

# MEMBERS' BULLETIN



**Thursday, 1 February 2024/Issue No. 2024/05**

For enquiries regarding The Members Bulletin, please call 01268 207934  
The Basildon Centre, St Martin's Square, Basildon, Essex SS14 1DL

# MEETINGS LIST

**This is a list of meetings to be attended by Councillors.  
Please note that meetings marked with an asterisk are  
not open to the public.**

## Week Commencing 5<sup>th</sup> February 2024

	<b>COMMITTEE, CONFERENCE, ETC</b>	<b>VENUE</b>	<b>TIME</b>
Mon 05	Labour Group Meeting*	Labour Group Room	7.30pm
	Conservative Group Meeting*	St. George's Suite	8.00pm
Tue 06	Scrutiny Committee (Place)	St. George's Suite	7.00pm
Wed 07	Planning Committee	St. George's Suite	7.00pm
Thur 08	Cabinet	St. George's Suite	7.00pm
Fri 09			

## Week Commencing 12<sup>th</sup> February 2024

	<b>COMMITTEE, CONFERENCE, ETC</b>	<b>VENUE</b>	<b>TIME</b>
Mon 12	Conservative Group Meeting*	St. George's Suite	8.00pm
Tue 13	Scrutiny Committee (People)	St. George's Suite	7.00pm
Wed 14	Joint Standards Committee	St. George's Suite	7.00pm
Thur 15			
Fri 16			

## Week Commencing 19<sup>th</sup> February 2024

	<b>COMMITTEE, CONFERENCE, ETC</b>	<b>VENUE</b>	<b>TIME</b>
Mon 19	Labour Group Meeting*	Labour Group Room	7.30pm
	Conservative Group Meeting*	St. George's Suite	8.00pm
Tue 20			
Wed 21	Planning Committee	St. George's Suite	7.00pm
Thur 22	Council (Budget)	St. George's Suite	7.00pm
Fri 23			

## Week Commencing 26<sup>th</sup> February 2024

	<b>COMMITTEE, CONFERENCE, ETC</b>	<b>VENUE</b>	<b>TIME</b>
Mon 26	Conservative Group Meeting*	St. George's Suite	8.00pm
Tue 27			
Wed 28	Miscellaneous Licensing Sub-Committee	Gloucester Park Room	11.00am
	Scrutiny Committee (Place)	St. George's Suite	7.00pm
Thur 29	Licensing Committee	St. George's Suite	7.00pm
Fri 01			

**(Please note that these lists are correct at the time of  
being printed and do not take account of any  
subsequent changes to the diary.)**

**LOCAL COUNCIL MEETINGS**

Here are the links to all local council meetings:

[https://www.billericaytowncouncil.gov.uk/Schedule\\_of\\_Meetings\\_9828.aspx](https://www.billericaytowncouncil.gov.uk/Schedule_of_Meetings_9828.aspx)

<https://e-voice.org.uk/bgnb-parishcouncil>

[http://www.greatbursteadsouthgreen-vc.gov.uk/Meetings\\_28861.aspx](http://www.greatbursteadsouthgreen-vc.gov.uk/Meetings_28861.aspx)

<https://e-voice.org.uk/lbpc/>

<https://e-voice.org.uk/noakbridgepc/meetings/>

<https://ramsdenbellhouseparishcouncil.co.uk>

<https://www.ramsdencrayspc.org.uk/>

[www.shotgatepc.org.uk](http://www.shotgatepc.org.uk)

[www.wickfordtowncouncil.gov.uk](http://www.wickfordtowncouncil.gov.uk)

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**CIVIC EVENTS**

Tuesday 6 <sup>th</sup> February	101st birthday party	Cameron House Care Home, Pitsea
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**MEMBER EVENTS**

None

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## CABINET MEMBER DECISION RECORDS

Below is a list of CMDRs published this week

CMDR No.	CMDR Subject	Cabinet Member	Date Published
	None		

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## GENERAL INFORMATION

### **ROADWORKS**

For detailed information regarding Roadworks in your Ward, go to:-

[www.roadworks.org](http://www.roadworks.org)

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### **BUS TIMETABLE CHANGES**

For up to date information on changes to bus timetables within the Essex area, go to the link below and sign up to the Essex County Council's Transport and Travel Update Electronic Newsletter, which includes the contents of Bus Passenger News, as well as Travel News, Offers and other information.

<http://www.essexhighways.org/Transport-and-Roads/Getting-Around/Bus/Bus-timetable-changes.aspx>

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## WARD RELATED INFORMATION

The following sections provide information on planning applications and other Ward specific information which will be of interest to Members in their community leadership role. Members are reminded that further details on planning applications can be viewed on the Public Access for Planning pages of the Council's web-site, <http://planning.basildon.gov.uk/PublicAccess>. This includes associated documents, case officer details and the expiry date for consultations. Any written comments submitted by Members in respect of specific applications will be taken into consideration as part of the decision making process.

All letters received in response to the Council's consultations on planning applications are available for viewing by Members by contacting the Planning Technical Support Team on 01268 207968 or 01268 208241.

# LICENSING APPLICATIONS

None

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## BILLERICAY EAST WARD

### Planning Applications Submitted:

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00109/S211	74 High Street Billericay	<p>T1 Sycamore - Reduce by up to 4m vertical and 4m lateral. Shape and Balance</p> <p>T2 - Sycamore- Reduce by up to 4m Vertical and Up to 2m Lateral</p> <p>T3- Cherry - Reduce by up to 1m Vertical and up to 2m Lateral</p> <p>T4-Sycamore - Reduce by up to 4.5 Vertical and Up to 3m Lateral</p> <p>T5 - Cherry - 0.5m Formative shape and Balance.</p> <p>T6 Oak - Reduce by up to 4n Vertical and Up to 2.5m Lateral. Shape/ Balance</p> <p>T7/8 Holly - Reduce by up to 1m Vertical. Shape and Balance</p> <p>T9 - Sycamore - Reduce by up to 4m Vertical and Prune encroachment to adjacent property. Shape and Balance</p> <p>All shrubs to rear garden - prune &amp; Shape. Prune ivy on fencing.</p> <p>The removal of all arisings leaving the site clear and tidy.</p>

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### Planning Applications Decided:

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01416/ABAS	The Loft Crown Yard	1no. non illuminated front fascia sign and 1no. non illuminated rear fascia sign.	Granted

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01484/FULL	70A Stock Road Billericay	Part single storey, part two storey rear extension, front bay windows to ground floor and new front gables, raising of ridge and addition of rear dormer, alterations to elevations	Granted
23/01499/FULL	1 Abbots Ride Billericay	Single storey front extension & alterations to fenestration	Granted
23/01528/FULL	3 Shalford Road Billericay	Single storey front extension	Granted
23/01532/FULL	39 Chantry Way Billericay	Two storey front, side and rear extension	Refused
24/00036/S211	112-118 High Street	Sweet Chestnut (castanea sativa) re-pollard to previous points	No Objection

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## BILLERICAY WEST WARD

### Planning Applications Submitted:

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00078/COND	Park View 30 Radford Way	Application for approval of details reserved by condition 15 ( Verification Report) of approved consent reference 19/00401/FULL
24/00089/FULL	6 Central Avenue Billericay	Single storey rear extension replacing conservatory

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### Planning Applications Decided:

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01501/FULL	4 Hallam Court Billericay	Demolition of existing garage and construction of single storey side extension with pitched roof, replacement front entrance door with canopy and post, insertion of new/replacement windows and doors on side and rear elevations	Granted

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<b>BURSTEAD WARD</b>
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**Planning Applications Submitted:**

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00082/TPOBAS	24 The Rowans Billericay	T3 (Oak) of TPO/01/76 - Fell tree
24/00101/COND	Billericay Town Football Club Blunts Wall Road	Application for approval of details reserved by condition 2 (floodlight levels), condition 4 (Community Use Agreement), condition 5 (details of cycle stores), condition 6 (parking surfacing) and condition 10 (Car Park Management Plan) of consent reference 17/01186/FULL.
24/00104/FULL	15 West Park Avenue Billericay	Demolish existing detached garage and conservatory, construct roof alterations, pitched roof front dormers, single storey front/side (double garage), single storey rear extension and alterations to fenestration

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**Planning Applications Decided:**

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01378/FULL	6-7 The Cottage Laindon Common Road	Erection of a replacement dwelling following the demolition of the existing dwelling (part retrospective)	Granted
23/01517/FULL	4 Slices Gate Cottage Southend Road	Proposed construction of 5no. detached	Application Refused

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
		dwellinghouses with associated amenity space and accesses	

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**CROUCH WARD**

**Planning Applications Submitted:**

APPLICATION NO.	ADDRESS	DESCRIPTION
23/00685/COND	Ku Ming Church Road	Approval of details reserved by conditions 5 (Materials) and 6 (Landscaping) of planning permission ref. 18/01105/FULL
24/00090/COND	Crays Hall Farm Church Lane	Application for approval of details reserved by Condition 11 (Archaeological Mitigation Strategy) of planning permission 22/00296/FULL (granted on appeal APP/V1505/W/23/3318171)

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**Planning Applications Decided:**

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/00935/FULL	Pine Cottage Church Road	Erection of detached chalet and garage at "Pine Cottage" Church Road, Ramsden Bellhouse, all exactly as BAS/1308/90 (including conditions), consent for which was granted on 4 January 1991.	Granted
23/01099/FULL	Denby Lodge Crays Hill Road	Demolition of bungalow and workshops and construct 2 no. bungalows, new vehicular access and layout parking and amenity space	Granted
23/01282/FULL	South Lodge Approach Road	Demolish existing dwelling and garages/stores and construct 3no. detached	Granted

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
		dwelling with associated amenity space and parking	

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## FRYERNS WARD

### Planning Applications Submitted:

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00079/FULL	2 Honeywood Road Basildon	Change of Use Class from E(a) (Cold Food Sandwich bar) to Mixed Used Sui Generis (Hot food takeaway) and E(a) Sandwich bar and the installation of high level ducting system at the rear elevation.

