitigation measures. These measures are identified as including the provision of rangers, signage, and public education initiatives.
14. As the competent authority in this case, I am obliged to ascertain that there would be no harm to the conservation objectives of the European Sites before granting planning permission. The proposal would have a harmful effect on the European Sites and therefore mitigation measures are required.
15. The evidence before me indicates that the relevant financial contribution, in line with the SPD has been paid to the Council, which has acknowledged its receipt and confirmed that it would be used for the intended purposes. I have consulted Natural England in relation to this approach, which has indicated that providing a financial contribution would be secured by a planning obligation and paid on commencement of the development, that it would be content that adequate mitigation would be achieved.
16. While no planning obligation has been provided in this instance, I am satisfied that the relevant financial contribution has already been paid, and I have no reason to doubt that the Council, as a responsible public body, would not spend the money in accordance with the SPD, or within a reasonable timeframe.
17. Overall, therefore, the contribution can be taken into account as a means to mitigate the recreational impacts of the proposed development on the nature conservation interest of the European Sites and avoid adverse effects to their integrity. I am satisfied that the mitigation measure would be used for the intended purpose. Therefore, following an appropriate assessment, I find that the proposal would not adversely affect the integrity of the European Sites.

Character and appearance

18. The proposal would comprise two detached dwellings of a modern design. The surrounding area, known as "Plotlands" is characterised by single or small groups

of dwellings located on individual plots with large gardens and paddocks, interspersed with groups of trees.

19. Accordingly, there is a range of design approaches evident within the local area, although a number of dwellings are of around 1.5 storeys in height. In this context, the proposed dwellings would be larger than some others but given the lack of predominant design cohesion and the sporadic nature of development in the area, they would not appear incongruous or excessively dominant. Overall, the scale and design of the proposal would not result in harm to the character and appearance of the area.
20. The appeal site is an area covered in a large number of trees. The provided tree survey identifies 41 trees and 3 groups of trees. 4 trees are identified as being of moderate quality, 36 as low quality, and a further tree as being unsuitable for retention. The 3 groups are all assessed as being of low quality. The proposal would result in the loss of 30 trees and all of one of the groups, and part of another.
21. Although individually, none of the trees to be removed would be of anything other than low quality, the collective has a modest degree of amenity value as part of a patchwork of small areas of woodland in the area. Some of this value would be retained through the retention of the larger specimens and those which adjoin Approach Road. Nevertheless, while I acknowledge that the Council's Arboricultural Officer did not object to the proposal, the loss of the majority of this small area of woodland would be harmful to the character and appearance of the area.
22. While a landscaping strategy could be secured by means of a planning condition, the size of the appeal site and the proposed layout indicate that it is unlikely that sufficient replacement tree planting could be secured such that it would mitigate all of the harm which would result from the relatively large number of tree removals.
23. Overall, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. The proposal would therefore be contrary to saved BDLP Policy BAS BE12 which indicates that planning permission will be refused where it causes material harm to the character of the area.

Planning Balance

24. The Council has advised that it does not currently have a deliverable five-year housing land supply, stating that the current position is around 1.88 years. I am also aware that its performance against the Housing Delivery Test in the 2023 measurement was 35%. As a result, I am taken to paragraph 11(d) of the Framework which indicates that planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits of the development.
25. I have found that the proposal would be harmful to the character and appearance of the area as a result of the loss of trees. However, this harm would be localised, and modest in extent. Nevertheless, the proposal would conflict with the development plan in this respect.
26. Weighing against this, the Framework identifies that small and medium sites can make an important contribution to meeting the housing requirement of an area. They can also be delivered quickly. Given the Council's stated housing land supply

position, which is significantly below the required level in terms of both supply and delivery, and given the scale of the proposal, I afford these benefits moderate weight. There would also be associated economic and social benefits resulting from the construction and occupation of the dwellings which would be modest. The harm that I have identified would not significantly and demonstrably outweigh these benefits when taken together.

