



Appeal Decision

Site visit made on 21 July 2025

by C Housden BSc(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Appeal Ref: APP/M1595/W/25/3364012

Land at Southend Road, Fobbing SS17 9EY

- 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 A Cressey of Scenery Fencing against the decision of Thurrock Council.
 - The application ref is 22/01493/FUL.
 - The development proposed is construction of 3no. new dwellings with private amenity space and off street car parking and alterations to highway.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of 3no. new dwellings with private amenity space and off street car parking and alterations to highway at land at Southend Road, Fobbing SS17 9EY in accordance with the terms of the application, ref 22/01493/FUL, and subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal site is situated within the Green Belt. Following the Council's refusal of the planning application, and prior to the lodging of the appeal, a revised National Planning Policy Framework (the Framework) was published. This introduced the concept of grey belt land which the appellant has referred to in their evidence.
3. The Council was given the opportunity to comment upon the appellant's statement of case. However, the Council confirmed in its questionnaire that it did not intend to submit a statement of case for the appeal. As the Council was given the opportunity to provide comments, I am satisfied that there would be no procedural unfairness in considering whether the site comprises grey belt land as a main issue of the appeal.

Main Issues

4. In light of the above, the main issues are:
 - whether the appeal site would comprise grey belt land with particular reference to whether the effect of the proposed development on the Thames Estuary and Marshes Special Protection Area and Ramsar site provides a strong reason for refusing or restricting the proposed development and;
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

Reasons

Grey belt

5. Annex 2 of the Framework sets out grey belt land is defined 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 the purposes a), b), or d) of the Green Belt as set out in paragraph 143. Grey belt excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

Contribution of site to purpose a), b) and d)

6. The appeal site is situated in a broad gap between Basildon and Corringham/Stanford-le-Hope which are two separate large built-up areas. The A13 runs centrally through this gap along with some other classified roads including Southend Road. As such, the appeal site is also located centrally within the broad gap between these built-up areas. The area surrounding the appeal site characterised by irregular patterns of built form and the network of busy roads, rather than being open unspoilt countryside. To the rear of the appeal site is a railway line, and a new housing development is situated on the other side of the railway tracks to the appeal site.
7. In relation to purpose a), whilst the site is located in the gap between these settlements, given its central location within this broad gap away from both settlement boundaries it is not situated adjacent to or near a large built-up area. The appeal site therefore does not contribute to the checking of unrestricted sprawl of large built-up areas.
8. The appeal site forms a very small part of the gap between Basildon and Corringham/Stanford-le-Hope. The site is situated away from both settlements and is bound on two sides by existing residential properties with the opposite side of the road also developed with a car wash and a wider commercial development. Furthermore, whilst there is a field to the rear of the appeal site, this is bound by the train line and new housing development. The appeal site is therefore surrounded by existing development. For this and the above reasons the site does not strongly contribute to the separation between these settlements as set out in purpose b).
9. Given the separation distances and intervening development within the gap, the appeal site has no visual, physical or experiential connection to any historical aspects of the nearby settlements and makes no contribution to purpose d).

Footnote 7 areas or assets

10. The Thames Estuary and Marshes SPA and Ramsar site are the only footnote 7 designations that are applicable to this case. They are subject to statutory protection under the Habitats Regulations. The evidence shows the qualifying features includes endangered and vulnerable populations of seabirds.
11. The appeal site is situated within the zone of influence of the Thames Estuary and Marshes SPA and Ramsar site. The evidence shows that increases in residential development within the zone of influence would result in a likely significant effect to the protected sites in combination with other plans and projects through additional recreational disturbance. The development would introduce a net gain of dwellings

which would therefore exacerbate the recreational pressures on these sites. As such, in combination with other projects or plans there would be a likely significant effect on the SPA and Ramsar site.