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### Planning Applications Decided:

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01110/FULL	Heronsgate Trading Estate, Unit 22 Paycocke Road	Internal Construction of mezzanine floor in front building to be used as offices with trade counter.	Granted
23/01376/FULL	Kingfisher House Chester Hall Lane	Erection of a building for storage use	Granted
23/01536/LDCP	9 Abrahams Close Basildon	To establish the lawfulness of a proposed loft conversion with rear dormer and 3 nos. front rooflights	Granted

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## LAINDON PARK WARD

### Planning Applications Submitted:

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00017/TPOBAS	Ford Research And Engineering	Public affairs boundary overhang -

APPLICATION NO.	ADDRESS	DESCRIPTION
	Centre West Mayne	Cut back all encroachment back to boundary And strim all ground vegetation.  As previous applications for this site, blanket TPO and we are not allowed to take photos.

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**Planning Applications Decided:**

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01514/FULL	14 Roberts Road Laindon	Erection of Oak framed Orangery to the rear following removal of existing canopy structure	Granted

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**LANGDON HILLS WARD**

**Planning Applications Submitted:**

None

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**Planning Applications Decided:**

None

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**LEE CHAPEL NORTH WARD**

**Planning Applications Submitted:**

None

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**Planning Applications Decided:**

None

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## NETHERMAYNE

### Planning Applications Submitted:

None

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### Planning Applications Decided:

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01121/FULL	25 Furrowfelde Kingswood	Extension to existing HMO, with new detached block to rear incorporating 3no. new Rooms	Refused
23/01500/FULL	15 Hawksway Kingswood	Single storey rear and front extension with new entrance door	Granted
23/01526/LDCP	36 Palmer Way Langdon Hills	To establish the lawfulness of a proposed single storey rear extension with lean roof including 3 velux windows	Granted

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## PITSEA NORTH WEST WARD

### Planning Applications Submitted:

None

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### Planning Applications Decided:

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/00432/FULL	Land At Mill Green Beambridge	Proposed construction of 6no 1-bedroom and 2no 1-bedroom accessible homes, with associated landscaping and provision of 15no parking bays.	Granted
23/01492/LDCP	16 Soane Street Pitsea	To establish the lawfulness of a proposed change of use	Refused

<b>APPLICATION NO.</b>	<b>ADDRESS</b>	<b>DESCRIPTION</b>	<b>DECISION</b>
		from C3 residential to C3(B) supported living accommodation to house 2No. service users.	

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**PITSEA SOUTH EAST WARD**

**Planning Applications Submitted:**

None

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**Planning Applications Decided:**

None

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**ST. MARTIN'S WARD**

**Planning Applications Submitted:**

None

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**Planning Applications Decided:**

None

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**VANGE WARD**

**Planning Applications Submitted:**

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00021/FULL	132 Redgrave Road Basildon	Single storey rear extension (retrospective)
24/00069/OUT	208 Clay Hill Road Basildon	Outline application to construct one 3-bedroom residential dwelling (Revised scheme).

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**Planning Applications Decided:**

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01507/FULL	20 Highlands Avenue Vange	First floor rear infill extension to provide additional single bedroom.	Granted

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**WICKFORD CASTLEDON WARD**

**Planning Applications Submitted:**

None

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**Planning Applications Decided:**

None

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**WICKFORD NORTH WARD**

**Planning Applications Submitted:**

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00084/FULL	21 Guernsey Gardens Wickford	Demolish existing garage, two storey side extension, two storey and first floor front extensions, part two storey and part single storey rear extensions
24/00087/NMABAS	Lemon Steel Services Russell Gardens	To establish whether the change of materials - Walls to be finished in Thames yellow stock engineering blue brick and Goosewing grey cladding/Windows and doors to be Ral 5002 Ultramarine blue/Roller shutter to be finished in Galvanised silver can be considered as non-material amendments to planning permission 20/01273/FULL.
24/00088/COND	Lemon Steel Services Russell Gardens	Application for approval of details reserved by condition 5 (surface water drainage scheme), of approved consent reference 20/01273/FULL

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**Planning Applications Decided:**

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01496/FULL	38 West Beech Avenue Wickford	Single storey rear extension with rooflights	Granted
23/01520/FULL	3 Wethersfield Way Wickford	Demolition of existing conservatory at rear and construct single storey rear extensions	Granted

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**WICKFORD PARK WARD**

**Planning Applications Submitted:**

APPLICATION NO.	ADDRESS	DESCRIPTION
24/00095/FULL	My Grace The Chase	3 pitched roof dormers to side elevation and fenestration

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**Planning Applications Decided:**

APPLICATION NO.	ADDRESS	DESCRIPTION	DECISION
23/01497/LDCP	My Grace The Chase	The proposal is to establish the lawfulness of 3no. proposed pitched roof dormers to side elevation	Refused
23/01516/FULL	2 Rhum Mews Wickford	Loft conversion with part raised hip ends	Granted
23/01541/TPOBAS	5 Hedingham Drive Wickford	T1 of TPO/03/77 (Oak) - 2m reduction of lateral branches extending over southerly neighbouring property	Application Permitted

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## **LOCAL GOVERNMENT ASSOCIATION WEBSITE**

Up to date information on Local Government issues can be found on the following websites:

Local Government Association	-	<a href="http://www.lga.gov.uk">www.lga.gov.uk</a>
Direct.gov.uk - what's new	-	<a href="http://www.direct.gov.uk">www.direct.gov.uk</a>

## **BASILDON BOROUGH COUNCIL WEBSITE**

The Council's website address is: [www.basildon.gov.uk](http://www.basildon.gov.uk)

### Councillor Call in form – Planning Committee

All call ins must be made within **28 days** from the date of validation of a planning application (as set out in the Member Bulletin).

**I wish to call-in the following application for determination by the Planning Committee.**

<b>Application Number:</b>	
<b>Application Site Address:</b>	

My reasons for requesting call-in are as follows. Please tick appropriate box(es):

Impact on neighbouring properties	
Impact on character of the street scene	
Residential amenity	
Car parking	
Highway issues	
Impact on trees and landscaping	
Impact on Listed Building/Conservation Area	
Other reasons (please specify below):	

Name:

Date:

This form should be emailed to the Development Team Manager [charles.sweeny@basildon.gov.uk](mailto:charles.sweeny@basildon.gov.uk) and to the Technical Support Team [planning@basildon.gov.uk](mailto:planning@basildon.gov.uk)

If you have not received acknowledgement within 1 working day please contact the Technical Support Team at [planning@basildon.gov.uk](mailto:planning@basildon.gov.uk)

#### OFFICIAL USE ONLY

Authorised: Yes [ ] No [ ]

Signature of the Chairman of Committee.....

Date signed.....

In calling an application to the Planning Committee the Councillor is not pre-determining the planning application. Rather the Councillor is expressing a legitimate concern about an application and will reach a final conclusion, having considered all of the matters presented at the meeting and being genuinely open to persuasion on the merits of the application when a decision comes to be made by the Committee.

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# Appeal Decision

Site visit made on 16 January 2024

**by E Grierson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 January 2024**

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**Appeal Ref: APP/V1505/W/23/3318167**

**Avondale, Brackendale, Billericay, Essex CM11 1EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Philip Davenport against Basildon Borough Council.
  - The application Ref 22/01773/OUT is dated 20 December 2022.
  - The development proposed is the construction of one 4-bed dwelling.
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## Decision

1. The appeal is dismissed and planning permission for the construction of one 4-bed dwelling is refused.

## Preliminary Matters

2. A revised National Planning Policy Framework was published on 19 December 2023 and updated on 20 December 2023, which I have had regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. The planning application form submitted seeks outline planning permission with all matters (access, appearance, landscaping, layout and scale) reserved for future consideration. As such I have treated the submitted appeal plans relating to any of the reserved matters as being for illustrative purposes only.

## Main Issues

4. Although a formal decision was not issued, in their statement, the Council have indicated that it would have refused planning permission for the proposed development. They have outlined that their main concerns relate to the location of the appeal site within the Green Belt and the impact of the proposed development on biodiversity. Therefore, the main issues in this appeal are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and relevant development plan policies;
  - the effect of the proposed development on biodiversity; and
  - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other consideration so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### *Whether it is inappropriate development*

5. The appeal site is an unoccupied area of land within the Break Egg Hill Plotland area and the Green Belt. This small plotland is located on the edge of the town of Billericay and has a rural character with dense vegetation, limited development and a sporadic layout of dwellings.
6. Policy GB1 of the Basildon District Local Plan (LP) 1998 defines the extent of the Green Belt in the borough. Paragraph 154 of the Framework indicates that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Under the first section of paragraph 154 (g), these exceptions include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continued use which would not have a greater impact on the openness of the Green Belt than the existing development.
7. The terms 'limited' and 'infilling' are not defined within the Framework. Whilst a single dwelling could be defined as limited development, due to the sporadic nature of development in the surrounding area which does not have a dense or uniform pattern, the appeal site does not represent a gap in an otherwise built up frontage and would not represent an infill plot. However, the appellant and the Council have both submitted that the appeal site is previously developed land, although no built form remains on the site at present.
8. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
9. As there are no permanent buildings on the appeal site at present, the addition of a new building would have a significant spatial impact on the openness of the Green Belt due to the increase in built form. In addition, regardless of the design and scale of the proposed dwelling, due to the corner plot location of the appeal site and its proximity to the road, the proposal would be highly visible from both Brackendale and The Crossway. As such, the proposed development would also visually reduce the openness of the Green Belt. Therefore, there would be both a spatial impact and visual impact to the openness of the Green Belt from the proposed development and therefore it would not fall under the first section of paragraph 154 (g).
10. The second section of paragraph 154 (g) makes provision for buildings which would not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. However, no evidence has been provided to suggest that the proposal includes the provision of affordable housing. Therefore, the proposed development would not fall under the second section of paragraph 149 (g).
11. The appellant has also drawn my attention to paragraph 154 (e) of the Framework, which lists limited infilling in villages as an exception to the restriction of new buildings within the Green Belt, and several recent appeal

decisions<sup>1</sup> where it was found that a plotland area on the edge of the town of Wickford could be considered a village. However, the Break Egg Hill Plotland area is much smaller and less developed when compared to the Plotland area referenced in these appeal decisions and therefore less akin to a separate village. Furthermore, the Green Belt Infill Policy Topic Paper (2017) states that its proximity to the Billericay urban area and its services has resulted in it being incorporated into Billericay instead of counted as a separate unserved settlement. These factors would suggest that the area in which the appeal site is located would not be classified as a village. Nevertheless, as I have already concluded that the proposed development would not constitute infilling, the proposed development would not fall under the stipulations with Paragraph 154 (e).

