



Appeal Decision

Inquiry held on 12 – 14, 19 December 2023

Site visit made on 14 December 2023

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/V1505/W/23/3326612

41, 65 and land adjacent Potash Road, Billericay, Essex CM11 1DL

- 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 outline planning permission.
 - The appeal is made by P & A Investments Limited and P D Developments (Essex) Limited against Basildon Borough Council (the Council).
 - The application Ref 22/01353/OUT, is dated 21 September 2022.
 - The development proposed is outline planning application with some matters reserved, except means of access, for demolition of two dwellinghouses at Nos. 41 and 65 Potash Road and erection of up to 150 dwellings and a 50-bed care home, together with car parking, landscaping, surface water drainage basins and associated works.
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Decision

1. The appeal is dismissed and planning permission for outline planning application with some matters reserved, except means of access, for demolition of two dwellinghouses at Nos. 41 and 65 Potash Road and erection of up to 150 dwellings and a 50-bed care home, together with car parking, landscaping, surface water drainage basins and associated works is refused.

Preliminary Matters

2. As described, the application was made in outline, with all detailed matters reserved for later consideration apart from access. A series of parameter plans were also submitted. These covered land use, scale, density and internal access. The appellant was content with a condition tying later details to the parameters shown in these drawings.
3. The Government published a revised National Planning Policy Framework (NPPF) on 19 December 2023, shortly after I closed the Inquiry. An opportunity was provided to the main and participating parties to make further written comment over these changes. This decision is based on the current NPPF and has taken account of the further representations made on this.
4. The development plan comprises the saved 1998 Basildon District Local Plan of September 2007 (LP)¹. Relevant to my decision are the following of its policies: BAS GB1 (defining the current extent of the Green Belt), BAS S5 (requiring affordable housing provision) and BAS BE12 (providing development control criteria for the grant of residential permission).
5. These policies had been on course to be replaced by the Basildon Borough Local Plan 2014 – 2034, which had been submitted for examination on

¹ Core Document (CD) 2.01 - Basildon District Local Plan Saved Policies September 2007

28 March 2019. In this then emerging plan, the appeal site had been identified as proposed site H16², allocated for around 255 new homes. The Council subsequently withdrew the plan on 3 March 2022. As a consequence, the emerging policies no longer carry any weight. However, the underpinning evidence base remains a material consideration in the determination of this appeal.

6. This evidence base includes the 2014 Basildon Landscape Character Assessment³, the 2014 Green Belt Landscape Capacity Study⁴, the 2017 Green Belt Review⁵, the 2017 Outline Appraisals of Potential Strategic Development Sites⁶, the 2018 Borough Green Belt Topic Paper⁷ and the 2022 South Essex Housing Needs Assessment (SEHNA)⁸.
7. As the appeal is against non-determination, the Council issued no formal decision. On 4 October 2023, the Council's Planning Committee agreed it would have refused permission for the application based on four putative reasons.
8. The proposal falls almost fully within the Green Belt, as defined in the LP when adopted on 25 March 1998⁹. The Council's first putative reason for refusal relates to the lack of evidence of very special circumstances, including the need for a care home, to justify a departure from the NPPF in respect of inappropriate development in the Green Belt.
9. The second putative refusal reason was due to insufficient information over roosting bats and the mitigation approach and compensatory measures for any loss of hazel dormouse habitat. The appellant subsequently submitted a Bat Survey Report¹⁰, satisfying that part of the reason. The Council's concerns over effects on dormice remained, despite further advice on mitigation¹¹.
10. The third putative reason related to the lack of sufficient information over flood risk. Essex County Council (ECC), as Lead Local Flood Authority, later withdrew its holding objection in the light of additional information, meaning this refusal reason fell away in advance of the Inquiry.
11. The fourth putative reason was over the lack of a completed section 106 agreement (S106) addressing a range of required matters. A S106 between the appellant, the Council and ECC was completed on 21 December 2023. This secures the obligations and contributions sought in relation to affordable housing, healthcare, education, employment/skills, RAMs¹², public realm, bus stop infrastructure, sustainable transport, open space/culture/play/sports provision and S106 monitoring. This putative refusal reason therefore now falls away.

