

MEMBERS' BULLETIN



Thursday, 4 April 2024/Issue No. 2024/14

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 8th April 2024

| | COMMITTEE, CONFERENCE, ETC | VENUE | TIME |
|---------|------------------------------|--------------------|--------|
| Mon 08 | Conservative Group Meeting* | St. George's Suite | 8.00pm |
| Tue 09 | CURRENTLY NO MEETINGS | | |
| Wed 10 | | | |
| Thur 11 | | | |
| Fri 12 | | | |

Week Commencing 15th April 2024

| | COMMITTEE, CONFERENCE, ETC | VENUE | TIME |
|---------|------------------------------|--------------------|--------|
| Mon 15 | Labour Group Meeting* | Labour Group Room | 7.30pm |
| | Conservative Group Meeting* | St. George's Suite | 8.00pm |
| Tue 16 | CURRENTLY NO MEETINGS | | |
| Wed 17 | | | |
| Thur 18 | | | |
| Fri 19 | | | |

Week Commencing 22nd April 2024

| | COMMITTEE, CONFERENCE, ETC | VENUE | TIME |
|---------|------------------------------|--------------------|--------|
| Mon 22 | Conservative Group Meeting* | St. George's Suite | 8.00pm |
| Tue 23 | CURRENTLY NO MEETINGS | | |
| Wed 24 | | | |
| Thur 25 | | | |
| Fri 26 | | | |

Week Commencing 29th April 2024

| | COMMITTEE, CONFERENCE, ETC | VENUE | TIME |
|---------|----------------------------|-------|------|
| Mon 29 | | | |
| Tue 30 | | | |
| Wed 01 | | | |
| Thur 02 | * ELECTIONS * | | |
| Fri 03 | | | |

**(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://e-voice.org.uk/bgnb-parishcouncil>

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

www.wickfordtowncouncil.gov.uk

CIVIC EVENTS

| | | |
|------------------------------|--|--|
| Friday 5 th April | Brentwood Civic Dinner | Mount Avenue Banqueting Suite |
| Monday 8 th April | Declaration Ceremony for the new High Sheriff of Essex | Council Chamber, County Hall, Chelmsford |

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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 | | |

GENERAL INFORMATION

ROADWORKS

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

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>

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

The Licensing Authority have received (14/03/2023) an **application for a premises licence** regarding:

Summer show & Car Show
Barleylands Farm
Barleylands Road
Billericay
Essex

Ward: Burstead/Crouch

Application for a License to cover 2 annual shows. A spring country show to be held every year on the last Sunday and following Bank Holiday Monday in May. A Classic Car show to be held on the second Sunday in September.

The Application requests the sale of alcohol for consumption on the premises, boxing and wrestling, live and recorded Music and performance of dance.

Hours for licensable activities Sale of alcohol, Live music recorded music performance of dance.
10:00hrs -18:00hrs
Boxing and wrestling 10:00hrs -17:00hrs

Opening hours 09:00hrs -18:00hrs

Any representations must be received by the Licensing Authority by **11/4/2024**. If you have any questions, please contact Licensing Officer Roy Robinson on 01268-208260.

BILLERICAY EAST WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|----------------------------------|--|
| 24/00129/FULL | Pavement Outside 119 High Street | Installation of a multifunctional communication Hub including defibrillator and advertisement display. |
| 24/00130/ABAS | Pavement Outside 119 High Street | Internally illuminated advertisements integrated into Communication Hub unit. |
| 24/00331/PACU | Pilgrim House High Street | Prior Approval sought under Schedule 2, Part 3, Class MA of the Town and Country Planning (GPDO) (England) Order 2015 (as amended) for the change of use from Use Class E (Commercial, Business and Service) to Use Class C3 (Residential) comprising 24 x |