12. The proposal would therefore be inappropriate development within the Green Belt. This would be harmful to the Green Belt which, in accordance with paragraph 153 of the Framework, should be given substantial weight. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, which will be considered below.

### *Biodiversity*

13. The consultation with the Council's ecological consultant has identified that the appeal site is located within an Impact Risk Zone (IRZ) for Norsey Wood, a Local Nature Reserve and a Special Site of Scientific Interest, and is surrounded by deciduous woodland, a priority habitat. For this reason, to establish the impact on protected and priority species from the development proposed, a preliminary ecological appraisal should be provided. This would require a survey to establish the presence of such species on the appeal site or in the surrounding area. The government circular 06/2005 states that ecological surveys should be carried out before planning permission is granted and only secured by condition in exceptional circumstances. There are no exceptional circumstances in this instance and therefore the ecological appraisal should be completed before planning permission is granted.
14. Comments from a neighbouring resident regarding bat roosting are noted. It is also noted that the appellant has planted new trees on the site, created log piles for insects and small mammals and intends to implement bird and bat boxes on the site. However, this does not negate the requirement for an assessment by a suitably qualified ecologist to identify the impact of the proposed development on local biodiversity.
15. Therefore, without a preliminary ecological appraisal to suggest otherwise, the proposed development would harm local biodiversity and would be contrary to the environmental objectives of the Framework in this regard.

### *Other Considerations*

16. The proposed development would contribute to the housing supply in the area with a new dwelling. However, due to the nature of the proposed development, as a single dwelling, this is only a small contribution to the housing supply which is given only limited weight. The Council currently have a significant shortfall in housing land supply, with only a 1.85 year supply, and are failing to

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<sup>1</sup> APP/V1505/W/21/3278853 and APP/V1505/W/22/3310341

meet their Housing Delivery Test (HDT). Therefore, the test in paragraph 11(d) of the Framework should be applied.

17. However, while the framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. The harm to the Green Belt identified is such that the policies in the Framework relating to the Green Belt provide that clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposal.
18. The appellant has drawn my attention to a number of documents including the Green Belt Infill Policy Topic Paper (2017) which explores the potential for Green Belt infill on designated plotlands within Basildon Borough and the Basildon Borough Plotland Study (2017) which states that some limited development should be permitted on infill plots within the Break Egg Hill Plotland. They have also identified the Housing and Economic Land Availability Assessment (HELAA) which states that the appeal site is suitable, available and achievable for one dwelling. Whilst these documents all consider the opportunity for residential development on land such as the appeal site, they are only exploratory documents and therefore are given limited weight.
19. The proposed dwelling is intended to be used by the appellant as a retirement home for their family, and they have stated that it will release a dwelling in a prime location for commuting to a working family. However, no evidence has been provided to substantiate this claim and therefore this cannot be given any weight.

### **Green Belt Balance**

20. The proposal would be inappropriate development in the Green Belt in that it would result in a new building within the Green Belt which does not fall under any of the listed exceptions. It would also result in harm to biodiversity. The Framework establishes that substantial weight should be given to any harm to the Green Belt and the development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
21. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified, and the harm to biodiversity. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal conflicts with paragraphs 152, 153 and 154 of the Framework.

### **Other Matters**

22. The appellant has brought a number of successful appeal decisions to my attention that relate to residential development also within the Green Belt. These include an application for 200 dwellings at Land North of Kennel Lane, Billericay<sup>2</sup>, an application for 100 dwellings at Roundhouse Farm, Land Off

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<sup>2</sup> APP/V1505/W/22/3298599

Bullens Green Lane, Colney Heath<sup>3</sup> and an application for 167 dwellings at Land South of Heath Lane, Codicote<sup>4</sup>. They have also highlighted an application for 99 dwellings on Southend Road in Great Burstead, which was recently granted planning permission, although the decision notice was not provided.

23. These schemes all involve development which was considered inappropriate development in the Green Belt but was granted planning permission in very special circumstances, largely due to the provision of a significant number of dwellings against a housing shortfall. As I have found that very special circumstances do not exist in the appeal before me, these appeals are not comparable and do not set a precedent for the appeal proposal.
24. The Council have highlighted that the appeal site is located within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). They state that Natural England have identified that new residential development within this area is likely to have a significant effect on the features of interest of Special Protection Areas (SPAs) and Ramsar sites, through increased recreational pressure, although no specific European sites have been identified by the Council.
25. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

## **Conclusion**

26. For the reasons given above, I conclude that the appeal should be dismissed.

*E Grierson*

INSPECTOR

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<sup>3</sup> APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

<sup>4</sup> APP/X1925/W/21/3273701

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# Appeal Decision

Site visit made on 9 January 2024

**by A Owen MA BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> January 2024**

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## **Appeal Ref: APP/V1505/W/23/3319492**

### **England, Crays Hill Road, Billericay, Essex CM11 2YP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Cook against the decision of Basildon Borough Council.
  - The application Ref 22/01718/FULL, dated 6 December 2022, was refused by notice dated 6 March 2023.
  - The development proposed is demolition of existing residential unit and the erection of a replacement dwelling.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the demolition of the existing residential unit and the erection of a replacement dwelling at England, Crays Hill Road, Billericay, Essex CM11 2YP in accordance with the terms of the application, Ref 22/01718/FULL, dated 6 December 2022, subject to the following 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: 1298.L.001, 1298.L.002, 1298.L.003, 1298.L.101, 1298.L.102 and 1298.L.103.
  - 3) Demolition and construction works shall take place only between 08:00 and 18:00 on Monday to Friday; 08:00 and 13:00 Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
  - 4) There shall be no discharge of surface water from the site onto the highway.
  - 5) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
    - a) the parking of vehicles of site operatives and visitors;
    - b) loading and unloading of plant and materials;
    - c) storage of plant and materials used in constructing the development;
    - d) wheel washing facilities; and
    - e) measures to control the emission of dust and dirt during construction;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.

### **Preliminary Matters**

2. During the appeal process a revised version of the National Planning Policy Framework (the 'Framework') was issued. The main parties were consulted on the relevance of the changes to the appeal and their comments have been taken 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 development plan policies;
  - the effect of the proposal on openness;
  - the effect on the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) zone of influence; and
  - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

### **Reasons**

#### *Green Belt*

4. Policy BAS GB3 of the Basildon District Local Plan relates to replacement dwellings in the Green Belt and sets out a number of criteria which such properties are subject to. It is not disputed by the parties that the proposed dwelling in this case would meet these criteria. The criteria are generally consistent with paragraph 154 d) of the Framework which sets out that replacement dwellings which are not materially larger than that they replace

are one of the exceptions to the general presumption against development in the Green Belt.

5. However the policy also refers to the need to accord with policy BAS GB5. That policy sets out the definition of a dwelling in respect of the dwelling being replaced. It clarifies in part iii. that the existing building must be a permanent substantial structure with foundations, walls, slated or tiled roof and internal plastering, and therefore caravans or mobile homes would not qualify. The existing structure on site is a mobile home. As the existing dwelling would fail to accord with policy BAS GB5, then the development as a whole would also be contrary to policy BAS GB3 as it would not constitute a replacement dwelling in the Green Belt. It would therefore be inappropriate development.
6. The Framework states that development in the Green Belt that constitutes limited infilling in villages would not be inappropriate. As the proposal is for one dwelling on a site that sits comfortably between other dwellings, it would comprise limited infilling. However the small collection of properties near the site is detached from the settlement of Crays Hill; being separated from it by a substantial area of woodland along Crays Hill Road. So whilst the immediate surroundings of the site do have a residential character, I do not consider that they constitute a village in their own right. Consequently, the appeal site is not within a village and so the development does not benefit from this exception in the Framework.
7. The Framework also supports the redevelopment of previously developed land. However the existing mobile home is not a building and there is limited other built form on site to render the site previously developed. This exception in the Framework therefore does not apply either.
8. In summary, the proposal would be inappropriate development in the Green Belt. This harm to the Green Belt carries substantial weight. As such the development would conflict with policies BAS GB 5 and BAS GB 3, as set out above. Policy BAS GB1 is also referred to in the Council's decision, but this largely refers to the Green Belt boundary so is of little direct relevance to the proposal.

#### *Openness*

9. The appellant states the proposed dwelling would have an internal floorspace of around 73m<sup>2</sup> whilst the Council calculate it to be 87m<sup>2</sup>. The existing dwelling is approximately 68m<sup>2</sup> but there are other structures on the site which would also be removed as part of the development. The appellant states that in total around 100m<sup>2</sup> of floor space would be removed resulting in a reduction in floorspace overall; whichever figure for the size of the proposed dwelling is correct. In this respect the proposal would increase openness. The parties do not dispute that in this regard the proposal would meet the criteria set out in policy BAS GB3 for replacement dwellings.

#### *Essex Coastal RAMS*

10. It is agreed by the parties that the site is within the Zone of Influence of the Essex Coastal RAMS area. Within this area, the development of additional dwellings could result in additional recreational pressure on the Essex Coastal RAMS area which accommodates a number of Special Protection Areas (SPAs) and Ramsar sites which are designated habitat sites.