² CD 3.01 Basildon Council Withdrawn Local Plan 2014-2034 draft Policies Map

³ CD 3.08 Landscape Character and Green Belt Landscape Capacity Study for Basildon Borough Council Volume, One Landscape Character Assessment of Basildon Borough December 2014 - The Landscape Partnership, December 2014

⁴ CD 3.09 Landscape Character and Green Belt Landscape Capacity Study for Basildon Borough Council Volume Two, Green Belt Landscape Capacity Study of Basildon Borough - The Landscape Partnership, December 2014

⁵ CD 3.06 Basildon Borough Green Belt Review 2017

⁶ CD 3.10 Basildon Outline Landscape Appraisals of Potential Strategic Development Sites - The Landscape Partnership May 2017

⁷ CD 3.07 Basildon Borough Green Belt Topic Paper October 2018

⁸ CD 4.01 South Essex Housing Needs Assessment - Turley June 2022

⁹ CD 2.03 Basildon District Local Plan Proposals Map

¹⁰ Appendix 2 of Mr Saunders' proof CD9.04 - Bat Survey Report Ecology Solutions September 2023

¹¹ Appendix 6 of Mr Saunders' proof CD9.04 Dormouse Mitigation Technical Note Ecology Solutions November 2023

¹² Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy

Main Issues

12. On the basis of the above, the main issues in the appeal are:

- The effect of the proposal on the openness of the Green Belt and the purposes of including land within it, including landscape impacts;
- Whether there would be adequate mitigation for the proposal's effects on the hazel dormouse;
- The need for the housing proposed, including affordable and care home provision;
- Whether any Green Belt or other harm would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt openness and purposes, including landscape impacts

13. Basildon's saved policy BAS GB1 simply refers to the Green Belt boundaries defined in 1998. There are no further saved policies relevant to the application of Green Belt policy and so I rely on those set out in chapter 13 of the NPPF. This reaffirms the great importance Government attaches to Green Belts. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence.

Openness – spatial and visual

14. Openness is not defined, but can be taken as the opposite of urban sprawl and thus an overall lack of development. As confirmed by the Planning Practice Guidance (PPG)¹³, the assessment of a proposal on Green Belt openness is a matter of judgment based on circumstances, which can include both spatial and visual aspects, the duration of the effects and the degree of activity generated, such as from traffic.
15. The impacts on the spatial openness of the Green Belt would be limited to those associated with the built development and there would be no such impacts beyond the appeal site. This amounts to some 10 hectares in total and includes two dwellings at Nos 41 and 65 Potash Road, paddocks, patches of woodland, grassland and other vegetation, a pond and some other buildings. As the parameter plans establish, the actual building plots and associated roads would cover around 45% of the site area, with the remaining 55% remaining open as proposed landscaping, sustainable drainage and other green infrastructure.
16. The proposal would result in site-wide harm to the Green Belt through a loss of spatial openness. The 150 dwellings and a 50-bed care home, with the accompanying plots, estate roads and other hard infrastructure, would introduce a significant amount of development across the site, at heights between one and three storeys. Although over half the site would remain open as some form of supporting green infrastructure, the development as a whole

¹³ Paragraph: 001 Reference ID: 64-001-20190722 Revision date: 22 07 2019

would be extensive and at a large scale. This would result in a significant loss of Green Belt openness in a spatial sense, with a corresponding level of harm.

