



Appeal Decision

Site visit made on 10 September 2025

by **A Oyebade MSc FCILT**

an Inspector appointed by the Secretary of State

Decision date: 4th February 2026

Appeal Ref: APP/M1520/W/25/3365314

Land South and Southeast of Maryvale, Catherine Road, Benfleet, Essex SS7 1HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jay French against Castle Point Borough Council.
 - The application Ref is 24/0785/FUL.
 - The development proposed is demolition of existing stables and construction of nine 2 and 3-bedroom detached single-storey dwellings.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Annex 2 of the National Planning Policy Framework (the Framework) defines a major residential development as one that provides 10 or more homes or occupies a site of 0.5 hectares or greater.
3. Both parties accept that the appeal site measures slightly more than 0.5 hectares within its red line boundary. The appellant argues, however, that parts of this land have been subject to encroachment over time and that the estimated 232 m² of encroached land should be deducted from the measured site area of 0.5144 hectares. On this basis, they contend that the site would fall below the 0.5-hectare threshold for a major development and should therefore be treated as a minor development. No legal evidence has been provided, such as a Land Registry plan or any deed of transfer, to substantiate the claimed encroachment or demonstrate any change in land ownership. I therefore agree with the Council that the site area remains above 0.5 hectares and that the proposal constitutes a major development.
4. The appellant has challenged both the validity of the development plan and the Council's application of the Framework in assessing the planning proposal. Nevertheless, none of the material considerations presented outweigh the requirement to determine this appeal in line with the adopted development plan and the Framework.

Main issues

5. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

- the effect on the openness of the Green Belt;
- the effect on the character and appearance of the area;
- the effect on ecology in the area;
- inadequate transport impact assessment;
- the effect on the living conditions of future occupiers of the development; and
- whether the harm arising by reason of inappropriateness, together with any other identified harm, would be clearly outweighed by other material considerations to amount to the very special circumstances required to justify the proposed development.

Reasons

Appropriateness of the development proposal in a Green Belt

6. Paragraph 154 of the Framework sets out among others the pertinent category of development which may be regarded as not inappropriate in the Green Belt as:
 - the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and
 - limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).
7. The Framework defines the 'grey belt' as Green Belt land that consists of previously developed land (PDL) or any other land which, in either case, makes only a limited contribution to the Green Belt purposes. These purposes include preventing the unrestricted sprawl of large built-up areas, avoiding the merging of neighbouring towns, and safeguarding the setting and special character of historic towns, as outlined in paragraph 143 of the Framework.
8. Footnote 7: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.
9. Policy GB2 of Castle Point Local Plan (Adopted November 1998) states that when considering applications to adapt or reuse buildings in the Green Belt, the council will evaluate:
 - Appropriateness of the proposed use in terms of scale, nature, and suitability to the location.
 - Impact on the surrounding Green Belt, including its character and amenities, and suitability of the buildings for the intended purpose.
10. It is stipulated also in Policy EC16 of the Local Plan that the council will not permit developments that cause significant visual harm to the landscape. In assessing