11. However in this case, notwithstanding that the mobile home fails the definition of a dwelling for the purposes of policy BAS GB5, the site has been occupied by residents for a long established period. Therefore, there would be no reason to consider there would be any increase in recreational pressure on the habitat sites and hence no need for any mitigation.

*Other considerations*

12. Paragraphs 152 and 153 of the Framework set out that inappropriate development in the Green Belt should not be approved except where other considerations clearly outweigh the harm to the Green Belt.
13. In this case it is clear that there has been an established residential presence on the site for a number of years. A Certificate of Lawful Use for the stationing of a mobile home for residential purposes on the site was granted in 1993 on the basis that the land had been used for that purpose for at least 10 years. Moreover, although the plan accompanying that Certificate shows the mobile home to be in a different position on the site to what it is now, other evidence shows the mobile home in its current position since 1999. This shows a high degree of permanence.
14. In addition, the mobile home has been extended with the addition of a brick-based porch, there is a brick plinth around the edge of the mobile home which fixes it to a hardstanding base, and it is connected to mains services. This illustrates a high degree of attachment to the ground that would make it very difficult, if not impossible, to move. This adds to its permanence.
15. The proposal would be inappropriate development in the Green Belt to which I give substantial weight. However the mobile home has been in situ for an extensive period of time and is firmly and considerably attached to the ground giving it a strong degree of permanence, to which I give significant weight. The proposal would also increase openness.
16. Overall, it is considered that the harm to the Green Belt by virtue of the development constituting a new dwelling, is clearly outweighed by the permanence of the existing residential unit on the site and the increase in openness provided by the proposal. As such, looking at the case as a whole, I consider that very special circumstances exist which justify the development.

**Other Matters**

17. The consultation response from the Council's ecologist to the application expressed an objection on the basis of a lack of information on the likelihood of bats on site. From my site visit, I noted that none of the buildings on site had roof voids that would be able to accommodate bats nor were there any gaps around the eaves. There were also no trees on site. I therefore consider the likelihood of there being bats on site to be negligible and so there would be no harm to this protected species resulting from the development.

**Conditions**

18. I have imposed conditions with reference to the advice in the Framework and the national Planning Practice Guidance.

19. In the interests of clarity I have attached the standard condition relating to the commencement of development, and a condition identifying the approved plans.
20. In the interests of protecting neighbouring residents from unacceptable noise and disturbance, I have included conditions, suggested by the Council's environmental health team and the highways authority, relating to hours of construction and a Construction Management Statement.
21. A condition relating to contamination is included to ensure future occupiers are not subject to unacceptable risks in that regard. I have also imposed the suggested condition preventing the discharge of surface water onto the highway so as to minimise the risk of localised flooding.
22. I have not imposed the condition suggested by the highways authority relating to entrance gates as there are already gates at the front of the site. Likewise the access is already surfaced with unbound material. It is also unlikely that material associated with the development would be burnt on site, so a condition relating to that would be unnecessary. In any case, any excessive nuisance in this regard could be addressed through different legislation.

### **Conclusion**

23. Although the proposal would result in harm to the Green Belt in terms of its inappropriateness, which carries substantial weight, I consider the other considerations in this case clearly outweigh that harm.
24. As such, the proposal would conflict with the development plan as a whole but there are other considerations that indicate a decision other than in accordance with the development plan. Therefore, for the reasons given above, the appeal is allowed.

*A Owen*

INSPECTOR

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## Appeal Decision

Site visit made on 9 January 2024

**by D Szymanski BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 January 2024**

**Appeal Ref: APP/V1505/W/23/3316578**

**Grimshill Farmhouse, Southend Road, Great Burstead, Billericay CM11 2PP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Millen Homes Ltd against the decision of Basildon Borough Council.
- The application Ref 22/01223/FULL, dated 1 September 2022, was refused by notice dated 3 January 2023.
- The development proposed is development of 4 affordable chalet bungalows.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the appeal was lodged, the 2022 Housing Delivery Test (HDT) results and the revised National Planning Policy Framework (2023) (the Framework) were published on 19 December 2023. I have given the Council and Appellant the opportunity to comment upon these and taken any comments into account in determining this appeal. The references and paragraph numbering below reflects the new Framework.
3. Applications were made for both planning permission and listed building consent. Although the appeal site is within the setting of a listed building, no works are proposed to the building. After seeking clarification from the main parties, the appeal is against the refusal of planning permission only, so I have determined the appeal on this basis.
4. Since the appeal was lodged the appellant has submitted a planning obligation seeking to secure, amongst other things, the new dwellings as affordable homes and a contribution in accordance with the Essex Coastal Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) for designated Habitats sites. The effect of the proposed development upon Habitats sites, did not form a reason for refusal in the Council's decision notice. However, having regard to my duties under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) it is necessary I carry out an Appropriate Assessment (AA) and consider the effect upon Habitats sites as a main issue. I have sought the Council's and appellant's views upon this matter and taken them into account in determining this appeal.
5. The appeal site was subject of an application for a greater number of dwellings which was dismissed at appeal, for which I am provided with a copy of the

Inspector's decision letter<sup>1</sup>. I have had regard to the findings, however, I am not bound by their conclusions. I have considered this appeal proposal on its own merits based upon the evidence before me.

## **Main Issues**

6. The main issues are:

- the effect of the proposed development upon designated Habitats sites;
- whether or not the proposed development would be inappropriate development in the Green Belt and the effect upon the openness of the Green Belt;
- the effect of the proposed development upon the character and appearance of the area; and,
- the effect of the proposed development upon the setting and significance of Grimshill Farmhouse as a Grade II listed building.

## **Reasons**

### *Habitats sites*

7. The Regulations require that where a plan or project is likely to result in a significant effect on a European site (Habitats site), a competent authority is required to make an AA of the implications of that plan or project on the integrity of the Habitats site in view of its conservation objectives. Any likely significant effects (LSEs) arising from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
8. There is no dispute between the main parties that the appeal site lies within a Zone of Influence (ZoI) of the Blackwater Estuary Special Protection Area and Ramsar Site (the SPA) as a designated Habitats site, and without mitigation is likely to result in LSEs. Habitats in the SPA support nationally important populations of breeding, wintering, and migratory birds, and internationally important assemblages of over-wintering and migratory waterfowl. These constitute the SPA's qualifying features.
9. The SPA conservation objectives are to maintain or restore its integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population the qualifying features and species, and the distribution of the qualifying features within the site.
10. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (2020) (the RAMS SPD) confirms it has been found that outdoor recreational activities by visitors result in disturbance to the qualifying features. It identifies that new housing in the ZoI is likely to result in increased visitors to the SPA, resulting in recreational disturbance to the qualifying features. Therefore, by introducing a further four dwellings within the ZoI, the effects of this scheme alone and in combination with other development, would have LSEs on the SPA.

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<sup>1</sup> Ref. APP/V1505/W/21/3272280.

11. The RAMS SPD outlines a package of strategic mitigation measures, including education and communication, access management, enforcement, habitat creation and monitoring, delivered by partnership arrangements. They are funded by a per dwelling tariff for developments within ZoIs, secured by planning obligation. Based upon the evidence before me and having regard to the views of Natural England (NE), I am satisfied that subject to a payment being secured against the appeal scheme via a planning obligation, the measures would mitigate the LSEs upon the SPA.
12. NE confirms if the tariff is secured by an obligation to be paid upon commencement of development, it would adequately secure the deliverability of mitigation measures. The appellant's view is the submitted obligation secures the contribution as sought by NE. However, it only secures payment before the occupation of more than 50% of the dwellings. Therefore, up to 2 dwellings could be occupied without any mitigation to mitigate the LSEs upon the integrity of the SPA.
13. From what is before me, there is no certainty of the timescale between phases of occupation, so unmitigated LSEs could be prolonged. Even if there was a relatively short timescale between the occupation of the first two and second two dwellings, there would still be a clear potential for unmitigated effects. I am also offered no certainty as to how long after paying the monies it is transferred to the partnership and spent on mitigation, also giving a potential for a further gap between occupation of the second two dwellings and mitigation being provided.
14. There are no other suitable means before me to mitigate the adverse effects. Therefore, the proposed development does not make adequate provision to mitigate the recreational disturbance impacts and thus maintain or restore the integrity of the SPA. It makes no other provision to mitigate the impacts and thus maintain the integrity of the SPA. Applying the precautionary principle, in the absence of adequate mitigation being secured the appeal scheme would have significant adverse effects upon the SPA, failing to adhere to its conservation objectives. Imperative reasons of overriding public interest do not exist. It has not been put to me there are no alternative solutions, or other compensatory measures will be provided. Therefore, section 63(5) of the Regulations precludes the proposal from proceeding.
15. For the reasons set out above, the proposed development would have harmful effects upon a designated Habitats site in conflict with section 63(5) of the Regulations, which states the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site. It would also conflict with paragraph 186a) of the Framework which states that if significant harm to biodiversity cannot be avoided, then planning permission should be refused.