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|----------------------------|--|
| | | dwellinghouses. |
| 24/00343/FULL | 34 Lilford Road Billericay | Ground floor rear extension to replace existing conservatory |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|----------------------------|---|----------|
| 24/00012/LDCP | 93 Western Road Billericay | To establish the lawfulness of a proposed loft conversion with hip to gable roof extension, rear dormer and front rooflights, with single storey side and rear extensions | Granted |

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Licensing Matters:

None

BILLERICAY WEST WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|--------------------------------|--|
| 24/00328/FULL | 9 Knightbridge Walk Billericay | Proposed single storey rear extension and garage conversion. |
| 24/00337/FULL | 51 Perry Street Billericay | Remove the existing conservatory and replace with single storey rear extension. Replace the existing garage door and rear door with windows to match the main house. |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|----------------------------------|---|----------|
| 24/00154/FULL | 195 Mountnessing Road Billericay | Proposed two storey side extension. | Refused |
| 24/00187/LDCP | 30 Pleasant Drive Billericay | To establish the lawfulness of a proposed garage conversion into habitable accommodation | Granted |
| 24/00245/NMABAS | 6 Tylers Avenue Billericay | To establish whether the reduction of the two-storey front extension by 1.5 metres in depth, the reduction of the two-storey rear extension in width by 1.5 metres, the increase in depth of two storey rear extension at first floor level by 1.6 metres and the removal of the mono-pitch roof to the rear can be considered as non-material amendments to granted consent 22/01756/FULL. | Refused |

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Licensing Matters:

None

BURSTEAD WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|------------------------------|--|
| 24/00332/FULL | 4 The Hoe Billericay | Alterations to previously approved drawings: 21/00544/FULL with changes to elevations, including new chimney, alterations to fenestration, porch and final finishes details. New landscaping, steps and side privacy screen onto No. 3, new front wall and gates with alterations to crossover |
| 24/00333/COND | Maitland Lodge Southend Road | Approval of details reserved by conditions 7 (Desktop Study) and 8 (Remediation Method Statement) of planning permission reference 21/01687/FULL allowed at appeal (ref: APP/V1505/W/22/3296116) |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|----------------------------|---|-----------------------|
| 23/01347/FULL | 101 Grange Road Billericay | Demolition of an existing bungalow and double garage. Construction of two new detached dwellinghouses, layout parking and amenity space | Refused |
| 24/00106/FULL | 2 Rosslyn Road Billericay | Demolish conservatory and garage. Proposed single storey side and rear extensions. | Granted |
| 24/00168/TPOBAS | 78 Western Road Billericay | TPO/30/90-Sycamore Acer T20 - crown reduction of 2-3m to previous pruning points to allow clearance for telephone wires and branch overhang over the public pavement. | Application Permitted |

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Licensing Matters:

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Billericay
Essex***

Ward: Burstead/Crouch

Application for a License to cover 2 annual shows. A spring country show to be held every year on the last Sunday and following Bank Holiday Monday in May. A Classic Car show to be held on the second Sunday in September.

The Application requests the sale of alcohol for consumption on the premises, boxing and wrestling, live and recorded Music and performance of dance.

Hours for licensable activities Sale of alcohol, Live music recorded music performance of dance.

Boxing and wrestling 10:00hrs -17:00hrs

Opening hours 09:00hrs -18:00hrs

Any representations must be received by the Licensing Authority by **11/4/2024**. If you have any questions, please contact Licensing Officer Roy Robinson on 01268-208260.

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| CROUCH WARD |
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Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|------------------------------------|---|
| 24/00344/COND | 1 Wayletts Cottages Brentwood Road | Application for approval of details reserved by Condition 3 (materials) of approved planning permission reference 23/01174/FULL |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|----------------------------|---|----------|
| 23/01310/FULL | Land Off Ramsden View Road | The material change of use of land for the stationing of caravans for residential purposes and hardstanding and dayroom ancillary to that use | Refused |
| 23/01452/FULL | Oakwood Branksome Avenue | Proposed single dwelling with associated amenity space and parking | Refused |
| 23/01559/FULL | The Evergreens Church Road | Proposed conversion and extension to bungalow to form two storey dwellinghouse and addition of rear extension (Amended Plans). | Granted |

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Licensing Matters:

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***Summer show & Car Show
Barleylands Farm
Barleylands Road
Billericay
Essex***

Ward: Burstead/Crouch

Application for a License to cover 2 annual shows. A spring country show to be held every year on the last Sunday and following Bank Holiday Monday in May. A Classic Car show to be held on the second Sunday in September.