- proposals, the prominence of the development including its scale, location, and external materials, together with its visual relationship to the open countryside will be considered. In all circumstances, proposals are required to safeguard the openness of the Green Belt and to ensure that they do not conflict with the fundamental purposes of including land within it.
11. Paragraph 156 of the Framework provides that, where major housing development is proposed on Green Belt sites subject to a planning application, the requirement for affordable housing must align with either: (i) development plan policies prepared in accordance with paragraphs 67–68 of the Framework; or (ii) where such policies are not yet in place, the default policy set out in paragraph 157. Paragraph 157 specifies that, in the absence of an existing affordable housing requirement, a contribution of fifty per cent (50%) affordable housing contribution, named the 'Golden Rule' will apply by default. Paragraph 158 then states that a development which complies with the Golden Rules should be given significant weight in favour of the grant of permission.
 12. The appeal site is an enclosed plot situated at the northern end of Kale Road, a residential cul-de-sac predominantly characterised by modern two-storey semi-detached dwellings. The site is heavily defined by mature trees and other vegetation, with only three small stables located along one side. Properties on Kale Road generally feature wide, open frontages with integrated car parking spaces. This layout, combined with the quiet nature of the cul-de-sac, contributes to a sense of openness and provides a gradual visual transition from the dense vegetation of the appeal site to the skyline. In contrast, the adjoining Clarence Road North contains a mix of modern two-storey semi-detached dwellings, one-and-a-half-storey homes, and bungalows.
 13. At the opposite end of the site lies Catherine Road, an unmade and irregular route, where two substantial semi-detached properties occupy generous plots adjoining the appeal site. These properties, appear more prominent against the backdrop of a looser and less formal road, and differ significantly from the smaller, more uniform houses on Kale Road in terms of scale, plot size, layout, and streetscape character. The appeal site therefore occupies a transitional position between two distinct residential typologies. The western boundary of the appeal site adjacent to Kale Road, is defined by a public footpath running parallel to this road, which provides pedestrian connectivity to Catherine Road.
 14. The appeal proposal provides for the removal of the existing stable buildings and mature trees, and the erection of nine detached single-storey dwellings, comprising a mix of two-bedroom and three-bedroom units. The development would subsequently dominate the prevailing open area, markedly alter the site, restrict the view of the adjacent Green Belt from Kale Road, undermine its spacious character and disrupt the established balance between built form and landscaped setting that contributes to the area's distinctive appearance.
 15. The appellant argues that the proposal falls within paragraph 154(g) of the Framework, on the basis that it constitutes the complete redevelopment of PDL. However, the Framework's definition of PDL makes clear that it should not be assumed that the entirety of a site's curtilage is suitable for development. In this case, the three small buildings occupy only a limited area near the centre of the site, while much of the land remains undeveloped.

16. The appellant also acknowledges in the submitted Design and Access Statement that the central area containing the stables and manege was previously free of vegetation, and that the trees now present have grown since the cessation of that use. Even so, the Framework excludes from the definition of PDL any land within the Green Belt where the remains of permanent or fixed structures have blended into the landscape. On this basis, the proposal does not comply with Policy GB2 of the Local Plan or with the relevant provisions of the Framework.
17. The Council has no adopted development plan policies prepared in accordance with paragraphs 67 and 68 of the Framework. Accordingly, by operation of paragraph 157, the appeal proposal is required to secure the provision of affordable housing equivalent to 50% of the total number of dwellings within the development. The appeal proposal comprises solely market housing. No affordable housing has been put forward, as the appellant maintains that the scheme does not amount to a major development. However, as explained above, the appeal proposal is a major development.
18. The appellant contends that the proposal is comparable to the Brook Farm appeal allowed in 2025 (Ref: APP/M1520/W/24/3351658), relating to land adjoining 451–469 Daws Heath Road, Hadleigh, Essex. However, the two schemes differ in several important respects. Although the current proposal lies within the Green Belt, the location plan for the allowed appeal shows that it adjoined the established built-up area of Daws Heath, and the Inspector therefore regarded it as a logical extension to the village. Moreover, unlike the present scheme, the Brook Farm development included affordable housing, improvements to local infrastructure, and extensive areas of publicly accessible open space, among other distinguishing features.
19. The appeal proposal does not fall into any of the types of development that are considered acceptable in the Green Belt. The appellant argues that they do not need to show ‘very special circumstances’ because part of the site is previously developed and therefore qualifies as Grey Belt. However, based on the Framework’s definition and the criteria in paragraph 143, the appeal site is still Green Belt land.

Effect on the openness of the Green Belt

20. A fundamental aim of the Green Belt policy, as set out in paragraph 142 of the Framework, is to prevent urban sprawl by keeping land permanently open. Openness is an essential characteristic of the Green Belt that has spatial and visual aspects.
21. The appeal site is currently an open area defined by mature trees, with only three small stable buildings discreetly located within the plot and scarcely visible from surrounding streets. The proposed development would remove these trees and modest structures, replacing them with nine dwellings. While some trees and hedgerows are to be retained or replanted, these would be confined to the site’s perimeter.
22. The submitted layout, elevation drawings, and the 3-dimensional image (“View 5 from Kale Road”) indicate that the proposed dwellings would visually dominate the site, each one exceeding the combined scale of the existing stable buildings. While new planting along the Kale Road boundary may offer some degree of screening, it would disrupt the natural progression of the landscape, from the open character of

Kale Road, through hedgerows, to taller tree cover and finally the skyline, thereby diminishing the established visual transition that defines the area.