17. The appeal site is within a well-wooded landscape and contained by mature tree growth and partly by the built settlement edge. This containment, and a lack of public access in and around the site, means that there are currently no views into it from publicly accessible vantage points. Views into the site from surrounding private properties are partially screened by existing vegetation. These filtered views are of predominantly undeveloped land. Some of this contains woodland that would be removed, such as the large group of semi-mature, self-seeded oak trees to the west of the site. Removing the vegetation within the site to accommodate a large housing development would cause a substantial reduction in visual openness across the site, irrespective of the limited number of receptors who would experience this. Therefore, I consider there would be a significant loss of visual openness to the Green Belt, notwithstanding the lack of public views.
18. The PPG identifies that the degree of activity, such as from traffic generation, may need to be taken into account in assessing the potential impact of development on Green Belt openness. The appeal site is currently an area of tranquil seclusion, lying to the rear of a continuous frontage of houses but extending into open countryside. The character of the site is overwhelmingly rural and I agree with the Council that there is also a sense of wildness and tranquillity that can be perceived across the site. This is despite its proximity to existing housing. Access would open the site up from Potash Road, with a pronounced increase in the level of activity, including from residential occupation, associated noise, lighting and traffic entering and leaving the site. Despite the visual containment of the area, there would be a clearly perceived loss of openness due to this increased activity.
19. Due to its containment, the proposal would not impact on the wider appreciation of the visual openness of the Green Belt in longer distance views. However, I draw on the judgment in Turner¹⁴, submitted by the appellant. This had confirmed Green Belt openness to be 'open textured' and capable of having both spatial and visual aspects. This judgment also refers to inappropriate development being, by definition, harmful to the Green Belt and 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 of the location of a new building. In summary, I consider the proposal would bring about significant Green Belt harm through a permanent loss of openness resulting from a large scale development.

Green Belt purposes

a) to check the unrestricted sprawl of large built-up areas

20. Paragraph 143 of the NPPF sets out the five purposes of Green Belts, two of which are relevant to this proposal. The first of these is purpose a), which is to check the unrestricted sprawl of large built-up areas. The adjacent housing in The Vale and along Potash Road is quite closely arranged and marks the very clearly defined suburban edge to Billericay. Whilst there is a relatively small amount of sporadic development beyond this, the adjacent Green Belt is

¹⁴ CD 10.01 Turner v SCLG & East Dorset Council [2016] EWCA Civ 466

overwhelmingly of an open, undeveloped nature and has the appearance of countryside.

21. I do not agree with the appellant, or the findings of the Council's 2017 Review, that there is a strong urban fringe influence on this area of Green Belt or that the sporadic development here reflects existing sprawl. It is the tightly arranged housing along Potash Road and The Vale that here provides a well-defined boundary separating Green Belt and the built up area of Billericay. This is irrespective of the actual Green Belt boundary running through the rear parts of the back gardens along Potash Road.
22. Unlike the Green Belt land at Kennel Lane, Billericay, where 200 dwellings were recently allowed on appeal¹⁵, this site is not contained by roads. It is tree belts which define the outer boundaries here and I consider these very much part and parcel of the undeveloped Green Belt. As such, these verdant edges provide no reasonable basis for extending a very clearly defined urban edge further into undeveloped countryside.
23. The proposal extends beyond what might reasonably be considered a 'rounding off' of the housing between The Vale and Potash Road. The appeal site is also land-locked, insofar as access depends on demolishing the dwelling at No 41 and creating a gap within this tightly arranged residential frontage. The breaching of this clearly defined built up settlement edge to allow development to extend deeply into the open countryside would epitomise urban sprawl. Contrary to the findings of the 2017 Review, I find that the Green Belt in this location strongly fulfils the purpose of checking the unrestricted sprawl of the built-up area of Billericay.

c) to assist in safeguarding the countryside from encroachment

24. As set out in the NPPF, purpose c) of Green Belts is to assist in safeguarding the countryside from encroachment. The Council's 2017 Review noted that there are detached dwellings and country lanes within the wider Parcel 3 of the Green Belt within which the appeal site sits. It refers to some fields and woodland which contributed to countryside character, but that the large residential plots and gardens occupying a proportion of the south part of Parcel 3 were less compatible with this and gave the perception of encroachment. However, in my view, the countryside is not defined by a complete absence of development and the very loose scatter of housing further along Potash Road does not equate to significant encroachment within this.
25. The appeal site is to my mind completely reflective of countryside, comprising almost entirely a mixture of paddocks, grassland, scrub and woodland, and its character is overwhelmingly rural. The amount of development proposed would comprise a level of encroachment far in excess of any caused by the pre-existing loose scatter of developments within surrounding parts of the Green Belt. Again, I disagree with the 2017 Review conclusions and consider that in this location the Green Belt strongly, rather than partially, fulfils its purpose of safeguarding the countryside from encroachment, which in this case would be in the form of large scale suburban housing.