*Inappropriate development*

16. The appeal site is within the Green Belt designated under Policy GB1 of the Basildon District Local Plan Saved Policies (2007) (the LP). Paragraph 142 of the Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

17. The Framework states the construction of new buildings should be regarded as inappropriate development, subject to certain exceptions. The exceptions at paragraph 154g) are in respect of the limited infilling or partial or complete redevelopment of previously developed land, subject to a development falling within one of the two clauses. These exceptions do not require an assessment against Green Belt purposes.
18. The appeal site is part of a residential garden that includes a permanent building. It is clearly separated and distinct from the established residential streets to the north and southwest, and it does not reflect the pattern of development. Therefore, it is outside a built-up area and for the purposes of the Framework, appears to be previously developed land.
19. The appeal site includes a sizeable garage building, hardstandings, parking, gateways, fencing and some limited garden structures, but these occupy a relatively limited proportion of it, and most are of a limited scale. A significant proportion is largely open lawned and landscaped. The appeal site makes a clear and distinctive contribution to Green Belt openness, appreciated from the public highway around the site frontage, and some neighbouring land.
20. The proposal for four new dwellings with first floor accommodation in the roof, associated hardstandings, parking of vehicles, paraphernalia and comings and goings would result in a significant increase in built development and associated activity. The increased footprint, extent and height of new built development, and more prominent visibility would have a significantly adverse effect upon the visual and spatial openness of the Green Belt, so it could not meet the first clause of 154g) of the Framework. However, in respect of the second clause of 154g), I am of the view the harm would not be to such a level that there would be substantial harm to openness.
21. There is a need for affordable housing identified in the South Essex Strategic Housing Market Assessment (2017). The submitted planning obligation appears well set out and to contain amongst other things, appropriate clauses and provisions to secure affordable housing of the types defined in the Framework, the arrangements for transfer to a registered provider, and means of identifying appropriate future occupiers. The Council's draft obligation includes some differing definitions and clauses. Many are of a similar nature and type to those in the appellant's obligation and the Council has provided little substantive explanation of why the appellant's obligation does not secure affordable housing appropriate to meet local needs.
22. While specifically highlighting the Option Agreement, I am informed this has already been signed and is in place, so it is not clear why further details are needed. Based upon the Council's limited explanation in respect of the signed agreement, it has not made its case that the completed obligation can be considered deficient. For this reason, I conclude the completed obligation secures four affordable houses to meet local needs. On this basis, four affordable homes are secured, and the obligation meets the tests in Regulation 122 of the CIL Regulations and paragraph 57 of the Framework.
23. For the reasons set out above, the proposed development is not inappropriate development. It does not conflict with paragraphs 152 and 154 of the Framework, the relevant provisions of which are set out above. It would also not conflict with Policy GB1 of the LP as this does not impose specific policy requirements to the Green Belt. As I have found the proposed development

would not be inappropriate development, it is not necessary for me to consider whether very special circumstances exist under Framework paragraph 152.

#### *Character and appearance*

24. By virtue of the limited amount of development, its verdant and landscaped appearance, and the separation from wider built development, the character and appearance of the appeal site relates more to the countryside in which it is located, than the wider established built-up areas. Its verdant, largely open and informal appearance makes a positive contribution to the character and appearance of the area and green corridor across Southend Road.
25. The scale, form, design and appearance of surrounding dwellings is somewhat varied, and it would be difficult to secure dwellings that integrates with all the surrounding vernaculars. Nevertheless, the dwellings appear to have been carefully designed, and are of a scale, forms, design and materials that draw aspects from the surrounds and the host building, and integrate some traditional local materials. The proposed layout has been designed to retain existing trees and landscaping around the periphery of the appeal site.
26. Though it is reduced from the previous scheme, this appeal scheme can still be said to result in a significant extent of additional built development and partial loss of the green corridor across Southend Road. The formal perpendicular layout of the dwellings, subdivision of the garden and the parking of cars on an Ecogrid base would be at odds with the informality of Grimshill Farmhouse and its garden setting. This would have a relatively limited and sometimes filtered visibility from vantage points on the public highway, and neighbouring land due north, east and south.
27. For the reasons set out above, the proposed development would be harmful to the character and appearance of the area. It would conflict with Policy BAS BE12 of the LP which seeks that development does not cause material harm to the character of the area. It would also conflict with paragraph 135 c) of the Framework which requires that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

#### *Grimshill Farmhouse*

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) requires special regard is had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 205 of the Framework requires when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to the significance of a designated heritage asset, including from development within its setting, requires clear and convincing justification (paragraph 206).
29. The listing description describes Grimshill Farmhouse (known as Elm Cottages 1 and 2) as an 18th century timber framed and weatherboarded house of one storey with attics under a tiled roof. It is a vernacular building that includes a 3-window range, casements with lattice leaded lights, and 3 gabled dormers. The appellant's Heritage Statement<sup>2</sup> (HS) suggests that it was more likely to have been a worker's cottage or cottages. Its significance lies in its historic

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<sup>2</sup> Janice Gooch Heritage Consultancy (March 2020).

- and architectural interest as a good example of a simple, attractive, vernacular building and a rare survival of this type of property.
30. The setting of the farmhouse includes the garden and appeal site, grassland to the north, the farmland to the south and east, and some wider development to the north and southwest. The open land contributes to its significance as it reflects the asset's historic agricultural origins. The part of garden that includes the appeal site formed part of South Green. It is not within the original curtilage but was integrated in 1966. However, it is part of the close proximity setting in which it is experienced today. It contributes positively to the significance of the farmhouse, because the appeal site was once part of South Green, has remained predominantly open throughout the lifetime of the building, with the orientation of the building designed to look over the green.
  31. Though the HS states land around Southend Farmhouse is consented for development this is some distance from the appeal site and does not appear to fall within the setting of Grimshill Farmhouse. The HS and an interested party state land surrounding the appeal site is proposed for housing, with the later providing an indicative plan. However, the evidence suggests the emerging Local Plan was withdrawn, I have no details of any extant planning permission, or that one can and will be implemented. Therefore, I have little certainty as to the proposal and layout put to me, so this attracts limited weight, at this time. Were a future application to be submitted or approved, that must be determined on its own merits and the circumstances at the time.
  32. The proposed new dwellings have been designed with the upper floor in the roof space and integrate dormers and materials that have some degree of synergy with aspects of the farmhouse, which could be secured by a suitably worded planning condition. However, the proposed development would encroach both west of the original alignment of the farmhouse, and other heritage assets further south. It would be closer to the principal elevation of the farmhouse in a regular layout, at odds with and detracting from the openness, informality and visibility of the farmhouse and its setting.
  33. The proposed development might be said to permit the restoration of the historic curtilage. However, a curtilage is not the same as setting and because the house is experienced from the appeal site, the site is within the setting. The garage and frontage hedgerow in particular, currently limit its visibility. The proposed development would still permit views from various vantage points from the public highway and the north, south and east. However, it would reduce these, thereby diminishing the setting and ability to appreciate the significance the heritage asset.
  34. I concur the Council's and their specialist advisers' view, that the harm would be of a relatively low level. Nevertheless, the proposed development would fail to preserve the setting of Grimshill Farmhouse and would adversely affect its significance. This would conflict with the aims of section 66(1) of the LBCAA, the provisions of which I have set out above. The level of harm would be less than substantial harm. Framework paragraph 208 states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the development.
  35. The proposed development would make a numerically small contribution to the supply of housing in the Borough. However, I am informed that outside

- designated settlements, the Borough is largely comprised of Green Belt. The proposal would also contribute to meeting affordable housing demand for which the appellant suggests the shortfall was at 1,013 dwellings in August 2022.
36. An interested party has suggested the level of outstanding permissions and census projections are such that the housing land supply (HLS) position could be considered healthy. However, that assessment is rather limited in detail of how this figure has been arrived. The Council's assessment of this matter is that it can only demonstrate an approximately 1.85-year HLS, and the evidence does not persuade me this position is inaccurate. The Council's 2022 HDT measurement is only 46%. Need can be regarded as acute, and as a public benefit, the contribution to the supply of housing needs by these four affordable homes is of a high order.
  37. There would be a moderate temporary economic benefit during construction and once complete a limited on-going benefit to the local economy. The restoration of the historic curtilage to the farmhouse would aid the understanding of its historical development, but overall, I regard this as a very limited public benefit. Little detail is provided of the design of a sustainable drainage scheme to suggest it would be of an overall benefit. On this basis compliance with relevant policies and guidance would be a neutral matter.
  38. The communal areas are to be public, so it appears an open space clause is necessary in the obligation. It secures the space being laid out to an agreed specification and its future management by a management company. The Council has not stated the space is not necessary having regard to the development plan and the Framework. Based upon the evidence before me I am satisfied this meets the statutory and Framework tests, and it could be considered as a public benefit. Mindful of its limited size, location and proximity to other greenspace, at best this would be a minor public benefit.
  39. Presently the site includes sizeable hardstandings and well-maintained grass areas that appear of a relatively limited ecological value. The space within the proposed development outside private gardens gives sufficient scope to provide a material net gain in biodiversity and further landscaping. Subject to the provision of a suitably high-quality landscape scheme, enhancement plan and long-term management, the biodiversity and landscape benefits would be likely to result in at least a limited overall public benefit in the longer term.
  40. The proposed development would result in less than substantial harm to the setting and significance of a designated heritage asset, which carries great weight. I am of the view, that against the harm the public benefits of the proposal would collectively carry weight of a high order for the reasons set out. Even were I not to take into consideration the provision of a public open space as a benefit, the public benefits would be of sufficient magnitude to outweigh the less than substantial harm that would occur. Therefore, the proposed development would not conflict with paragraph 208 of the Framework, the relevant provisions of which I have set out above.

### **Planning Balance**

41. When applying footnote 8 of the Framework, the presumption in favour of sustainable development would normally apply given the Council's HLS position. However, paragraph 11d)i) states that planning permission should be granted, unless the application of the policies in the Framework that protect

areas or assets of particular importance provide a clear reason for refusing the development. Footnote 7 confirms that these include those for designated habitats sites, so the tilted balance does not apply.

42. Were I to agree the proposed development is or could be made compliant with policies in respect of matters such as design, materials, renewable energy, resource and energy efficiency, the living conditions of future and neighbouring occupiers, highway safety and parking, cycle and refuse storage, biodiversity protection, flood risk, arboriculture and archaeology, these would all be neutral matters in the balance. That this proposed development would not constitute inappropriate development is a neutral matter.
43. The proposed development would result in benefits that are sufficient to outweigh the harm to the setting and significance of a designated heritage asset. However, it would adversely affect the integrity of Blackwater Estuary SPA, this is a matter that attracts substantial weight against the scheme. The scheme would also adversely affect the character and appearance of the area. Even were I to be of the view this harm should attract only limited weight, and that there might be some greater benefits possible in respect of matters such as on-site biodiversity, landscaping and drainage, the overall harm from the development would significantly outweigh the benefits. Moreover, Regulation 63(5) of the Regulations state that, the competent authority may only agree to the plan or project only after having ascertained that it will not adversely affect the integrity of a habitats site. Therefore, the appeal should be dismissed.