23. These new dwellings would overwhelm the open character of the plot, disrupting the established rhythm of concealed limited small buildings that are typically surrounded by mature vegetation and generous openness. The sheer bulk and form of the proposed buildings would be visible from the street. This would then create a visually intrusive and disproportionate presence that erodes the carefully balanced transition from open street end of Kale Road to the hedgerows adjoining the site and eventually to the skyline. Consequently, the development would cause substantial harm to the openness of the Green Belt. Accordingly, the proposal would constitute inappropriate development in the Green Belt and not therefore accord with Policies EC16 and GB2 of the Local Plan and the Framework, as explained above.

Effect on the character and appearance of the area

24. Policy H9 of the Local Plan states that the optimum density for any site shall be determined by the number of dwellings that can be reasonably accommodated, provided that:
- The proposed development does not adversely affect the character of the site or its wider surroundings, and natural features and attributes of the site are preserved and respected within the design.
25. It is stipulated in policy H10 of the Local Plan that for all proposals for residential development, the Council will require the inclusion of an appropriate mix of dwelling types and sizes. The appeal proposal consists of only a uniform style modern single-storey dwellings defined by their emphatic flat roofs incorporating rooflights and innovative rooftop gardens. The design combines modern simplicity with sustainable living, offering not only habitable interiors but also functional rooftop gardens that provide greenery, fresh air, and panoramic views. Each of these buildings would have a restricted frontage garden area and car parking spaces on their sides.
26. On the contrary, the properties along Kale Road and the adjoining Clarence Road North comprise a varied mix of single, one-and-a-half, and two-storey dwellings. These are characterised by pitched roofs, wide open frontages, and integrated car parking spaces. At the opposite end of the site, adjacent to Catherine Road, the built form consists of substantial semi-detached houses set within generous plots, also featuring pitched roofs and broad frontages with parking provision. Furthermore, all neighbouring properties are set back from the public roads, whereas the proposed dwellings would front directly onto the internal routes of the appeal site.
27. The appellant submits that the assertion that the proposal offers only a “narrow range” of dwellings is considered subjective and does not reflect the identified housing needs of the area. There is both a recognised local and national requirement for single-storey, level-access accommodation, particularly for older residents seeking to downsize and for individuals with mobility or health-related needs. While the scheme may not provide an extensive mix of dwelling types, it has been designed to respond directly to these established needs and represents an efficient and appropriate use of the land.

28. As noted earlier, the surrounding area already includes a mix of different property types while still retaining a consistent overall character. The Council has also explained that the two proposed building types, offering only 2- and 3-bedroom homes, would cater to a narrow range of households. Because of this, the development would look out of place in its setting, failing to reflect the area's established character or to deliver a suitable mix of housing. This would conflict with Policies H9 and H10 of the Local Plan.

Effect on ecology in the area

29. Policy EC2 of the Local Plan states that development proposals will be assessed against the design and appearance of spaces around them, which must contribute positively to the public realm, and integrate both hard and soft elements to enhance visual amenity, ecological value and usability. Policy EC5 stipulates that the Council will require all new development schemes to demonstrate how their design, layout, and landscaping contribute to the reduction of crime risk and the enhancement of security.
30. The appeal proposal includes the removal of the existing mature trees on the site, even though the entire area is subject to a Tree Preservation Order (TPO, Ref. 44/2018). Although the scheme proposes compensatory planting, introducing new hawthorn, hazel, and elder trees alongside the retained trees and boundary hedgerows, the Council remains concerned about the adequacy of this approach.
31. The appellant has submitted Ecological Appraisal, Roost Assessment, and an Arboricultural Report. However, the Council considers that these documents do not sufficiently justify or assess the ecological implications of removing mature trees. In particular, the Council identifies potential risks to Hazel Dormouse, lowland mixed deciduous woodland, and local bat populations. The proposed scrub planting along the site boundaries is not regarded as an appropriate or equivalent replacement for the woodland that would be lost, nor is it expected to deliver the same ecological functions. Similarly, the proposed new tree planting is not considered capable of compensating for the significant loss of mature woodland.
32. Further concerns relate to the methodology used to calculate Biodiversity Net Gain (BNG), as well as the absence of a detailed landscaping plan demonstrating how the development would be integrated within the appeal site. The Council is also concerned that the proposed arrangements for dwelling and cycle-storage security, boundary treatments, lighting, and electric-vehicle charging points would fail to adequately minimise the risk of crime.
33. The appellant contends that a detailed landscaping plan was submitted with the application, demonstrating that the development would not give rise to adverse effects on habitat or wildlife. It is further argued that the scheme has been designed to retain the trees located in the northern and north-eastern parts of the site. The appellant also states that only around eight protected trees would be removed, and that these trees are of limited value and should not have been subject to a Tree Preservation Order in the first place. In their view, the natural character of the site would be enhanced through the introduction of new hedgerows, tree planting, and green roofs to each dwelling, which would encourage birds and other wildlife. The appellant additionally notes that the Council's arboricultural consultants did not undertake a site visit and maintains that any outstanding concerns could have been addressed by way of a planning condition.