12. As competent authority, I am therefore required to carry out an Appropriate Assessment. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020) sets out the strategy to mitigate the in combination effects of development on these sites in relation to recreational disturbance. The Essex Coast RAMS seeks to secure a financial contribution for each new dwelling within the zone of influence to fund a strategic mitigation package. This package includes measures such as habitat creation, monitoring, waymarking and education, among other measures.
13. I have been provided a receipt showing that the appellant has paid a financial contribution of £508.35 (£169.45 per dwelling) to the Council for the Essex Coast RAMS. The Council have provided written confirmation that the payment from the appellant is for the Essex Coast RAMS and it relates to this specific development before me. I am therefore satisfied that there is sufficient record of the payment being made and the Council confirming that the money is for the Essex Coast RAMS.
14. Natural England (NE) has been consulted as part of my Appropriate Assessment. NE has confirmed that the financial contribution of £508.35 towards the mitigation measures set out in the Essex Coast RAMS would be sufficient to avoid an adverse impact to the integrity of the SPA and Ramsar site.
15. Therefore, as competent authority, I am satisfied that the payment which has been made towards the Essex Coast RAMS would ensure the delivery of sufficient mitigation measures to satisfactorily address the likely harm which would be caused by the development and ensure the proposal would not have an adverse effect on the integrity of the SPA and Ramsar site. As such, footnote 7 areas and assets would not provide a strong reason for refusing or restricting development.
16. The proposal would comply with Policy CSTP19 of the Thurrock Core Strategy and Policies for Management of Development (2015) (CSPMD). This policy, amongst other matters, seeks to ensure designated sites are safeguarded and enhanced to mitigate the effects of development.

Conclusion on grey belt

17. For the reasons given above, the appeal site does not contribute strongly to purposes a), b) or d) of the Green Belt and the effect of the proposal on the footnote 7 assets would not provide a strong reason for refusing or restricting the development. The appeal site therefore comprises grey belt land.

Whether inappropriate development

18. Paragraph 155 of the Framework sets out that the development of homes within the Green Belt should not be regarded as inappropriate where all of the criteria, as assessed below, applies.

a. Grey belt land and purposes (taken together)

19. The development would utilise grey belt land so would meet the first part of criteria a. of paragraph 155 which requires the use of grey belt land. The appeal

site is a small area of land compared to the wider Green Belt, that is situated between two existing properties with further development situated to the rear and on the opposite side of the road. The appeal proposal would therefore be contained relative to the broader open setting. As such, the development of the site would not fundamentally undermine the remaining Green Belt in safeguarding the countryside from encroachment.

20. In relation to the purpose of assisting in urban regeneration by encouraging the recycling of derelict and other urban land, this purpose would be undermined as a similarly sized development could reasonably be undertaken on urban or derelict land. However, given the small scale of the site and the proposed development relative to the remaining Green Belt, this purpose would not be fundamentally undermined by the development.
21. As set out above, the site does not contribute to purposes a) and d) of the Green Belt and therefore the proposal would not undermine the remaining Green Belt in relation to these two purposes. Furthermore, given my previous findings of the site in relation to purpose b), due to the surrounding built form and separation from the neighbouring settlements, the proposed development would not fundamentally undermine the purpose of preventing neighbouring towns merging into one another.
22. Overall, the development would not fundamentally undermine the purposes, taken together, of the remaining Green Belt across the area of the plan.

b. Demonstrable unmet need

23. I do not have a current housing land supply figure in the evidence before me. The Council confirms in its officer report that its housing land supply was established as approximately two years in an appeal dated 27 October 2022, and since this appeal, the supply has reduced further. Therefore, based on the evidence before me there is a demonstrable unmet need for housing within the area.

c. Location of development

24. Whilst there would be some built form situated around the appeal site, due to its central location within the gap between Basildon and Corringham/Stanford-le-Hope it would not be situated within an urban area. In this context paragraph 110 of the Framework identifies that sustainable transport solutions will vary between urban and rural areas.
25. The appeal site would be located within close proximity to a number of bus stops. The evidence shows that these buses would allow future residents an alternative mode of transport than the private motor vehicle to nearby settlements such as Basildon and Stanford le Hope.
26. The site is also within walking distance of some limited local services, which includes a petrol station with a small shop.
27. The site is also within cycling distance of Basildon centre. However, given the requirement to travel along the busy nearby roads, it appears that only a confident cyclist would undertake this journey.
28. Noting paragraph 110 of the Framework, the site would be sustainably located with a variety of modes of transport for future residents to meet their daily needs.

