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## Appeal Decision

Site visit made on 6 August 2025

by **J Heppell BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27<sup>th</sup> October 2025

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### Appeal Ref: **APP/B1550/W/25/3359418**

### **Biggins Farm, Paglesham Road, Stambridge, Essex SS4 2DD**

- 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 B Guiver against the decision of Rochford District Council.
  - The application Ref is 24/00276/FUL.
  - The development proposed is erection of new dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of new dwelling at Biggins Farm, Paglesham Road, Stambridge, Essex SS4 2DD in accordance with the terms of the application, Ref 24/00276/FUL, subject to the following conditions:
  - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C and E of Part 1 of Schedule 2 to the Order shall be undertaken.
  - 2) Unless within 3 months of the date of this decision a lighting design strategy for biodiversity is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The strategy shall identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging, and show how and where external lighting will be installed through provision of appropriate lighting contour plans and technical specifications so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and maintained thereafter in accordance with the strategy, and under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

If no scheme in accordance with this condition is approved within 9 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed

until such time as a scheme approved by the local planning authority is implemented. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 3 months of the date of this decision a cycle storage plan is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 9 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved plan specified in this condition, the cycle storage shall thereafter remain in use. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

### **Preliminary Matters**

2. The application form gives the site address as Biggins Farm. The property has been severed from Biggins Farm and is now known as Little Ducklings Barn.
3. Prior approval under Class Q was granted for a change of use from agriculture to a dwellinghouse<sup>1</sup>. The Officer Report for the prior approval stated that the conversion of the original building would result in a number of alterations, including raising the existing block plinth and replacing the corrugated walls and roof with standing seam zinc. Thermal lining was to be applied to the walls and roof, and the floor levelled and insulated. New internal partitions would be used to form bedrooms and bathrooms, and new openings would be inserted in the front, side and rear elevations.
4. The appellant has undertaken the change of use. It is not in dispute that the scheme as implemented differs from the approved plans, and consequently the appellant sought planning permission for all external works, soft and hard landscaping, which were not part of the prior approval. These works included replacing the block plinth with brickwork, the use of brickwork instead of cladding on the east elevation, inserting brick panels in the other three elevations, a reduction in the number of windows in the west elevation, the omission of rooflights, and other minor changes to fenestration. I consider that the development constitutes alterations to the existing building.
5. As Class Q permitted development rights cannot be applied for retrospectively, the appellant sought to regularise the differences from the approved scheme by applying for retrospective planning permission for a new dwelling. Section 73A of the 1990 Act allows for the submission of retrospective applications, which are subject to the same considerations as those made prior to development

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<sup>1</sup> LPA reference 21/00064/DPDP3M

commencing. I have removed 'retrospective' from the description of development as it is not an act of development.

### **Main Issues**

6. The appeal site is located within the Green Belt. The main issues in this appeal are:
  - whether the appeal site is grey belt and whether the 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;
  - if inappropriate, the effect of the development on the openness of the Green Belt; and
  - if inappropriate, whether the 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 proposal.

### **Reasons**

7. Paragraph 155 of the Framework advises that the development of homes in the Green Belt should not be regarded as inappropriate where the development would utilise grey belt land and comply with the criteria specified in that paragraph.

#### *Grey Belt*

8. Grey belt is defined in the Glossary to the Framework, which states that land that does not contribute strongly to purposes (a), (b) or (d) of paragraph 143 of the Framework is grey belt land. As there is a considerable degree of separation between the appeal site and the large built-up area of Southend, the site makes only a limited contribution to checking the unrestricted sprawl of large built-up areas (purpose a). As the nearest town is Rochford, and there are no other towns in close proximity to the site, the site does not contribute meaningfully to preventing neighbouring towns merging into one another (purpose b). The site makes only a minor contribution to preserving the setting and special character of the nearest historic town, Rochford (purpose d).
9. I find therefore that the appeal site does not contribute strongly to Green Belt purposes (a), (b) and (d) as set out in paragraph 143 of the Framework. Furthermore, it does not include any of the areas or assets listed in footnote 7 of the Framework. I therefore conclude that the appeal site is grey belt land as defined in the Glossary to the Framework. The development of homes should not therefore be regarded as inappropriate, provided the criteria contained in paragraph 155 are met, which I address below.
10. The appeal site is small in scale in relation to the size of the Green Belt in Rochford District and forms part of a cluster of rural buildings. Consequently, I do not consider that developing the site as proposed would fundamentally undermine the purposes, taken together, of the remaining Green Belt land across the area of the plan. Therefore, the proposal meets the first criterion of paragraph 155.

11. The appellant has alleged, but the Council has not confirmed, that Rochford cannot demonstrate a five year supply of deliverable housing sites. As such, I cannot conclude that there is a demonstrable unmet need for the type of development proposed in accordance with footnote 56 of the Framework. Consequently, the second criterion of paragraph 155 is not met.
12. The third criterion requires the development to be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework. Paragraph 110 seeks to limit the need to travel and to offer a genuine choice of travel modes while Paragraph 115 requires sustainable transport modes to be prioritised. The site is in a rural location where local facilities are not within easy walking distance, and I have not been advised of any available public transport or the existence of cycle routes. Consequently, occupiers would be reliant on the car.
13. Whilst I am mindful that the Framework advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision-making, nothing in the evidence before me indicates that the site is in a sustainable location, as required by criterion (c) of paragraph 155.
14. Consequently, the development is inappropriate development in accordance with paragraph 155 of the Framework. I therefore turn to paragraph 154 of the Framework, which advises that development in the Green Belt is inappropriate unless one of the listed exceptions applies.