34. I have considered the submitted document titled Ecology, BNG and Arboricultural Information. The section headed 'Bats & Trees' states that none of the trees on the site show visible signs of decay or hollows and that all have recently been managed. However, this appears inconsistent with the earlier 'Tree and Survey Report', which identifies several trees, particularly Cracked Willow and Ash, as being in very poor condition, with disease present at the trunk base. That report also notes that the remaining Cracked Willows in the centre of the site are in a poor state and should be felled in the near term due to their structural instability. These conflicting assessments reduce my confidence in the reliability of the appellant's evidence regarding tree condition and associated ecological value.
35. I am satisfied that the Council's concerns regarding the landscaping plan and BNG could, in principle, be addressed through the imposition of an appropriately worded planning condition, thereby ensuring compliance in part with Policy EC2 of the Local Plan. However, in the absence of robust justification for the removal of mature trees that are subject to a TPO, and without a clear and consistent assessment of the ecological implications of their loss to inform appropriate mitigation, I cannot conclude that overall, the proposal accords with Policy EC2 of the Local Plan. For the reasons set out above, the scheme would therefore conflict with the policy requirements relating to the protection of trees and biodiversity.
36. The parties agree that the appeal site lies near the Blackwater Estuary and the 'Benfleet and Southend Marshes' SPAs and Ramsar Sites, as well as the Essex Estuaries Special Area of Conservation (SAC). The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD), adopted in May 2020 and prepared in accordance with the Conservation of Habitats and Species Regulations 2017, establishes that all qualifying development proposals must be supported by an appropriate mitigation strategy, alongside other prescribed measures. I note that a signed copy of the Section 106 agreement confirming an undertaking to pay the required sum to mitigate the impact of these European sites has been submitted with this appeal. Accordingly, the proposal would not conflict with the Essex Coast RAMS SPD.
37. Regarding designing the development, including its landscaping, to minimise opportunities for crime, the appellant maintains that the scheme as proposed would not facilitate criminal activity. They point to the use of natural hedging along the perimeter boundaries and the limited access routes, with entry restricted to Kale Road. In any event, this issue could be secured by an appropriate planning condition to ensure compliance with Policy EC5 of the Local Plan

Inadequate transport impact assessment

38. Policy EC3 of the Castle Point Local Plan states that development proposals which would have a significant adverse impact on the residential amenity of the surrounding area, particularly through traffic, will not be permitted. Policy T2 requires that proposals which intensify the use of existing accesses, or create new accesses onto any trunk, principal, or other classified road, must, where appropriate, be accompanied by a Traffic Impact Study demonstrating that the highway network can accommodate the proposed development. Policy T8 confirms that the Council will apply the revised car parking standards for Essex, as published by Essex County Council, subject to a set of parking policies specific to Castle Point, referenced in SPG20 to SPG26.

39. The Council has advanced several highway safety objections in relation to the internal road layout of the appeal proposal, including concerns regarding pedestrian and cyclist safety and the potential for conflict between residents' vehicles and those of delivery and emergency services. I acknowledge that the scheme fails to provide Transport Impact Study encompassing adequate and safe pedestrian and cyclist routes throughout the site. I also accept that the car parking arrangement is unsatisfactory in certain cases and note the inadequate electric vehicle charging points and waste/recycling facilities. Furthermore, the proposal exhibits limited permeability, particularly between Kale Road and Catherine Road, and insufficient pedestrian linkages with the existing footways on Kale Road.
40. Given the absence of an acceptable transport impact assessment, demonstrating safe and sufficient pedestrian and cyclist routes across the site, appropriate servicing arrangements including waste and recycling facilities with practical access to refuse and recycling stores, and adequate parking provision with electric vehicle charging points, the proposed development fails to comply with Policies T2 and T8, as previously outlined.