The Application requests the sale of alcohol for consumption on the premises, boxing and wrestling, live and recorded Music and performance of dance.

Hours for licensable activities Sale of alcohol, Live music recorded music performance of dance. 10:00hrs -18:00hrs

Boxing and wrestling 10:00hrs -17:00hrs

Opening hours 09:00hrs -18:00hrs

Any representations must be received by the Licensing Authority by **11/4/2024**. If you have any questions, please contact Licensing Officer Roy Robinson on 01268-208260.

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|---------------------|
| FRYERNS WARD |
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Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|-------------------------------|--|
| 24/00339/ABAS | Unit 8D Festival Leisure Park | <ul style="list-style-type: none">- 1no illuminated fascia sign- 1no illuminated projection sign- 1no illuminated entrance gate- 4no sets of illuminated letters- 1no non illuminated sign written message- 1no non illuminated internally applied frosted vinyl logo |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|--------------------------|----------------------------|----------|
| 24/00046/FULL | 1 The Hatherley Basildon | Drive way and dropped kerb | Refused |

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Licensing Matters:

None

LAINDON PARK WARD

Planning Applications Submitted:

None

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|--------------------------|---|----------|
| 24/00103/FULL | 28 Suffolk Drive Laindon | Single storey side extension and part garage conversion | Granted |

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Licensing Matters:

None

LANGDON HILLS WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|------------------------------|--|
| 24/00325/TPOBAS | 20 The Firle Langdon Hills | TPO/21/83: T6 Oak - Crown Reduction of 3.5m, Crown Thinning of 30% to allow light into the garden and windows for this property and adjacent gardens. T7: Horse Chestnut - Crown Reduction of 2m, Crown Thinning of 30% to allow light into the garden and windows for this property and adjacent gardens. T8: Ash - Crown Thinning of 30% to allow light into the garden and windows. |
| 24/00351/FULL | 19 The Lindens Langdon Hills | Ground floor rear and side extension |

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Planning Applications Decided:

None

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Licensing Matters:

None

LEE CHAPEL NORTH WARD

Planning Applications Submitted:

None

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|-------------------------|---|----------|
| 24/00113/FULL | 23 Orchid Place Laindon | Change of Use from Class C3 Dwellinghouse to Class C2 Children's Care Home (up to 2 children up to the age of 16) | Granted |

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Licensing Matters:

None

NETHERMAYNE

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|-------------------------|---|
| 24/00348/TPOBAS | 115 The Knares Basildon | Land to the rear of 115 The Knares - T1 (Oak) of TPO/13/89 Fell and grind stump |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|---------|-------------|----------|
| | | | |

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|-------------------------------|---|----------|
| 24/00131/LDCP | 20 Parker Drive Langdon Hills | To establish the lawfulness of a proposed single storey rear extension. | Granted |

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Licensing Matters:

None

PITSEA NORTH WEST WARD

Planning Applications Submitted:

None

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|---------------------------|---------------------------|----------|
| 24/00144/FULL | 4 Burlington Court Pitsea | Two storey side extension | Granted |

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Licensing Matters:

None

PITSEA SOUTH EAST WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|--------------------------|---|
| 24/00268/FULL | Log Cabin 245 Pound Lane | Change of use of timber cabin from beauty salon (Sui Generis) to a flexible dual use of beauty salon (Sui Generis) and office (Class E) |