¹⁵ CD 11.1.01 Appeal Ref: APP/V1505/W/22/3298599 Land North of Kennel Lane, Billericay CM12 9RR – allowed 9 December 2022

Landscape effects

26. Landscape effects had been identified as part of my main considerations in the appeal¹⁶. Saved Local Plan Policy BAS BE12 remains compliant with the NPPF and is of relevance. This seeks refusal of new residential development where material harm is found to the character of the surrounding area. Landscape effects are not specified in this policy but are relevant to the overall effect of residential development on surrounding character.
27. Green Belt status is not indicative of any specific landscape quality or character. However, paragraph 150 of the revised NPPF continues to seek positive planning to enhance the beneficial use of Green Belt, such as looking for opportunities to retain and enhance landscapes. Irrespective of Green Belt status, the NPPF seeks plan-made outcomes which support beauty and placemaking. Under paragraph 20 d), this is through the conservation and enhancement of the natural environment, including landscapes and green infrastructure. To help achieve well-designed and beautiful places, NPPF paragraph 135 requires developments to be sympathetic to local character, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
28. This area of countryside is not the subject of any statutory status or identified quality in the LP as to require its protection or enhancement as a valued landscape under NPPF paragraph 180 a). However, under 180 b), planning decisions should still contribute to and enhance the natural and local environment including by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including trees and woodland.
29. The appeal site falls within Brentwood Hills landscape character area (LCA), as defined by the 2003 Essex Landscape Character Assessment. This is described as a wooded landscape with many small, scattered woods, some large blocks of woodland, tree belts and hedgerow trees. The appeal site reflects some of the key characteristics of this landscape with its enclosed nature, interlocking blocks of woodland and small field parcels contained by hedgerow trees.
30. At a District-level, the Council's 2014 Landscape Character Assessment¹⁷ determined the site to fall within East Billericay Wooded Hills and Ridges LCA. This defines an area of wooded farmland on hills and ridges located to the east of Billericay. This refers to a relatively intact landscape of small to medium fields with good enclosure and set on undulating landform to the edge of the wooded plateau to the north.
31. In the background landscape character and capacity studies¹⁸ underpinning the now-withdrawn Local Plan, the appeal site had been assessed as having a medium landscape capacity and lower landscape sensitivity to residential development. The proposal had also been the subject of Landscape and Visual Assessments (LVA) at both the application stage¹⁹ and in support of the Green Belt and landscape evidence²⁰ put to the Inquiry. Both LVAs follow the

¹⁶ Summary note of Inquiry Case Management Conference held on 19 September 2023

¹⁷ CD 3.08 op. cit.

¹⁸ CDs 3.09 and 3.10 op. cit.

¹⁹ CD 6.07 Land at Potash Road Landscape and Visual Appraisal GH/006752-RP01 – G L Hearn September 2022

²⁰ CD 9.02 Proof of Evidence from Robert Hughes over Green Belt and Landscape Character Matters

principles and approaches set out in the third edition of the Guidelines for Landscape & Visual Impact Assessment²¹. In the more recent LVA, the appeal site was assessed as part of a Stock Brook Urban Fringe LCA, which included Green Belt land extending north up to and beyond Basildon's administrative border. This LCA is shown to include urban fringe land uses including paddocks and individual dwellings, as well as farms, businesses, amenity spaces and sports grounds, all set within an enclosed, well treed landscape defined by tree belts and woodlands to field boundaries and along the lanes.