Effect on the living conditions of future occupiers of the development

41. Policy RDG6 of the Castle Point Residential Design Guidance SPD (Adopted January 2013) requires amenity space to meet the full range of outdoor needs for all occupiers. Such space should be of a practical and usable shape, offer safe and convenient access, and be orientated to secure good levels of daylight throughout the day. Policy RDG9 further expects development proposals to demonstrate how their design, siting and layout have maximised opportunities for daylight penetration.
42. The living rooms and principal outdoor spaces of Houses 3, 4, 6, and 7 are oriented towards Catherine Road, with generous outdoor areas provided between the building lines and the road edge, as illustrated on the proposed site plan and the BNG Habitat Map. These spaces benefit from the openness of the adjoining highway, while both plans also indicate reasonable gaps within the proposed tree and hedgerow planting along Catherine Road. The alignment of the low-height hedgerows corresponds with the positions of the living rooms, ensuring that outlook and daylight are maintained.
43. Each of these dwellings is further enhanced by the inclusion of two rooflights above the living rooms, contributing to internal daylight provision. Except for House No. 7, where one rooflight appears partially shaded by an adjacent tree, the dwellings are considered to receive adequate levels of sunlight. Any necessary adjustment to House No. 7 to secure the required standard of sunlight can be addressed by way of a planning condition, should the appeal be allowed. Consequently, this would not be contrary to Policies RDG6 and RDG9 of the Residential Design Guidance SPD. However, the weight attributable to this compliance is decisively outweighed by the significant harm arising from the scheme's clear conflict with Policies EC2, EC3, EC16, GB2, H9, H10, T2 and T8 of the Local Plan.

Other considerations and planning balance

44. The Council cannot demonstrate a 5-year supply of deliverable housing sites. Paragraph 11d (ii) of the Framework explains that in these circumstances, planning permission should be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the Framework policies.

45. The proposed development would yield some contribution to the local housing supply and generate attendant social and economic benefits during both the construction phase and subsequent occupation. However, the proposal entails an inefficient utilisation of land within the Green Belt, an area subject to strict protection of openness, the prioritisation of brownfield land reuse, and narrowly circumscribed exceptions, including affordable housing requirements. These considerations materially reduce the weight that may properly be accorded to the benefits claimed. In the circumstances, the proposal cannot be regarded as conferring a contribution of sufficient value to justify the grant of planning permission for development within a sensitive Green Belt location.
46. Moreover, paragraph 153 of the Framework makes clear that any harm to the Green Belt, particularly to its openness, must be afforded substantial weight in the decision-making process. Inappropriate development is inherently harmful to the Green Belt and should only be permitted in the most exceptional of circumstances. Such “very special circumstances” will only arise where the harm caused by inappropriateness, together with any other adverse impacts of the proposal, is convincingly and demonstrably outweighed by other material considerations. In this case, the scale of harm to openness is significant, and no compelling justification has been advanced that could override the strong presumption against the development in the Green Belt.
47. I give little weight to the contribution that the proposal would make to housing and local employment. Therefore, the substantial weight to be afforded to the Green Belt harm is not clearly outweighed by the other considerations as to denote very special circumstances. Therefore, when considered cumulatively, the proposed development conflicts with the spatial strategy and design principles set out in Policies EC2, EC3, EC16, GB2, H9, H10, T2 and T8 of the Local Plan.
48. The appellant has also raised several concerns about how the Council handled the appeal proposal during the application process. This matter lies outside the scope of the current appeal and should instead be pursued through the Council’s formal complaints procedure.

Conclusion

49. Having considered all other material factors relevant to the proposed development, none provide sufficient justification to depart from the provisions of the development plan. Accordingly, and for the reasons set out above, I conclude that the appeal should be dismissed.

A Oyebade

INSPECTOR