#### *Extension or alteration of a building*

15. Criterion (c) of paragraph 154, although not referred to by the appellant, allows for 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.
16. The development comprises the use of different external materials and changes to fenestration. None of the works have resulted in additions over and above the size of the original building, and they have not therefore resulted in disproportionate additions to the building. Consequently, the development satisfies paragraph 154(c) of the Framework, and is not inappropriate development in the Green Belt, having regard to the policies in the Framework.

#### *Overall*

17. Although not relied on in the Council's reason for refusal, the Rochford District Council Local Development Framework Core Strategy Adopted Version December 2011 (CS) contains two Green Belt policies. Policy GB1 directs development away from the Green Belt as far as practicable and prioritises the protection of Green Belt land based on how well the land helps achieve the purposes of the Green Belt.
18. As I have found that the development is not inappropriate development in the Green Belt, there is no requirement to direct it away from the Green Belt, and consequently there is no conflict with Policy GB1. Policy GB2, which relates to rural diversification and recreational uses, is not engaged since the development does not fall within either of these categories.

19. I therefore conclude that the development accords with the policies in the Framework and Policy GB1 of the CS, the aims of which I have outlined above, and accordingly is not inappropriate development in the Green Belt.

### **Conditions**

20. The Council has recommended that five planning conditions be imposed in the event that the appeal is allowed. In assessing the need for the conditions, I have had regard to the policy requirements contained in the development plan and assessed the conditions in relation to the six tests set out in the Framework.
21. As the development has been completed and occupied, there is no need to impose a time limit condition or a condition listing the approved plans.
22. The Government advises that development which consists of no more than 9 dwellings on a site of no more than 0.5 hectares and consists exclusively of dwellings that are self-build or custom housebuilding, is exempt from the mandatory requirement to deliver a biodiversity net gain of 10%. Since the appellant continues to occupy the dwelling, I see no reason to retrospectively limit the development to self build.
23. I have not attached the condition requested by the Council relating to an electric vehicle charging point as the appellant has already installed a vehicle charging point. I have likewise not attached the suggested landscaping condition as, based on my inspection of the site, it is already suitably landscaped.
24. As the site is located in the Green Belt where uncontrolled extensions and outbuildings could result in a loss of openness, I have attached a condition removing permitted development rights.
25. In the interests of biodiversity, a lighting design strategy should be submitted for approval and implemented; and in the interests of sustainable travel a cycle parking scheme should be submitted for approval and implemented. In both cases there is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of these matters before the development takes place. This ensures that the development can be enforced against if the requirements are not met.

### **Appropriate Assessment**

26. The appeal site lies within the Zone of Influence of the Essex Estuaries Special Area of Conservation (SAC) and the Crouch and Roach Estuaries Special Protection Area (SPA) and Ramsar site, which are home to internationally important numbers of breeding and non-breeding birds and their coastal habitats. They are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations), and as such it is incumbent upon me as competent authority to consider whether the development is likely to have a significant effect on the integrity of the sites.
27. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (RDAMS) has been produced by Bird Aware Essex Coast on behalf of a number of Councils including Rochford. It identifies that the coast is a major destination for recreational use such as walking, sailing,

bird-watching, jet skiing, dog walking and fishing, including bait-digging, and that the majority of this activity is undertaken by people who live in Essex.

28. Such activities can result in disturbance to birds and their coastal habitats. The proposal would give rise to the potential for an increase in recreational pressure which, in combination with other development, would have a significant effect on the SAC, SPA and Ramsar site. I must therefore consider whether measures could be put in place to avoid or mitigate these impacts.
29. In conjunction with Natural England, the RDAMS sets out a strategic approach to mitigating recreational pressure along the Essex coast. The strategy involves education and communication, by providing information on the sensitive wildlife and habitats, a coastal code for visitors to abide by, and advice on alternative routes and sites away from the coast. The strategy also utilises habitat based measures including fencing, pedestrian zoning, appropriate cycle routes, spreading car parking amongst different car parks, ranger patrols, habitat creation, working with local organisations and monitoring/review.
30. To deliver this strategy, a tariff-based system has been put in place, with a standard tariff for each new dwelling. The Council has confirmed that the appellant has made an appropriate financial contribution to mitigate the impact of the development, in accordance with the RDAMS. I am satisfied that with the proposed mitigation measures in place, there will be no likely significant effect on the Essex Estuaries SAC or the Crouch and Roach Estuaries SPA and Ramsar site.
31. The development therefore accords with the Habitats Regulations, and Policy ENV1 of the CS which states that the Council will maintain, restore and enhance sites of international, national and local conservation importance, including SACs, SPAs and Ramsar sites.

### **Conclusion**

32. For the above reasons, the development would not conflict with the policies of the development plan. There are no material considerations which indicate a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal should be allowed.

*J Heppell*

INSPECTOR