### **Conclusion**

44. For the reasons set out above, the proposed development would be contrary to the development plan read as a whole, the National Planning Policy Framework taken as a whole, and the Habitats Regulations. There are no material considerations advanced that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

*Dan Szymanski*

INSPECTOR




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## Appeal Decision

Site visit made on 9 January 2024

**by C Carpenter BA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 January 2024**

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**Appeal Ref: APP/V1505/W/23/3324335**

**Lady Springwood, Dunton Road, Little Burstead, Billericay CM12 9TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Barrie Stone against the decision of Basildon Borough Council.
  - The application Ref 23/00218/AGBAS, dated 14 February 2023, was refused by notice dated 10 March 2023.
  - The development proposed is a new barn for agricultural use.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The figures given on the original application form for the area of the agricultural unit and the area of the parcel of land where the development is to be located are not consistent with the information in the accompanying Design and Access Statement (DAS). The Council considered the application based on the figures in the DAS, rather than those on the application form, and the appellant has not raised a concern with this. The figures provided in this appeal are broadly consistent with those in the DAS. I shall therefore consider this appeal based on the figures provided in the DAS and with this appeal.
4. Under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection of a building which is reasonably necessary for the purposes of agriculture within that unit, subject to limitations and conditions. These conditions include prior approval for the matters specified in paragraph A.2.
5. Paragraph D.1 of Schedule 2, Part 6 states that for the purposes of Class A "agricultural land" means land which, before development permitted by Part 6 is carried out, is land in use for agriculture and which is so used for the

purposes of a trade or business and excludes any dwellinghouse or garden. "Agricultural unit" is defined in paragraph D.1 as agricultural land which is occupied as a unit for the purposes of agriculture, including any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit.

### **Background and Main Issue**

6. The Council refused the application because it was not satisfied that the land in question meets the definition of agricultural land; nor that the proposed barn is reasonably required for the purposes of agriculture within the agricultural unit. It therefore concluded the proposed development was not permitted under Schedule 2, Part 6, Class A of the GPDO.
7. The main issue in this appeal is therefore whether the proposed development would be granted planning permission by Article 3(1), Schedule 2, Part 6, Class A of the GPDO.

### **Reasons**

8. Lady Springwood is an area of some 7.4 hectares that comprises grassland and wooded areas, an existing agricultural barn<sup>1</sup> and a dwelling<sup>2</sup>. The proposed new barn would be located on part of the grassland.
9. The appellant states that the grassed areas of Lady Springwood, including the proposed location for the new barn, are currently farmed for rough hay. Notwithstanding that hay is made from dried grass, there is no pertinent evidence before me to substantiate this statement.
10. I accept that Lady Springwood is part of an agricultural holding in the ownership of the appellant, comprising five sites in the Essex region with a combined area of some 178 hectares. I also accept the existing barn at Lady Springwood is used to store agricultural machinery that serves sites within this holding. However, neither the appellant's Agricultural Holdings Certificate nor the agricultural use of the existing barn is sufficient to demonstrate that the site of the proposed new barn is in agricultural use.
11. The appellant has drawn my attention to evidence accepted by the Council when they granted permission for the existing barn. This includes a signed declaration from a worker confirming that he is employed by the appellant and provides regular land maintenance services at Lady Springwood. I have no reason to question the validity of this statement. However, land maintenance services do not necessarily constitute agriculture. There is little else before me to demonstrate that they do in the case of Lady Springwood.
12. I acknowledge the proposed new barn would accommodate larger farm machinery in a relatively secure location, which would enable the appellant's farming business to grow. It is also clear from the information before me that this business is not a 'hobby'. I am therefore satisfied the barn is reasonably required for an agricultural purpose. However, even if I were to accept that the 7.4 hectares at Lady Springwood meets the definition of an agricultural unit, I am not persuaded that machinery stored within the new barn would serve an agricultural purpose within that unit. Moreover, even if I were to take the

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<sup>1</sup> Permission Ref 22/00955/LDCE dated 1 August 2022

<sup>2</sup> Permission Ref 02/00308/FULL dated 17 December 2002

appellant's entire agricultural holding as the agricultural unit for the purposes of this appeal, I am still not persuaded that the land to be occupied by the proposed new barn is in agricultural use.

13. Consequently, there is insufficient evidence for me to be satisfied that the proposed development would be carried out on agricultural land. I therefore conclude the proposed development would not be granted planning permission by Article 3(1), Schedule 2, Part 6, Class A of the GPDO.
14. As the proposal does not constitute permitted development, it is not necessary for me to consider whether prior approval should be given for the matters specified in paragraph A.2, such as siting, design and appearance.

### **Other Matters**

15. The proposed development would include on-site solar and water collection facilities and would be likely to reduce traffic movements across the appellant's agricultural holding. However, these aspects of the proposal are outside the scope of matters that can be considered in this case.

### **Conclusion**

16. For the reasons given above, I conclude that the appeal should be dismissed.

*C Carpenter*

INSPECTOR

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## Appeal Decision

Site visit made on 9 January 2024

**by D Szymanski BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 January 2024**

**Appeal Ref: APP/V1505/W/23/3319909**

**Land Rear of The Hyde, Glebe Road, Ramsden Bellhouse, Billericay, Essex CM11 1RL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Webb against the decision of Basildon Borough Council.
- The application Ref 22/01187/FULL, dated 16 August 2022, was refused by notice dated 14 October 2022.
- The development proposed is described as Development of site to incorporate 9 Dwellings (C3 use).

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description and address in the banner heading above are taken from the application form. It is rear of The Hyde although there are other intervening properties, which I have taken into consideration in determining the appeal. The application form and appellant's submissions refer to the appeal as being specifically for affordable self-build housing. I return to these matters below.
3. Since the appeal was lodged, the 2022 Housing Delivery Test (HDT) results and the revised National Planning Policy Framework (2023) (the Framework) were published on 19 December 2023. I have given the Council and Appellant the opportunity to comment upon these and taken any comments into account in determining this appeal. The references and paragraph numbering below reflects the new Framework.
4. The Council has referred me to and provided copies appeal decisions<sup>1</sup> at land around the appeal site, on land it suggests is under the same ownership. While I have noted their contents, I am not bound by the previous decisions, and I have considered the appeal proposal upon its own merits and impacts, based upon the evidence provided.

### Main Issues

5. The main issues are:

<sup>1</sup> Refs. APP/V1505/W/22/3304975, APP/V1505/W/21/3268385, APP/V1505/W/19/3244082, APP/V1505/W/19/3227488, APP/V1505/W/18/3218615, APP/V1505/W/17/3177993, APP/V1505/W/15/3129671, APP/V1505/C/18/3200729.

- the effect of the proposed development upon biodiversity;
- whether or not the proposed development would be inappropriate development in the Green Belt;
- the effect of the proposed development upon the openness of the Green Belt;
- the effect of the proposed development upon the character and appearance of the area;
- whether or not the proposed development would make adequate provision to mitigate flood risk and manage surface water; and,
- if the proposed development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Biodiversity*

6. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require that where a plan or project is likely to result in a significant effect on a European site (habitats site), a competent authority is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of its conservation objectives. Any likely significant effects (LSEs) arising from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
7. The appeal site lies within a zone of influence (ZoI) of the Blackwater Estuary Special Protection Area and Ramsar Site (the SPA) as a designated Habitats site. Habitats in the SPA support nationally important breeding populations of little terns, wintering hen harrier, migratory pochard and ringed plovers, important wintering populations of a total eight bird species, and internationally important assemblages of over-wintering and migratory waterfowl. These constitute the SPA's qualifying features.
8. The conservation objectives for the SPA are to maintain or restore its integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features and species, and the distribution of the qualifying features within it. Studies have found various outdoor recreational activities by visitors result in disturbance to the qualifying features. It is identified that future new housing within the ZoI is likely to result in increased visitors, and recreational disturbance to the qualifying features. By introducing a further nine dwellings within the ZoI, the effects of this scheme alone and in combination with other development would have LSEs on the SPA.
9. The Essex Coastal Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (2020) (the RAMS SPD) outlines a package of strategic mitigation measures, including education and information, access management, zoning, enforcement and habitat creation delivered by the RAMS partnership. These are funded by a per dwelling tariff for developments within

- ZoIs, secured by planning obligation. Based upon the evidence provided, I am satisfied that subject to a payment being secured against the appeal scheme via a planning obligation, the measures would mitigate the LSEs upon the SPA.
10. Natural England (NE) has stated the mitigation measures are sufficient subject to the tariff being secured by planning obligation and being paid prior to the development commencing. The appellant has made a direct payment of the tariff, although it is not clear if this is to the correct planning authority. On the assumption it is, despite this, the absence of a planning obligation means there is no certainty by a legal link between the money and any future permission, so it is unsecured. A direct payment does not provide guarantees it will only ever be used by an authority to deliver the requisite RAMS mitigation in the future for this specific appeal scheme. There is also no means of index linking the sum, to ensure it reflects the cost of mitigation at the time it is used.
  11. For the reasons set out, as the competent authority I do not have sufficient certainty the mitigation is secured or will adequately mitigate LSEs upon the SPA. Therefore, the proposed development does not make adequate provision to mitigate the recreational disturbance impacts and thus maintain or restore the integrity of the SPA. This scheme makes no other provision to mitigate the impacts and thus maintain the integrity of the SPA. Applying the precautionary principle, in the absence of appropriate mitigation being secured the appeal scheme would have significant adverse effects upon the SPA, thereby failing to adhere to its conservation objectives. Imperative reasons of overriding public interest do not exist. It is not put to me there are no alternative solutions, or other adequate compensatory measures will be provided.
  12. Section 63(5) of the Regulations states the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site. Therefore, it precludes the proposal from proceeding.
  13. The Council's specialist ecological advice states the site is within an Amber Risk Zone for Great Crested Newts (GCNs) identified by NE. Therefore, there is a reasonable likelihood they could be present on the appeal site and affected by the development. I am also informed by the Essex Badger Protection Group (the EBPG) there are a number of setts recorded within the Ramsden Bellhouse area. The Council is of the view the absence of substantive evidence of the effects upon protected sites, priority habitats and species, means there is a potential conflict with statutory duties under section 40 of the Natural Environment and Rural Communities Act 2006 (the NERC Act).
  14. NE standing advice expects a survey if there is suitable habitat on the site. It reiterates advice similar to that in Circular 06/2005, in that it is essential the presence or otherwise of protected species, and the extent that they may be affected is established before permission is granted, otherwise all relevant material considerations may not have been addressed. However, protected species surveys should not be required unless there is a reasonable likelihood of them being present and affected by the development.
  15. The appellant's Ecological Assessment (EA) is very brief and as far as I can tell, is not by a chartered ecologist. While it provides some commentary upon the species supported on the site and in the area, it does not outweigh the data from NE and the views of the Council's specialist ecologically qualified adviser, in respect of the potential for harmful effects to GCNs as a protected species.