32. In a wider landscape context, the large amount of housing proposed would still be strongly out of character in an essentially rural area containing only a sporadic array of development, much typical not just of the urban fringe but the countryside more generally. Because the appeal site is so well-contained by mature tree belts and woodland to its edges, I agree with the appellant's evidence over the proposal having localised impacts and minor adverse effects on the character and appearance of the wider Stock Brook Urban Fringe LCA. However, this containment insulates the landscape within the appeal site from any reduced susceptibility to change caused by any such degree of urban fringe character within the wider LCA.
33. The site itself contains a scenic arrangement of mature woodland and tree lined boundaries containing a range of more open areas. Some of these open areas remain managed as horse pasture and other parts are more roughly vegetated, some at varying stages of natural regeneration to woodland. The site has little relationship with an urban fringe landscape and is more closely reflective of the wooded character of countryside on this edge of Billericay. As a representative part of this well-wooded countryside, I consider the appeal site to be of an intrinsically high value in terms of landscape quality, natural condition and relative freedom from development. In my view, the site holds less capacity to accommodate housing than found by the Council's background landscape studies, and possesses far greater sensitivity to the harmful effects of such development than these claim.
34. Although the built development would occupy under half the site area and be mainly located outside the maturely wooded parts, the more open spaces are key to the overall intrinsically high landscape quality of this naturalised area. Projecting beyond the town's built-up limits, this large housing scheme would intrude into open countryside, resulting in significant harm to its wider landscape qualities. The proposal would cause significant harm to the landscape character of the site and the surrounding rural area, in conflict with saved LP policy BAS BE12 and NPPF paragraphs 135, 150 and 180 b).

Mitigation for the effects on the dormouse

35. The appellant's surveys of the appeal site had recorded a dormouse population. This is a European Protected Species under schedule 2 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations)²². Under this legislation, deliberate disturbance from development would constitute an offence unless licensed by Natural England.
36. The licensing tests are three-fold:

²¹ CD 1.02 Guidelines for Landscape and Visual Impact Assessment Third Edition Landscape Institute and Institute of Environmental Management and Assessment 2013

²² CD 1.21

- i. The activity in question should be necessary to preserve public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature.
 - ii. There is to be no satisfactory alternative.
 - iii. The action authorised should not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
37. The mitigation strategy is to retain, maintain and where necessary improve on-site habitat to enhance the overall carrying capacity of the site for the dormouse population. This would be based on measures set out in the Dormouse Mitigation Technical Note. However, because the proposal is in outline, these mitigation measures would need to be secured through an agreed pre-commencement condition.
38. Of the tests, the third falls mainly within the ambit of Natural England. This agency had not objected to the proposal in principle. The Council agreed at the Inquiry that the mitigation achievable could ensure this proposal would not be detrimental to the maintenance of the dormouse population at a favourable conservation status in their natural range. Therefore, I do not find it unlikely that Natural England would grant a license on this basis, were this appeal allowed.
39. The satisfaction of the other two tests hinge on this appeal decision. The proposal is clearly not necessary to preserve public health or public safety. The planning balance set out below, and the resulting appeal outcome, thus helps inform whether imperative reasons of overriding public interest apply, or whether there is no satisfactory alternative to what is proposed.

Housing need, including affordable and care home provision

General housing need

40. Paragraph 77 of the revised NPPF means this Council must continue to identify and update annually a deliverable five year housing land supply (5YHLS). Basildon's most recent 5YHLS position covers the period from 1 April 2023 to 31 March 2028²³. Based on the standard method in national planning guidance²⁴, including the required 20% buffer, the Council calculates its housing requirement to be 6,258 dwellings over 5 years (or 1,252 per annum). The deliverable amount of housing from identified sites would provide for 2322 dwellings, amounting to only a 1.85 years' supply.
41. The Council's Action Plan 2021 states that the level of supply is not expected to significantly improve until a new Local Plan is adopted, now at the earliest in 2027. The current Local Plan was first adopted in 1998, based on the period 1991-2001 and a housing requirement derived from a 1982 Structure Plan. The Green Belt boundaries are therefore based on very out-dated housing requirements. Because most of the Borough outside the three main towns is Green Belt, it is inevitable that some of this will need to be released for housing to meet current and much higher housing requirements in Basildon.