Golden rules

29. The development does not meet the definition of major development¹ and therefore the golden rules do not apply to the appeal proposal.

Conclusion on whether the development is inappropriate development

30. The appeal site comprises grey belt land and the proposal meets all the criteria contained under paragraph 155 of the Framework. As such I conclude that the appeal proposal would not be inappropriate development within the Green Belt and its effects on the openness of the Green Belt would therefore be acceptable.
31. The proposal would therefore accord with Policy PMD6 of the CSPMD which sets out the Council will maintain, protect and enhance the open character of the Green Belt in accordance with the provisions of the Framework.

Conditions

32. I have considered the conditions suggested by the Council and appellant against the tests in the Framework and the advice in Planning Practice Guidance (PPG). In meeting the tests of the Framework, I have amended the wording of conditions where necessary.
33. The standard timescale condition for implementation and a plans compliance condition are imposed for the avoidance of doubt and in the interests of certainty.
34. A condition securing further details of the vehicle access and any associated improvements to the highway is necessary prior to commencement of development in order to ensure the safety of pedestrians and other road users. I have however, amended this condition from the wording suggested by the Council by removing reference to the requirement for the appellant to enter into a section 278 agreement under the Highways Act (1980) and to submit these details as part of the condition. It is unnecessary to duplicate this information through the condition discharge process as it will be secured through the section 278 agreement.
35. Furthermore, given the site does not currently benefit from an access, it is also necessary in the interests of highway and pedestrian safety that the access and works to the highway are undertaken prior to the commencement of any other part of the development.
36. A Construction Environmental Management Plan (CEMP) is required prior to the commencement of development to ensure adequate measures are in place in the interests of highway safety and living conditions of nearby occupiers. The Council has suggested an extensive list of requirements. Having regards to the tests, I have removed those which would not be reasonable or necessary to include owing to the scale of the development.
37. I have imposed conditions requiring the submission and approval of details of the materials to be used in the external surfaces of the dwellings and for a landscaping scheme. This is necessary to ensure the proposal will preserve the character and appearance of the area, and in the case of boundary treatments which forms part

¹ As defined at Annex 2 of the Framework

of the landscaping scheme to ensure the privacy of adjacent neighbours is maintained.

38. Given the appeal site is in close proximity to a railway line and the A13, I consider a condition securing an acoustic assessment and mitigation measures to be reasonably required to ensure a high standard of living conditions for future occupiers of the development.
39. A condition securing further details of cycle parking is required in order to ensure the development promotes sustainable and accessible forms of transport, and to ensure the cycle stores are in keeping with the character and appearance of the area.
40. A condition securing parking spaces to be implemented as shown on the approved plans is required in the interests of highway safety.
41. It is necessary to impose a condition for the side facing windows above ground floor level to be obscurely glazed having regard to the privacy of future occupiers of the development and of the adjacent neighbours.
42. A condition ensuring the refuse and recycling storage facilities are constructed prior to occupation is necessary to ensure future occupiers have adequate refuse and recycling facilities.
43. Whilst a condition has been suggested relating to securing details of electric vehicle charging points, this condition is not necessary as it is already a requirement for the development under the building regulations.
44. The Council has suggested the removal of permitted development rights in relation to the erection of walls, fences, gates or other means of enclosure forward of the front of the proposed dwellings is considered reasonable and necessary in the interest of the character and appearance of the area. However, the provisions of the General Permitted Development Order (GPDO) limits the scale of development which could be undertaken through permitted development, and it is unlikely that any future development undertaken through the GPDO would lead to such an adverse effect on the character and appearance of the area to justify the removal of these rights in relation to walls, fences, gates or other means of enclosure for future occupiers.
45. The Council has also suggested the broad removal of permitted development rights under Schedule 2, Part 1 Classes A, B, C and E of the GPDO. This is stated to be in the interests of neighbouring occupiers, visual amenity of the area and the openness of the Green Belt.
46. Classes A, B and C of Schedule 2, Part 1 contain conditions requiring upper floor windows located within side elevations or roof slope to be non-opening below 1.7m and obscurely glazed. It is therefore not necessary to remove permitted development rights in relation to the interest of the living conditions of neighbouring occupiers. In relation to the Green Belt, permitted development rights exist for properties regardless of whether or not a site is located within the Green Belt. Furthermore, given the proposal is not inappropriate Green Belt development, I do not consider it to be reasonable or necessary to broadly remove the permitted development rights of the proposed dwellings in the interests of the openness of the Green Belt. In relation to character and appearance, again I do not consider