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Planning Applications Decided:

None

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Licensing Matters:

None

ST. MARTIN'S WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|------------------------|---|--|
| 24/00124/ABAS | Communication Hub O/S 106-114 Town Square | Internally illuminated advertisements integrated into the Communication Hub unit. |
| 24/00125/FULL | Communication Hub Outside 67 Southernhay | Installation of a multifunctional communication Hub including defibrillator and advertisement display. |
| 24/00126/ABAS | Communication Hub Outside 67 Southernhay | Internally illuminated advertisements integrated into the Communication Hub unit. |
| 24/00127/FULL | Pavement Outside 19 Town Square | Installation of a multifunctional communication Hub including defibrillator and advertisement display. |
| 24/00128/ABAS | Pavement Outside 19 Town Square | Internally illuminated advertisements integrated into the Communication Hub unit. |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|------------------------|----------------|---|-----------------|
| 24/00024/FULL | 8-14 East Walk | Change of Use from Retail (Class E) to public house/restaurant (Sui Generis/Class E); demolition of concrete canopy to East Walk; alterations to front and side ground floor fenestration and new proprietary external cladding | Granted |

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|---------|--|----------|
| | | system; installation of plant equipment. | |

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Licensing Matters:

None

VANGE WARD

Planning Applications Submitted:

None

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|-----------------------------|--|----------|
| 24/00149/VAR | Two Bridge Garage High Road | Variation of condition 2 (Approved plans) of planning reference 21/01535/FULL to reflect a change of site layout | Granted |

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Licensing Matters:

None

WICKFORD CASTLEDON WARD

Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|--------------------------|--|
| 24/00338/FULL | 58 Elder Avenue Wickford | Two storey side extension and part single, part two storey rear extension. |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|---------------------|---|----------|
| 24/00059/FULL | 14 Leasway Wickford | Proposed loft conversion with front and rear dormers, rooflight, and single storey front and rear extensions. | Granted |

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Licensing Matters:

None

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| WICKFORD NORTH WARD |
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Planning Applications Submitted:

None

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|----------------------------|--|----------|
| 24/00097/FULL | 55 Edward Gardens Wickford | Two storey side extension, single storey rear extension, rear dormer and insertion of PV panels, alterations to fenestration and external materials | Refused |
| 24/00116/FULL | 53 Mount Close Wickford | Single storey front extension, part single and part two storey side extension | Granted |
| 24/00140/LDCP | 17 Stapleford End Shotgate | To establish the lawfulness of the proposed conversion of the garage into a habitable rooms and replacement of existing garage and rear door to windows with brick infill. | Granted |

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Licensing Matters:

None

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| WICKFORD PARK WARD |
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Planning Applications Submitted:

| APPLICATION NO. | ADDRESS | DESCRIPTION |
|-----------------|----------------------------|---|
| 24/00329/FULL | 37 Pebmarsh Drive Wickford | Two storey side extension with addition to front porch. |

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Planning Applications Decided:

| APPLICATION NO. | ADDRESS | DESCRIPTION | DECISION |
|-----------------|--------------------|---|----------|
| 24/00095/FULL | My Grace The Chase | 3no. pitched roof dormers to side elevation | Refused |

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Licensing Matters:

None

LOCAL GOVERNMENT ASSOCIATION WEBSITE

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

Local Government Association - www.lga.gov.uk
Direct.gov.uk - what's new - www.direct.gov.uk

BASILDON BOROUGH COUNCIL WEBSITE

The Council's website address is: 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.

| | |
|----------------------------------|--|
| Application Number: | |
| Application Site Address: | |

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 and to the Technical Support Team 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