²³ CD 2.06 Basildon Borough Council Five Year Land Supply Report 1 April 2023 – 31 March 2028 – published June 2023

²⁴ PPG paragraph: 004 Reference ID: 2a-004-20201216 Revision date: 16 12 2020

42. Paragraph 145 of the NPPF states that authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process. The withdrawn Local Plan had sought to make such changes to the Green Belt, including by releasing the appeal site for housing as allocation H16. The present lack of a plan-led remedy for the severe housing shortfall in Basildon has been reflected in recent appeal decisions, where residential development has since been allowed on some of the withdrawn plan's allocations.
43. The Inspector found that the 200 dwellings proposed in the Green Belt at Kennel Lane²⁵, on withdrawn Billericay allocation H18, weighed considerably in favour of the appeal, due to helping address extremely serious housing land supply and delivery deficits. In the Maitland Lodge appeal²⁶, relating to withdrawn Billericay allocation H21b, the Inspector placed very substantial positive weight on the 26 of 47 dwellings proposed for open market sale.
44. Most recently, in the Dunton Road decision²⁷ relating to 269 dwellings on the edge of Basildon at withdrawn allocation H9, the delivery of 161 units of market housing was afforded very substantial weight. The Inspector here referred to the very bleak housing supply and delivery position and the fact that this was unlikely to be addressed in the short to medium term. My decision broadly reflects the sentiments and weightings in these three earlier appeal decisions.

Affordable housing

45. Saved LP Policy BAS S5 normally expects an appropriate provision of affordable housing of between 15 - 30% of the total number of units. The proposed development would deliver 47 (31.3%) of the 150 new dwellings as affordable homes, and so meets this policy.
46. The SEHNA provides an annual affordable dwelling need figure of 521. The appellant's review, based on updated data, suggests a truer figure could be double this annual amount. On the evidence presented, I do not consider this unrealistic. There is no dispute over a persistent and significant shortfall in meeting Basildon's identified annual affordable housing need. An unchallenged delivery rate calculated by the appellant was as low as 76 affordable homes per year over the next five years, resulting in a 4,841 shortfall. The situation is one of a growing backlog deficit of affordable housing, at least until addressed by a new Local Plan.
47. The enduring and significant shortfall in delivering enough affordable homes in Basildon has been recognised in recent appeal decisions. The Inspector gave very substantial positive weight to the 72 affordable dwellings proposed at Kennel Lane, as was the case for the 21 provided at Maitland Lodge. The 108 affordable dwellings proposed south of Dunton Road were afforded very significant weight. Again, in respect of affordable housing benefits, I conclude similarly to these three appeal decisions.

²⁵ CD 11.1.01 op. cit.

²⁶ CD 11.15 Appeal Ref: APP/V1505/W/22/3296116 Land at Maitland Lodge, Southend Road, Billericay CM11 2PT

²⁷ Appeal Ref: APP/V1505/W/23/3325933 Land South of Dunton Road, Basildon, Essex, SS15 4DB

Care home accommodation

48. The NPPF seeks to significantly boost the supply of housing and meet the needs for various groups, including those older people who might require retirement housing, housing-with-care or care homes. The PPG advises that the need to provide housing for older people is critical, given we are living longer lives and this proportion of the population is increasing²⁸.
49. The 2022 SEHNA assessed the need for *specialist housing for older people* (acronym: SHOP) over the period 2020-2040. This was based on 2011 Census prevalence rate of Basildon residents living in communal establishments and the projected increase in that age cohort. This produced a future prevalence rate of 34 per 1000 population requiring care home accommodation and an additional need of 380 bedspaces over the period 2020-2040 (19 per annum).
50. The appellant did not dispute the older population growth-rate. However, a projection based on stable care home occupancy rates was considered to risk perpetuating an under-supply in SHOP provision and frustrate an objective to lift this relative to an ageing population. The appellant provided prevalence rates derived from the PPG-endorsed²⁹ SHOP@ tool³⁰ and a 2017 Greater Cambridge Study³¹. The Council's prevalence rate of 34 is very low compared to 110 in 1,000 people aged 75+ expected to live in residential care and nursing home accommodation, as derived from the SHOP@ tool. From this, the appellant derives a current need figure in Basildon of 970 care bedspaces, rising to 1,845 by 2043.
51. The proposed care home would meet a growing demand from self-funded occupiers, linked to the increased nursing and specialist dementia care requirements of an aging population and not fully off-set by advances helping people live at home longer. Although ECC³² believes current care home provision in Basildon to be under-used, it recognises that the appeal scheme is aimed at this self-funded market and is responding to commercial demand. The appellant's evidence would support this, both through the Care Home Survey³³ and significant differences in the demographic and socio-economic character of the Billericay catchment area, compared to Basildon as a whole.
52. In respect of supply, consent has been recently granted for 80 bedspaces at Pipp's Hill Road and 76 at Fairview, Coxes Farm Road. However, the appellant has drawn my attention to another two care home permissions, at Ghyll Grove and Chaplin Lodge, where improvements led to a net loss of bed-spaces. Taking into account these net losses, I concur with the appellant that the supply claimed is less than argued by the Council. In any event, planning on the basis of historic prevalence rates, as set out in the SEHNA, would risk perpetuating an under-supply of SHOP, as robustly demonstrated by the methodology employed by the appellant.
53. Given the appellant's evidence of need, market demand and consented supply, there is no question in my mind that the benefits of the 50-bed care home should be given relative weight equivalent to the market and affordable