16. The sett referred to by EBPB appears a considerable distance from the appeal site, and the appellant's EA suggests observations of badgers are also a considerable distance away. The EBPB does not provide evidence to substantiate how the appeal site habitat could support badgers, or that there is a likelihood of them being adversely affected by the development, such that a survey is necessary.
17. I see no reason why matters such as worker and construction practices were protected species to enter the site, and adequate provision for ascertaining the baseline conditions and habitat creation could not be the subject of suitably worded planning conditions. I am not provided with substantive evidence that would point to concerns in respect of other protected species at the appeal site. The reason for the Council's specific concern for the potential effects upon Lapwing habitat loss off-site in their appeal statement, is not fully explained. However, such matters do not mitigate the absence of a GCN survey.
18. For the reasons set out above, the proposed development would have harmful effects upon a designated habitats site, in conflict with section 63(5) of the Regulations, the relevant provisions of which I have set out above. It would also conflict with paragraph 186a) of the Framework which states that if significant harm to biodiversity cannot be avoided, then planning permission should be refused. It has also not been demonstrated the proposed development would not harmfully affect a protected species, which is contrary to the aims of section 40 of the NERC Act, which expects the application of the general biodiversity objective to conserve and enhance biodiversity.

*Inappropriate development*

19. The appeal site is within the Green Belt designated on the proposals map under Policy GB1 of the Basildon District Local Plan Saved Policies (2007) (the LP). Paragraph 142 of the Framework states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
20. The Framework states the construction of new buildings should be regarded as inappropriate development, subject to certain exceptions. The Council has assessed whether the proposal meets the exceptions at paragraph 154 e) and f) of the Framework, for limited infilling in villages and limited affordable housing for local community needs under policies in the development plan. Not conflicting with Green Belt purposes are not a requirement of these exceptions.
21. The appeal site includes an access onto a largely open grassland field, with a modest building, structures, and some open storage or activity occupying a proportionally small part of it. It is surrounded by open countryside on three of its four main sides, with which there is open or filtered visibility to and from adjoining rural land. It is only adjoined by significant built development on its southern side. For this reason, the proposal could not constitute infilling.
22. This part of Ramsden Bellhouse is strongly defined by the linear development and parallel plots along Glebe Road. Even were the gardens of dwellings adjoining the south of the appeal site defined as lying with the village, these proposed new dwellings would lie to the north of these, projecting into open countryside and being situated outside what, on the ground, appears to be the

'village'. Therefore, the proposal could not constitute limited infilling within a village under paragraph 154 e) of the Framework.

23. Annex 2 of the Framework defines Affordable housing. Though it is intended the build cost of each plot for buyers would be limited and various financial conditions imposed, I am not provided with sufficient evidence demonstrating this is of a level or proportion of market values that would meet any of the definitions in Annex 2. There is also no planning obligation before me to secure the scheme as either affordable housing, or the dwellings as custom or self-build dwellings, or retirement plots, in the terms suggested by the appellant. I am also not provided with justification for the use of a planning condition, or sufficient assurances it can and should be used to secure these build types.
24. The site has been considered as part of past strategic studies<sup>2</sup>, although it is by no means clear it was intended to be taken forward into an adopted plan. However, as the local plan review was withdrawn and the Neighbourhood Plan is in the early stages of producing a draft plan, I am not provided with evidence there is current development plan policies specifically in respect of limited affordable housing for local community needs in this location or for rural exception sites. Even if I were, it would not overcome the absence of a planning obligation as set out above, so the proposal cannot meet the exception at Framework paragraph 154 f).
25. The appellant's evidence and what I saw suggests part of the appeal site might be considered to constitute previously developed land, so I have had regard to the exceptions in the two limbs of paragraph 154g). However, there is no planning obligation before me to secure the development as affordable housing and I am not offered any other means by which it could be legally secured. Therefore, it could not meet the exception in the second limb of paragraph 154g) of the Framework. My findings in respect of openness will be determinative as to whether the proposal could meet the exception in the first limb of paragraph 154g).

### *Openness*

26. Even were I to take all the development I saw as being authorised, the significant majority of the field still remains open, verdant, free of built development, and there is nothing of substance before me to suggest there is any extensive or intensive use of the field involving significant structures or storage. The proposed development would result in a large incursion of built development by virtue of 9 sizeable dwellings, associated subdivision, paraphernalia, hardstandings including access, circulation and parking areas, and associated activity and comings and goings. It would result in harm of a high order to the visual and spatial openness of the Green Belt, which would be visible, in particular, from surrounding open land to the north, west and east.
27. Therefore, for the reasons set out above, the proposed development would be harmful to the openness of the Green Belt, so it could not meet the exception in the first limb of paragraph 154g) of the Framework. It would also conflict with the aims of paragraph 142 of the Framework insofar as this aims to prevent urban sprawl by keeping land permanently open.

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<sup>2</sup> The Strategic Housing Land Availability Assessment and Housing and Economic Land Availability Assessment.

28. The Council's first reason for refusal in respect of the Green Belt refers to Policies BAS BE12 and BAS BE13 of the LP, and paragraph 130 of a previous iteration of the Framework. However, these do not make specific reference to the Green Belt, its exceptions, the tests or Green Belt openness. Therefore, I have not concluded against them under this main issue.

*Character and appearance*

29. Notwithstanding a couple of more modestly sized backland plots, the prevailing character and appearance of the area can be characterised by linear development mostly in what appear to be very large plots, within an inherently rural, verdant and largely open setting. The existing building, storage and hardstanding constitute a small part of the appeal site and most of the site is given over to open grassland. Overall, as a whole the appeal site makes a positive contribution to the character and appearance of the area.
30. The proposed development would result in a large incursion and significant intensity of built development and associated domestication, paraphernalia and activity. It would be of a greater density than that of the prevailing character, onto a largely open and undeveloped rural field beyond the pattern defined by existing residential development. This would be harmful to and at odds with the existing open and spacious character and appearance of the appeal site and the prevailing character of the area.
31. Policy BE13 of the LP states that bungalows and chalets will normally only be permitted and the Council's second reason for refusal raises a specific objection to the design, height, size and scale of some 2 storey gables on the Type 2 dwellings. But there are no 2 storey gables on that house type on the plans before me. There are some on the Type 1 dwellings but these are substantially under a pitched roof, forming a limited part of the building. They would be viewed in the wider context of some much larger dwellings close to the appeal site with greater accommodation at second storey level than that proposed.
32. The house types are of a bungalow or chalet form, and I cannot conclude the two storey gables are particularly or harmfully out of keeping with the character and appearance of the area. However, I am not satisfied that these, the absence of harm from the standard of accommodation, dwelling design and materials, layout, and the scope of suitably worded planning conditions, could be considered to deliver an overall enhancement. Therefore, these matters could not mitigate or overcome the other harm I have found.
33. For the reasons set out above the proposed development would be harmful to the character and appearance of the area. It would conflict with Policy BAS BE12 of the LP which states that development will be refused if it results in material harm to the character of the surrounding area. It would also conflict with the aims of paragraph 135a) of the Framework which seeks that development is sympathetic to local character including the surrounding built environment and landscape setting.
34. Taking into consideration the character and appearance of the area as a whole, I do not consider the Council has sufficiently reasoned the conflict it finds with the requirements of Policy BAS BE13 of the LP. For the reasons set out I do not find a specific conflict with its requirements, as set out above.

### *Flood risk and surface water*

35. Framework paragraph 173 requires it is ensured that flood risk is not increased elsewhere because of a proposed development. The appellant's Flood Risk Assessment (FRA) confirms the site is at a negligible or very low risk of flooding from various sources. However, it highlights the predominant geology in the area is impermeable clay which is conducive to large amounts of surface water runoff. Its concluding recommendations are that a sustainable drainage strategy should be developed for effective management of surface water over the lifetime of the development.
36. The proposed development would result in a significant increase in hard surfacing upon a sizeable site area. Surface water drainage is proposed to be attenuated by permeable hardstandings and via a drainage ditch on the site feeding an existing off-site lake. However, there is little detail of substance explaining the amount of run-off that would be likely to be generated, including with climate change allowances. It also does not detail the specification of on-site infrastructure, the capacity of the lake or other forms storage being proposed, or confirm they can be made of sufficient capacity and control, to store and safely attenuate excess water without increasing flood risk.
37. This is particularly important given the underlying geology and that the FRA highlights that given the underlying soils and geology, the use of infiltration systems is largely not appropriate for use in the Borough. Given the absence of substantive technical evidence and the conflict with a fundamental aspect of flood risk policy, I am not satisfied this should be a matter left to be addressed by planning conditions.
38. For the reasons set out above, it has not been demonstrated the proposed development will ensure that flood risk is not increased elsewhere because of proposed development. Therefore, it would not make adequate provision to mitigate flood risk and manage surface water, in conflict with paragraph 173 of the Framework, the relevant provisions of which I have set out above.