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 29 February 2024

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2024

Appeal Ref: APP/V1505/W/23/3325514

Sirocoby Boarding Kennels, Newhouse Avenue, Wickford, Essex SS12 0JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Ms J Jolly against Basildon Borough Council.
- The application Ref is 23/00064/VAR.
- The application sought planning permission for the change of use of site from animal boarding business use to a mixed use comprising: Class E(a) retail, Class B8 (storage or distribution) and Class E(g)(iii) industrial processes use. Demolition of existing kennels, cattery buildings, storage building and greenhouse, change of use of existing office into shop/office, and the erection of 2no. detached buildings for Class B8 and/or Class E(g)(iii) purposes, without complying with conditions attached to planning permission Ref. 20/00225/FULL, dated 18 August 2022.
- The conditions in dispute are: Condition No 12 which states that "*No machinery shall be operated, processes carried out, deliveries taken or despatched to the premises or customers admitted except during the hours 08:00 to 19:00 Monday to Friday and 08:00 to 13:00 Saturdays*" and Condition No 26 which states that "*No open storage shall take place on the site*".
- The reasons given for the conditions are: "*To prevent the use causing any undue disturbance to occupants of neighbouring properties at unreasonable hours and in accordance with Saved Policy BAS BE12 (iii)*" and "*To protect the appearance of the locality and in accordance with Saved Policy BAS BE12 (iv)*".

Decision

1. The appeal is dismissed and planning permission is refused for the change of use of site from animal boarding business use to a mixed use comprising: Class E(a) retail, Class B8 (storage or distribution) and Class E(g)(iii) industrial processes use. Demolition of existing kennels, cattery buildings, storage building and greenhouse, change of use of existing office into shop/office, and the erection of 2no. detached buildings for Class B8 and/or Class E(g)(iii) purposes, without complying with conditions attached to planning permission Ref. 20/00225/FULL, dated 18 August 2022.

Procedural Matters

2. The description in the banner heading above is taken from the application form. Although different to that used by the Council, it is the description used in the original planning permission and therefore the correct description for the purposes of my considerations under s73 of the Town and Country Planning Act 1990 as amended ("the Act").

3. The Council's jurisdiction to determine the application fell away when the appeal was lodged. Based on the evidence before me, including the Council's putative reason for refusal, it would have refused to vary condition number 26, which sought to provide the open storage facility shown on drawings ST MARYS/14A and ST MARYS/35.
4. Amending the design of the proposed storage facility or omitting it from the appeal proposal would constitute a fundamental change. This could lead to procedural injustice by unfairly depriving interested parties, including those whose views were sought during the consideration of the application, with an opportunity to make representations. The appeal procedural guidance¹ states that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was before the Council and considered by interested parties at the application stage. For these reasons, I have determined the appeal on the information that was before the Council at the application stage.

Background and Main Issue

5. The approval of an application under s73 of the Act to remove or vary a planning condition would lead to the grant of a new planning permission. However, the Court of Appeal Judgement in *Finney*², established that such an application may not be used to obtain a new planning permission that would conflict with the 'operative' part of the original planning permission, that is, the description of development. This is confirmed in the Planning Practice Guidance³.
6. I have taken account of the responses received from the main parties on the implications of the *Finney* judgment in relation to this appeal. Therefore, the main parties would not be prejudiced by my determination of this appeal on the same basis.
7. The main issue in this appeal is whether or not the proposed amendments to the original planning permission can be determined through an application under s73 of the Act, with particular regard to the proposed outdoor storage facility.

Reasons

8. The proposed storage facility would cover an area of land on the appeal site measuring approximately 13 metres by 11 metres. It would comprise of a series of storage bays, bordered on 2 or 3 sides by concrete block walls with timber boarding above, erected to heights of between approximately 1.3 metres and 3 metres above ground level.
9. The proposed storage facility would therefore be a physical structure of substantial construction, scale and permanence. Having regard to s55(1), s55(1A) and s336(1) of the Act, which define a 'building' as including any structure or erection, I find that the proposed storage facility would constitute a building.