²⁸ Paragraph: 001 Reference ID: 63-001-20190626 Revision date: 26 June 2019

²⁹ Paragraph: 004 Reference ID: 63-004-20190626 Revision date: 26 June 2019

³⁰ Housing Learning and Improvement Network

³¹ CD 4.03 Older people's housing, care and support needs in Greater Cambridge 2017-2036 - Centre for Regional Economic and Social Research Sheffield Hallam University and University of Sheffield November 2017

³² CD 13.09

³³ CD 9.03 Appendix 4 of Mr Tennant's proof

dwelling proposed. In the light of the housing evidence discussed above, a 50-bed care home, along with the 150 dwellings, including the 47 to be delivered as affordable, would amount to social benefits that attract very substantial positive weight in the ensuing balance.

Biodiversity benefits

54. Paragraph 180 of the NPPF requires planning decisions contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 186 resists development causing significant harm to biodiversity where this cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for. It further seeks that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
55. The Priority Habitat lowland deciduous woodland on site, along with the mature/veteran trees and species-rich hedgerows, are to be retained and enhanced as part of the scheme. Woodland, scrub and grassland outside of this would be removed to accommodate the housing. The evidence shows considerable encroachment from scrub and woodland within the site over the last twenty or so years, most notably the self-seeded block of trees in the west of the site. However, I accept that this woodland is limited in its structure and value, being relatively homogenous and of a single age class, not qualifying as Priority Habitat. Other than that used for horse grazing, the unkempt grassland is more naturalised, with an elevated floristic diversity, although I accept it would not be considered species-rich.
56. The scheme is in outline, apart from the access details, although the parties have agreed a condition tying permission to a parameter plan³⁴ defining the 55% areas left undeveloped as open space and landscaping. Another potential condition is adherence to an agreed construction environmental management plan specific to biodiversity. Other conditions could require further ecological surveys, a minimum of 10% biodiversity net gain (BNG) and further measures including through a landscape and ecological management plan.
57. Most of this is necessary to mitigate for biodiversity harm and comply with policy or legislation. There is some positive benefit from the BNG, on the basis this is currently an unspecified amount sought in the NPPF, rather than a forthcoming 10% statutory requirement. From the survey evidence, the site is clearly of biodiversity value in its current state, most notably through providing a habitat for the dormouse. The proximity to nature and the commoner species that the site supports are clearly valued by neighbouring residents. Introducing this amount of development into a biodiverse area would clearly result in immediate harm. Achieving future BNG is a theoretical possibility but not a matter I can reasonably ascribe significant positive weight to as a public benefit. Overall, I consider the scheme's biodiversity benefits to be limited.

³⁴ CD 6.34 Land Use parameter Plan 302.01

Other Benefits

58. The appellant provided an assessment³⁵ of the scheme's economic benefits. In total this estimates the proposal would provide 64 permanent operational jobs, 122 temporary construction jobs per annum, a £28.5 million increase in GVA to the local economy over ten years and £1.4 million of local authority savings. As paragraph 85 of the NPPF requires, I place significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
59. The publicly accessible open space would primarily serve the occupiers of the development. Although available to the general public I am doubtful this would be widely sought and, although a benefit, this attracts limited weight. The scheme would provide contributions towards enhanced public transport. I consider that this is principally to mitigate for the increased demand generated by the development, which will lead to more journeys on the surrounding highway network both by private vehicle and public transport. As a wider public benefit, this factor also attracts just limited weight. The housing would be located sustainably, in terms of accessibility to services and facilities. However, this factor is less an actual benefit and more the absence of harm.