Conditions

27. The Council has provided a list of suggested conditions which I have considered in the context of national policy and advice. I have imposed conditions relating to the commencement of development (Condition 1) and specifying the approved plans (Condition 2) in the interests of certainty.
28. Conditions 3 and 6 relating to the provision of details of materials and a landscaping scheme are required in the interests of the character and appearance of the area. Conditions 4, 5 and 7 which require adherence with biodiversity measures, the delivery of an enhancement strategy, and the provision of Swift bricks are required in order to mitigate and enhance the ecological effects of the proposal.
29. I have had regard to the comments of Essex Badger Protection Group in relation to badger protection measures during construction. The requirement for an additional badger survey to be carried out would be unreasonable as the provided ecological information sets out that a pre-commencement site walkover would be carried out, and this would be secured through Condition 4.
30. Additional mitigation measures are also suggested beyond those already set out within the provided ecological information, relating to the removal of litter and daily checking of pits and trenches. However, the ecological information indicates an overall relatively low level of risk and sets out that trenches and pits would be backfilled or covered in order to prevent badger occupation in the first instance, and where this would not be possible, that escape ramps would be provided. Again, these measures would be secured by Condition 4, which in addition, requires the appointment of a suitably competent person to provide on-site ecological oversight during construction.
31. Taking account of these factors, it has not been shown that such additional measures beyond those set out in the ecological information would be necessary to make the development acceptable in this respect. As a result, I am satisfied that risks to badgers would be adequately mitigated by means of Condition 4, and that further conditions would not meet the relevant tests set out in Planning Practice Guidance and the Framework.

Conclusion

32. The proposed development would conflict with the development plan when considered as a whole, but the Framework, which comprises a material consideration, indicates that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be allowed.

C Harding

INSPECTOR

*****SCHEDULE OF CONDITIONS*****

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out only in accordance with the approved drawings and documents:
 - ARCH-SCN-ZZ-XX-DR-A-01.001-A3 Rev PL02 As Existing Site Location Plan
 - ARCH-SCN-XX-XX-DR-A-20.305-A3 Rev PL04 Proposed Street Scenes
 - ARCH-SCN-ZZ-04-DR-A-01.310-A3 Rev PL03 Proposed Block Plan
 - ARCH-SCN-XX-ZZ-DR-A-10.302-A3 Rev PL02 Proposed Floor Plans
 - ARCH-SCN-XX-XX-DR-A-20.303-A3 Rev PL02 Proposed Elevations.
 - UTC-0716-03-AIA Tree Survey and Arboricultural Impact Assessment
 - UTC-0716-PO4-TRP Tree Removal Plan
 - UTC-0716-PO5-TPP Tree Protection Plan
3. The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed within the application.
4. The development hereby approved shall only be carried out in accordance with all mitigation and enhancement measures and/or works contained in the Ecological Response to Place Services Objection (Sweco UK Limited, 19th March 2024) and Ecological Impact Assessment Report (Sweco UK Limited, April 2023). This shall include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
5. Prior to any works above ground level, a Biodiversity Enhancement Strategy for Protected and Priority species shall be 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 to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) persons responsible for implementing the enhancement measures;
 - e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.
6. Prior to the removal of any trees, protection measures for those trees to be retained shall be in place. Prior to any works above ground level, a scheme of soft landscaping for the site which shall include indications of all existing trees, shrubs and hedgerows on the site, and the species, size and locations of any new

specimens shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved soft landscaping scheme prior to the first occupation of the development.

7. Prior to first occupation of the approved dwellings, a minimum of 2 swift bird bricks shall be installed on the north elevation (east or west elevations if the site is well shaded) of the approved dwellings within the fabric of the building. The bird bricks shall be installed a minimum of 5 metres above ground level directly under the eaves and gables or within the walls, with a clear 'swoop space' of four metres free of obstructions.

*****END OF SCHEDULE*****