¹ Planning Inspectorate Procedural Guide: Planning appeals – England (Updated 5 October 2023)

² John Leslie Finney v Welsh Ministers & Carmarthenshire County Council, *Energiekontor (UK) Limited* [2019] EWCA Civ 1868

³ Paragraph: 014 Reference ID: 17a-014-20140306

10. Together with the 2 detached buildings permitted by the grant of the original planning permission, the proposed storage facility would constitute a third building. In having regard to *Finney*, the proposed third building would conflict with the original description of the development granted planning permission, irrespective of its proposed use. Whether or not the Council insisted upon an outdoor storage facility, including of the type proposed in this appeal, is of limited relevance and weight to my considerations, given the caselaw above, and does not alter my findings.
11. Consequently, on the evidence before me and having regard to the facts of the case and relevant caselaw, I conclude on this main issue that the proposed amendment to the original planning permission, as sought through the proposed variation of Condition number 26, is beyond the powers of s73 of the Act and therefore cannot be determined under its provisions.

Other Matters

12. Given my conclusion on the main issue, it is not necessary for me to consider the substantive planning matters that relate to the Green Belt or to the living conditions of nearby occupiers in respect of Condition number 12, as they would not alter the outcome of this appeal.

Conclusion

13. For the reasons given above the appeal should be dismissed and planning permission refused.

G Sylvester

INSPECTOR

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Appeal Decision

Site visit made on 29 February 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/V1505/D/23/3333235

Tany Ralt, Southbourne Grove, Wickford, Essex SS12 0JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr L Bullock against the decision of Basildon Borough Council.
 - The application Ref is 23/00988/FULL.
 - The development proposed is a rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published a recently revised National Planning Policy Framework ("the Framework"). However, there are no material changes relevant to the substance of this appeal. Therefore, I am satisfied that no one would be prejudiced by the changes to the national policy context. All references to the Framework in this decision relate to the revised document.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the proposed development on the openness of the Green Belt.
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, subject to specific exceptions. The exception relevant to this appeal, as set out in Paragraph 154.c) of the Framework, is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not define a disproportionate addition, however the glossary defines the original building as

a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.

5. Policy BAS GB4 of the Basildon District Local Plan Saved Policies, September 2007 ("the BDLP"), states that dwellings in the Green Belt will be allowed to extend to 90 square metres or by 35 square metres over and above the original floor area of the dwelling (or the area as at 1 July 1948), whichever is the greater.
6. The Council's numerical calculations, which have not been disputed, indicate that the appeal site was occupied by a dwelling with a floor area of approximately 59 square metres. The original dwelling was subsequently replaced, followed by a loft conversion and the later addition of a conservatory. The current dwellinghouse has a floor area of approximately 165 square metres, consisting of around 124 square metres on the ground floor and around 41 square metres on the first floor.
7. The proposed extension would add around 36 square metres, following removal of the existing conservatory, equating to a total floor area of approximately 179 square metres. As such, the proposal would represent a significant increase in the floor area of the original dwelling above the thresholds set out in BDLP Policy BAS GB4.
8. The Framework does not give a floor space threshold above which proposed extensions would be considered disproportionate. However, in the circumstances of this case and taking account of the local policy context, I find that the size of the proposed extension would amount to a disproportionate addition over and above the size of the original building. As such it would constitute inappropriate development in the Green Belt for the purposes of the Framework and BDLP Policy BAS GB4.

Openness

9. In spatial terms, the proposed extension would represent a modest loss of openness in the Green Belt and would be larger than the conservatory it would replace. Visually, the bulk of the proposed extension would mostly be screened in public views by the existing dwelling, nearby buildings and boundary treatments. However, glimpse views of parts of the flank walls and roof slopes of the proposed extension would be possible above the boundary treatments of nearby properties, including across the side garden of Oakmead, which sits at a lower level. In these views the depth and massing of the flank walls would be apparent and would result in a noticeable loss of openness in the visual dimension, albeit to a relatively modest and localised extent. For these reasons, I conclude on this issue that the proposed extension would result in a harmful loss of openness in the Green Belt in both spatial and visual terms.