Whether Green Belt or other harm would be clearly outweighed by other considerations, to amount to very special circumstances

60. Paragraph 152 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 requires substantial weight is given to any harm to the Green Belt. In this case this harm relates to the inappropriateness of the proposal, the loss of openness in every sense and the undermining of Green Belt purposes a) and c). Taken as a whole this amounts to a matter of very considerable weight, to which I must add the significant landscape harm found.
61. The housing benefits as a whole gain very substantial weight, given a persistent and long-standing failure to meet Basildon's requirement in this regard; one that seems likely to endure in the short to medium term in the absence of a plan-led remedy. However, even adding to this the scheme's significant economic benefits and the limited ones over open space, public transport and BNG, these considerations would not clearly outweigh the Green Belt harm.

Conclusion

62. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal conflicts with the development plan and NPPF, when both are considered as a whole, and therefore the appeal fails.

Jonathan Price

INSPECTOR

³⁵ CD 9.01 Appendix B to Mr Maxwell's proof: Economic Impact Assessment of Residential and Care Accommodation Development, Potash Road, Billericay, Essex – Lambert Smith Hampton, November 2023

INQUIRY DOCUMENTS (ID)

- ID 1 – Appellant’s opening and list of appearances
- ID 2 – Opening statement on behalf of the Council
- ID 3 – Dormouse – Guidance for compliance with Habitats Regulations (extract, Natural Resources Wales)
- ID 4 – Ms Ruston’s photographs of lorry overrun onto Potash Road footway
- ID 5 – Mr Taylor’s statement summary
- ID 6 – ‘Killer kitties’ - domestic cat predation article in Guardian newspaper of 12 December 2023
- ID 7 – Schedule of conditions
- ID 8 – Closing statement on behalf of Council
- ID 9 – Closing statement on behalf of Appellant

LATER DOCUMENTS

- Completed S106 agreement dated 21 December 2023
- ECC Statement to support inclusion of Review Mechanism in the S106 legal agreement - December 2023
- Comments on revised NPPF from the Billericay Action Group and David Maxwell of WSP

APPEARANCES

FOR THE APPELLANT:

Zack Simons and Kimberley Ziya of Counsel, instructed by David Maxwell of WSP, called

David Maxwell BA (Hons) DipUP MRTPI – Planning Director WSP

Josef Saunders BSc (Hons), MSc, MCIEEM – Director at Ecology Solutions Limited

Robert Hughes BSc (Hons) PgDipLA CMLI – Director at Incola Landscape Planning

Ivan Tenant MRTPI MIED Director at Lambert Smith Hampton

Victoria Rees BSc MIHT – Associate Director at Steer

Stephen Payne SWECO

Joanna Lilliot Solicitor – Holmes and Hills

FOR THE LOCAL PLANNING AUTHORITY:

Giles Atkinson of Counsel, instructed by Michelle Hoque, Senior Planning Lawyer, Basildon Borough Council, called

Katie Ellis BA(Hons) Dip TP Dip UD Principal Planner (Development Management), Basildon Borough Council

Lisa Richardson MA, Principal Planner (Planning Policy), Basildon Borough Council

Neil Harvey MCIEEM BSc (Hons), Natural Environment Manager, Essex County Council

Michelle Hoque, Senior Planning Lawyer, Basildon Borough Council

Anne Cook, Principal Infrastructure Planning Officer, Essex County Council

INTERESTED PARTIES:

Councillor Andrew Schrader - Basildon BC, Ward Member Billericay East

Gordon Taylor, Chartered Mechanical Engineer.

Samantha Ruston, Potash Road Action Group

Alasdair Daw, Billericay Action Group

Councillor Jim Tutton, Chairman of Planning Committee, Billericay Town Council