that development constrained to the provisions of the GPDO would be of such a form that it would likely lead to an adverse effect on the character and appearance of the area to justify the removal of these rights for future occupiers. It is therefore not reasonable or necessary to broadly remove the permitted development rights for future occupiers.

Conclusion

47. The proposal would accord with the development plan as a whole, and there are no material considerations that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed and planning permission be granted, subject to the conditions set out in the accompanying schedule.

C Housden

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 PL-5854: 21A, 23A, 24, 25, 26, 27B, 27.1B, and 27 2B.
- 3) Prior to the commencement of the development hereby permitted, details of the vehicular access and any works to the highway shall be submitted to and approved in writing by the local planning authority. The approved access arrangements shall be permanently maintained and retained at all times thereafter.

Before the commencement of any other part of the development hereby permitted, the vehicular access to the site and the works to the highway shall be constructed in accordance with the approved details.

- 4) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall provide for:
 - Hours of construction for the development;
 - Wheel washing and sheeting of vehicles transporting loose aggregates or similar materials on or off site;
 - Details of the methods for the control and management of noise;
 - Details of the measures to reduce vibration and mitigate the impacts on sensitive receptors ;
 - Details of the measures to reduce dust; and
 - A Site Waste Management Plan.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

- 5) No development shall commence above slab level until samples of all external facing and roofing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 6) No development shall commence above slab level until details of a landscaping scheme have been submitted to and approved by the local planning authority. These shall include:
 - hard surfacing materials including roads, driveways, car parking areas, paths and any other hardstanding areas;
 - details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers;
 - details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities;
 - details of the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding

rates, planting methods, mulching, plant protection, staking and/or other support;

- timetable for implementation; and
- details of the aftercare and maintenance programme.

The landscaping scheme shall then be implemented in accordance with the approved details. If within a period of five years from the date of planting any tree or shrub is removed, uprooted, destroyed, dies or is seriously damaged or defective another tree or shrub of the same species and size as that originally planted shall be planted in the same place unless the local planning authority gives its written consent to any variation.

- 7) No development shall commence above slab level until a scheme to provide sound attenuation against external noise for the dwellings hereby permitted, not less than 30dB LAeq (night) and 45dB LMax (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation has been submitted to and approved in writing by the local planning authority. The sound attenuation works shall be completed before the dwellings are occupied and shall be retained thereafter.
- 8) No development shall commence above slab level until details of the number, size, location, design and materials of secure and weather protected cycle parking facilities to serve the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The approved facilities shall be installed on site prior to the first occupation of the dwellings hereby permitted and shall thereafter be retained for the sole use as cycle parking facilities for the residents of the development.
- 9) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with approved plan PL-5854 23A. Thereafter those spaces shall be retained for the parking of vehicles only.
- 10) The dwellinghouses hereby permitted shall not be occupied until the side windows above ground floor level have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 11) The development hereby permitted shall not be occupied until the refuse and recycling storage facilities as shown on approved plan PL-5854 23A have been constructed. The refuse and recycling storage facilities shall be retained for such purposes at all times thereafter.