### *Other considerations*

39. The proposal would result in a significant temporary economic benefit during construction, and once constructed a moderate on-going benefit to the local economy and support to local services and facilities. The Council's evidence of its custom and self-build register suggests sufficient plots may have been approved to keep up with recent needs over the relevant base period, and it currently has 36 entries. Even were this incorrect, the proposal could add to the supply of potential options for such builds, although affordable and/or self-build dwellings as set out in the Act<sup>3</sup>, are not legally secured.
40. However, the Council's HDT result is 46%, it can only demonstrate an approximately 1.85-year Housing Land Supply (HLS) to address increasing population and housing needs, in an area where house prices are understood to be high, so housing needs could be considered acute. The development plan policies most important for determining the application are deemed out of date. The withdrawal of the emerging Local Plan and the absence of an adopted Neighbourhood Plan means there are uncertainties as to the way forward to address housing needs. In the current circumstances, and the government

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<sup>3</sup> The Self-build and Custom Housebuilding Act 2015 (as amended).

objectives to significantly boost the supply of housing, the social benefits of nine dwellings to supply, attracts significant weight in favour of the scheme.

41. Given the scope for landscape provision within the site and other land under the appellant's control, and the appellant's suggested measures, it is possible with the imposition of detailed suitably worded planning conditions, the proposal could achieve significant biodiversity net gain, some open space provision and some access benefits. The possible resultant benefits from biodiversity and landscaping could be of a magnitude that attracts significant weight in favour of the scheme. The suggested renewable technologies to create 'almost zero' homes would appear to off-set the emissions of the development rather than result in an overall benefit.
42. Were I to agree the development would be, or subject to the imposition of suitably worded planning conditions or CIL contributions, could be made compliant with policies in respect of matters such as protected and priority species, adherence with parking and access standards, the living conditions of future and neighbouring occupiers, construction effects, land contamination, local infrastructure, and arboriculture, these would be neutral matters. Were suitable mitigation for Habitats sites to have been secured in accordance with the Essex RAMS SPD, this would also have been a neutral matter.
43. The application plans that would be approved show an access from Glebe Road only, with no connection detailed to Orchard Road, so I have considered the appeal as such. There is presently a made access from Glebe Road to the southern part of the site, the scope of the enforcement notice upheld at appeal is not clear<sup>4</sup>, and as I am dismissing this appeal for other substantive reasons, I have not considered this and related matters in detail. Whether it can be lawfully retained, or reconstructed, it has not been substantively demonstrated a safe and suitable access cannot be achieved. Were an adequate and safe access to be achieved, it would appear to be a neutral matter.
44. The appellant has suggested an offer of £25,000 to upgrade a park area and include outdoor keep fit equipment, being of benefit to local residents. This is not the subject of a planning obligation before me. Neither is it explained how it would meet the Framework tests of being necessary to make the development acceptable, being directly related to the development, and fairly and reasonably related in scale and kind to the development. Therefore, I give this matter little weight.

### **Planning & Green Belt Balance**

45. The proposed development would be inappropriate development that would, by definition, harm the Green Belt, and would result in harm to visual and spatial openness of a high order. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. In addition to this, I have identified harm to designated habitats sites, the character and appearance of the area, and it has not been demonstrated that the proposed development would not result in harm to protected species or avoid increasing flood risk. Therefore, the matters weighing against the scheme attract substantial weight.

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<sup>4</sup> Ref. APP/V1505/C/18/3200729.

46. Overall, the factors and benefits set out by the appellant, attract significant weight in favour of the scheme. Therefore, they would not clearly outweigh the harm identified to the Green Belt, and the other harm, which attracts substantial weight. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposed development conflicts with paragraphs 142, 152 and 153 of the Framework, which seek to preserve the openness of Green Belt and protect it from inappropriate development, unless very special circumstances exist.
47. Given this and the unmitigated harm to Habitats sites, in accordance with paragraph 11d) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply, and the harm from the development significantly outweighs the benefits. Moreover, section 63(5) of the Regulations precludes the proposal from proceeding. Therefore, the appeal should be dismissed.

### **Conclusion**

48. The proposed development would be contrary to the development plan read as a whole, the Framework read as a whole, and the Regulations. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Dan Szymanski*

INSPECTOR

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# Appeal Decision

Site visit made on 16 January 2024

**by J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

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**Appeal Ref: APP/V1505/D/23/3327964**

**St Marys Cottage, Eversley Road, Pitsea, Basildon, Essex SS13 2DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Susan Roebuck against the decision of Basildon Borough Council.
  - The application Ref 23/00688/FULL, dated 22 May 2023, was refused by notice dated 17 July 2023.
  - The development proposed is first floor rear extension.
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## Decision

1. The appeal is dismissed.

## Main issues

2. The main issues are:
  - whether the proposed extension would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
  - the effect on the character and appearance of the host dwelling and the surrounding area; and
  - whether any 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

3. The appeal property is a semi-detached chalet bungalow in a residential road of similar properties and detached dwellings of varied design and appearance.

*Whether the proposal would be inappropriate development*

4. Policy BAS GB4 of the Basildon Local Plan Saved Policies (2007) indicates that extensions to dwellings in the Green Belt will be allowed provided certain requirements are met. The main requirement in terms of size is that dwellings will be allowed to extend to 90m<sup>2</sup> or by 35m<sup>2</sup> over and above the original floor area of the dwelling, whichever is the greater. The Framework states that an exception to inappropriate development in the Green Belt is the extension or
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alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building<sup>1</sup>.

5. The appellant contends that, by including a numerical requirement, Policy BAS GB4 is inconsistent with the more recent Framework. I give little weight to draft plan policies that increased or dispensed with the numerical requirement. Policy BAS GB4 remains part of the adopted development plan unlike these subsequent draft policies. Reference is also made to appeal decisions where this matter was considered. In one the Inspector found that, while the Framework provides no clear guidance over what may or may not amount to disproportionate additions, it represents the more contemporary advice<sup>2</sup>. This finding related to the particular size of the proposed extension in that case and does not in my view preclude assessment against the provisions of Policy BAS GB4 in all other cases. In the other appeal referred to, the Inspector found that the policy's criterion concerning size provided a helpful general yardstick against which to judge proposals<sup>3</sup>. I see no reason to take a different view.
6. The Council indicates that the original dwelling was 71m<sup>2</sup> in area, while previous extensions increased this to 129m<sup>2</sup>, or 137m<sup>2</sup> based on the submitted plans. These figures are not contested, although there is a marginal difference between the parties on the area of the proposed extension: 16m<sup>2</sup> according to the Council, just under 15m<sup>2</sup> for the appellant. However, even if the lower measurement in each case is applied, this results in the previous and proposed extensions doubling the floor area of the original dwelling. Consequently, the proposal is not comparable to that in the first appeal referred to above, which involved a 47.5% increase in floor area; or to the proposal in the second appeal, which refers to a 26% increase.
7. I acknowledge that the form of the proposed first floor extension represents a limited increase in volume, but by any reasonable assessment the doubling in floor area from the original dwelling represents a disproportionate increase, judged against both Policy BAS GB4 and the Framework. As such, I conclude that the proposal would be inappropriate development in the Green Belt.
8. The proposed extension in this location would not conflict with any of the Green Belt purposes included in the Framework and the effect on openness in this residential setting would not be harmful.

#### *Character and appearance*

9. The appeal property has a relatively deep single storey flat-roofed element to the rear, which the proposed extension would sit above, covering the full depth of the single storey projection and most of its width. Consequently, while it would respect the existing roof ridge height, it would result in a substantial addition to the appeal property. In terms of design, the pitched roofed with a gable end would adjoin and be positioned partly in front of the existing flat-roofed dormer. This would result in a complex and incongruous overall roof form, due to the lack of visual integration between the existing and proposed designs.

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<sup>1</sup> Paragraph 154c).

<sup>2</sup> APP/V1505/D/17/3189279.

<sup>3</sup> APP/V1505/D/13/2210040.

10. The adjoining dwelling shares the same character and appearance as the appeal property, with a similar single storey projection and the same form of dormer window. The extended roof would, therefore, unbalance the appearance of the paired dwellings. While these effects would not be apparent from the road frontage, they would readily be seen from the neighbouring long rear gardens. From these views the incongruous and uncharacteristic appearance of the extended roof would be seen and would, therefore, harm the surrounding area.
11. Accordingly, for these reasons, I conclude that the proposed extension would have an unacceptably harmful effect on the character and appearance of the host dwelling and the surrounding area. It is, therefore, contrary to Policy BAS BE12 of the Local Plan, which requires that extensions should not harm the character of the surrounding area or be over-dominant. It is also contrary to the Framework, which advocates good design.

*Other considerations and whether very special circumstances exist*

12. I have had regard to the appellant's personal circumstances and acknowledge that additional space is required to address a family member's needs. While I give this matter weight it is unclear that the particular form of extension proposed is the only manner in which this matter can be addressed. The fact that there were no objections to the proposal from neighbouring occupiers or other interested parties cannot weigh in its favour, but rather is a neutral factor.
13. The proposal would represent inappropriate development, which is, by definition, harmful to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. It would also have an unacceptably harmful effect on the character and appearance of the host dwelling and the surrounding area.
14. There are no other considerations raised in support of the development that would outweigh the harm identified to the Green Belt and the other harm. Therefore, very special circumstances do not exist.

**Conclusion**

15. The proposed extension is contrary to the development plan and there are no other considerations that outweigh this conflict. Accordingly, for the reasons given, it is concluded that the appeal should be dismissed.

*J Bell-Williamson*

INSPECTOR

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