
Appeal Decision

Site visit made on 24 March 2026

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th May 2026

Appeal Ref: APP/M1520/W/25/3371979

430 London Road, South Benfleet, Essex SS7 1AW

- 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 Stephen and John Vail against the decision of Castle Point Borough Council.
 - The application Ref is 25/0319/FUL.
 - The development proposed is the demolition of existing buildings and the construction of 3no. dwellings, with car parking provision, access, landscaping and other associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. With the appeal, the appellant submitted revised drawings with minor alterations to the windows and scale of the dormers, alterations to the boundary walls including a reduction in height along Catherine Road, along with alterations to the dimensions of third bedrooms.
3. What is considered at appeal should be essentially the same scheme that was considered by the local planning authority. I am satisfied that the revised drawings do not result in a substantially different scheme to that originally considered and that no party has been prejudiced giving rise to any procedural unfairness. I therefore proceed to determine the appeal on the updated documents.
4. The appeal as submitted did not contain the minimum information requirements pursuant to the requirement for Biodiversity Net Gain under Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The appellant has provided updated information, and the Council were given the opportunity to comment. As there is sufficient information accompanying the appeal, it is not necessary for Biodiversity Net Gain to form a main issue.
5. During the course of the appeal, I also invited comments from both main parties regarding the appeal scheme's effect upon character and appearance with particular regard to the pattern of development. I received comments from the appellant but not the Council; I have had due regard to the comments received.

Main Issues

6. The main issues are:
 - whether the appeal site is grey belt land with particular reference to whether its location within the zone of influence of European designated sites would provide a strong reason for refusing or restricting the proposed development;

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of future occupiers of plots 2 and 3 with particular regard to bedroom sizes, daylight and privacy;
- the effect of the proposal on highway safety; and,
- sustainability.

Reasons

Grey Belt

7. The Framework defines grey belt 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 purposes (a), (b), or (d) 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.
8. The appeal site falls within the zones of influence of the Blackwater Estuary Special Protection Area (SPA) and Ramsar site and the Benfleet and Southend Marshes SPA and Ramsar site. These are designated due to the internationally important numbers of non-breeding birds and their coastal habitats including Avocet, Dunlin, Grey plover, Hen harrier, Knot and Ringed plover. The conservation objectives are, amongst other things, to ensure that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the extent and distribution of the habitats qualifying features, the populations and distribution of qualifying features and supporting processes on which the habitats of the qualifying features rely.
9. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me as the competent authority in the context of this appeal.
10. It would be a reasonable assumption that occupiers of the proposed dwellings would be likely to visit local European protected coastal areas for recreation, as evidenced by the visitor research carried out in support of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020 (Essex Coast RAMS). Any increase in visitor numbers to these sites would result in recreational pressure requiring mitigation. I therefore consider that the effects of the proposed dwelling, both on its own and in combination with other development projects, is such that they are likely to have significant effects on the integrity of the sites.
11. The Essex Coast RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling, which increases with indexation each financial year. Since these include a range of habitat-based measures such as education, communication, and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the appeal schemes on the SPA and Ramsar sites.

12. The contribution to the Essex Coast RAMS at £169.45 per additional dwelling would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contribution toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites. Although a draft Unilateral Undertaking was submitted with the appeal, this has not been signed or dated. The appellants cannot currently complete a legally binding undertaking since at the time of the appeal they were not registered as owners with the land registry following the deaths of the former owners. Consequently, the appellant suggests a Grampian style condition to secure the mitigation. I am satisfied that these circumstances would be sufficiently exceptional to justify a Grampian style condition as a means of securing the necessary mitigation had the appeal been allowed. This would be in line with the Planning Practice Guidance (010 Reference ID: 21a-010-20190723, revision date 23.7.19).
13. Consequently, subject to the mitigation measures outlined above, the location of the appeal site within the zone of influence of European designated sites, would not provide a strong reason for refusing or restricting the proposed development.
14. Framework paragraph 155 states that development of homes in the Green Belt should not be regarded as inappropriate where a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; b) there is a demonstrable unmet need for the type of development proposed; and c) the development would be in a sustainable location.
15. The Council have confirmed that they agree the appeal scheme would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Additionally, there is a demonstrable unmet need for housing, as evidenced by the Council's lack of a 5-year supply of deliverable housing sites. The Council also consider the development would be in a sustainable location. I have no substantive evidence before me which would lead me to conclude otherwise.
16. The proposal would not therefore be inappropriate development with regard to paragraph 155 of the Framework.

Character and Appearance

17. The appeal site is located on the corner of London Road and Catherine Road, with frontages to each street. A single dwelling currently occupies the site, with its frontage facing London Road and a large garden to the rear, bordering Catherine Road. There is a belt of trees and vegetation to the verge on London Road, largely screening the dwelling from street views. With the exception of a flatted development to its west side near London Road, Catherine Road has a semi-rural character. It is characterised by dwellings which are mostly detached, set in substantial gardens with low or no boundary treatments to the highway. The age and appearance of the dwellings is varied, with an informal pattern of development. There is no consistent building line to the buildings south of the appeal site, with dwellings generally set well back from the road by varying distances. This gives the street an informal and very open character, with well-spaced dwellings of varying ages and appearance, set in large plots.