Other considerations

10. The appeal proposal would improve the amount and quality of the accommodation within the dwelling and thus the occupiers' living conditions. However, the planning system is mainly concerned with the use of land in the public interest. In this context, I afford only limited weight to the private benefits of the appeal proposal to the appellant and future occupiers.

11. A Lawful Development Certificate (“the LDC scheme”) was granted in June 2023 for the erection of a proposed outbuilding¹ in the rear garden of the appeal property. This is described as a fallback position. Furthermore, it is suggested that additional outbuildings could be erected under existing permitted development rights. The weight to be afforded to a fallback scheme depends on whether there is a reasonable prospect of it being carried out, and whether or not it would be more harmful than the appeal scheme, and if so the degree of any harm.
12. The appeal proposal would provide a larger open plan kitchen as an integral part of the dwellinghouse. The LDC scheme, or an alternative outbuildings scheme, would provide building set in the garden and detached from the dwelling. As such, the purpose and functionality of the outbuildings would be very different to the appeal proposal and would be highly unlikely to meet the requirements for improving the internal floor space, layout and functionality of the appeal dwelling. Given the significant physical and functional differences between them, I am not convinced that there would be a greater than theoretical possibility that the LDC scheme, or alternative schemes for outbuildings, would be implemented as a direct consequence of this appeal being unsuccessful.
13. The LDC scheme, either alone or in combination with a more extensive outbuilding scheme, would be likely to have a modestly greater effect on Green Belt openness than the appeal proposal. This is because the LDC scheme outbuilding, or alternative outbuildings, would be set in the rear garden where a comparatively greater amount of built form would be likely to be visible above the boundary fence and across the side garden of Oakmead in views from the road. Nonetheless, it would not alter my conclusions on the prospect of those schemes being implemented were this appeal to fail.
14. Furthermore, the removal of permitted development rights for outbuildings by a condition of a planning permission would only come into effect once that permission was implemented. Therefore, outbuildings could be erected prior to implementation, resulting in a potentially greater level of cumulative harm to Green Belt openness than the appeal proposal alone. A legal agreement prohibiting the LDC scheme from being implemented is not before me in any case.
15. Consequently, for the reasons given above, the potential fallback schemes hold no more than limited weight in favour of the appeal proposal.
16. The proposed extension would be larger than the existing conservatory and would therefore represent an uplift in volumetric terms. It follows that any benefit to the openness of the Green Belt through removal of the Conservatory would be outweighed by the proposal’s harm to openness.
17. The developments at the nearby properties of Jasmin and St Arthurs appear to have exceeded the floor areas of both original buildings beyond the thresholds in BDLP Policy BAS GB4. There are broad similarities between those nearby developments and the appeal proposal before me, including being determined under the same saved policies. However, I am not bound by previous decisions of the Council, and I have necessarily determined the appeal proposal on its individual merits and the evidence before me, taking account of the specific

¹ 23/00765/LDCP

characteristics of the development and its context. As such, the cases brought to my attention are of limited relevance and weight to my considerations in this appeal.

Other Matters

18. The Council considers that the proposal would cause no harm in respect of the appeal proposal's design, effect on highway safety or the living conditions of nearby occupiers. I have no reasons to find differently. Nevertheless, an absence of harm in these respects does not weigh positively in favour of the appeal development.

Green Belt Balance

19. The proposal would be inappropriate development and would harm the openness of the Green Belt. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
20. The other considerations do not clearly outweigh the totality of the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

21. For the reasons given above and having considered all other matters raised, I conclude that the appeal proposal conflicts with the Framework and BDLP Policy BAS GB4 in relation to the Green Belt. It therefore conflicts with the development plan as a whole and there are no material considerations of sufficient weight to outweigh this finding. Accordingly, the appeal should be dismissed.

G Sylvester

INSPECTOR