18. The three proposed dwellings would form a uniform building line, set back from the highway, each behind a front garden and parking area. The dwellings would be located substantially further forward towards the highway than the adjacent dwelling to the south, known as 'Montagne'. The position of Montagne, staggered back from the adjacent houses, is more consistent with the pattern of development to the south along Catherine Road.
19. The uniform building line of the appeal proposal be at odds with the more informal pattern of development on this part of Catherine Road to the south. The effect of the appeal proposal would be that the dwelling in Plot 1 in particular would be a very dominant feature in the streetscape would have an awkward relationship with Montagne and the other dwellings to the south, appearing as a discordant and dominant feature in views along Catherine Road. This dominance would be accentuated due to the proposed dwelling's limited set-back from the boundary with Montagne.
20. RDG3 of the Residential Design Guidance Supplementary Planning Document (adopted 2013) (the SPD) sets out that where there is an exceptionally strong building line, development must not result in a disruption to this pattern. There is also an expectation that all new development should be informed by the prevailing building lines to the public realm it faces. Although in this case Catherine Road does not contain a strong building line, it nevertheless has its own informal character which, for the reasons set out above, the appeal scheme would be at odds with.
21. The detailed design of the elevation of Plot 3 fronting Catherine Road has been revised to more effectively address the street. Whilst the dormers in plots 1 and 3 would still be of substantial size, they would be sufficiently subservient to the main roof so as not to appear unacceptably dominant relative to the main roofs.
22. The boundary wall and railings to Catherine Road have been reduced in height. Although the brick wall and railings would be an urbanising feature, the railings would allow visual permeability, and the height of the boundary treatment would be consistent with that of Montagne adjacent.
23. Whilst I have found the scheme acceptable in terms of the detailed design of the elevations and boundary walls, this would not overcome the harm I have identified to the character and appearance of the area through the pattern of development and dominance of the dwelling in plot 1 relative to Montagne. For the reasons set out above, the proposal would be harmful to the character and appearance of the area, in conflict with Policy EC2 of the Castle Point Borough Local Plan 1998 (Local Plan) and RDG3 of the SPD. Amongst other things, the policy requires a high standard of design with particular regard to siting, design, layout which shall be appropriate to its setting and which should not harm the character of its surroundings.

Living Conditions

24. The revised plans increase the width of bedroom 3 to Plot 3, as well as providing an additional rooflight. With these alterations, the bedroom would achieve an appropriate size in line with the nationally described space standards. The revised drawings add a secondary obscure glazed window to Bedroom 3 in Plot 2. This would achieve appropriate daylighting; the obscure glazing would prevent any loss of privacy to the adjacent dwelling in Plot 3.

25. The Council do not consider that the proposed obscure glazing to the first-floor bathroom windows to Plot 3 would be sufficient to prevent a perception of overlooking to the adjacent dwelling. However, the windows serving the adjacent dwelling in Plot 2 would also be obscure glazed at first floor level and would serve non habitable rooms. Consequently, there would not be any unacceptable harm to the privacy of future occupiers of either Plots 2 or 3.
26. I note the Council's concern over the boundary treatment to the rear garden of Plot 3 with regard to the privacy of future occupiers. Had the appeal been allowed, this matter could have reasonably been addressed by planning condition.
27. To conclude on this main issue therefore, the appeal scheme would provide appropriate living conditions for future occupiers, in line with the aims of RDG5 and RDG16 of the SPD. Taken together and amongst other things, they seek to achieve appropriate living conditions for future occupiers, including light, ventilation, privacy and internal space.
28. The Council refer to Policy EC2 of the Local Plan. I do not find this directly relevant as it focuses on design.

Highway Safety

29. The boundary treatment to Catherine Road has been amended to reduce its height to 1 metre to improve visibility for vehicles exiting the proposed dwellings onto Catherine Road. The reduced height of the boundary treatment would enable sufficient visibility for vehicles exiting the parking areas. Consequently, the proposal would be acceptable in terms of its effect on highway safety in this regard. It would be in line with Policy RDG12 of the SPD which requires access to all forms of development to be safe and convenient for all users.

Sustainability

30. SPD Policy RDG9 encourages new development to incorporate measures for achieving high levels of energy and water efficiency, as well as being designed to maximise opportunities for, amongst other things, solar gain and daylight penetration. I have not been referred to a specific development plan policy in this regard, neither are there any specific requirements or targets within the SPD.
31. Whilst the Council is concerned about the lack of electric car charging facilities, this matter is dealt with under the Building Regulations. There is little substantive evidence before me that a scheme of sustainability features could not be agreed as a pre-commencement condition.

Other Considerations

32. Set against the harm identified, the proposal would deliver a net gain of two new family sized dwellings. It would support the Government's aim of significantly boosting the supply of homes, particularly on small and medium sites. I attach moderate weight to this benefit. There would be temporary and ongoing economic benefits from the development through construction and future residents' use of local shops and services, but given the two additional dwellings, those benefits would be limited. I note the proposal would achieve the mandatory 10% Biodiversity Net Gain, to which I attach moderate weight as a benefit.

Planning Balance

33. The appeal proposal would be harmful to the character and appearance of the area, and I have judged the magnitude of this harm as significant. Although I have found that the appeal scheme would be acceptable with regard to the other main issues including living conditions, highway safety and sustainability as well as the layout and standard of accommodation, these matters hold neutral weight in the planning balance.
34. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework requires development to be sympathetic to local character. It states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. The conflict between the proposal and Local Plan Policy EC2 should be given significant weight.
35. The Council acknowledge that they cannot demonstrate a 5-year supply of deliverable housing sites, and have also failed the Housing Delivery Test. The reported housing land supply is equivalent to just 0.55 years, indicating a pressing need for housing. In these circumstances, paragraph 11d)ii of the Framework is applicable.
36. Footnote 8 of the Framework is clear that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard for key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
37. I give significant weight to the harm I have identified to the character and appearance of the area. It would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Whilst all housing matters, the moderate benefit of two additional dwellings would make a limited contribution in the context of the Council's significant shortfall.

Conclusion

38. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR