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## Appeal Decision

Site visit made on 8 January 2019

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> January 2019

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**Appeal Ref: APP/V1505/W/18/3202491**

**Land at Magdalen House, Potash Road, Billericay, Essex CM11 1HG**

- 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 B the Middle Limited against Basildon District Council.
  - The application Ref 16/00999/OUT, is dated 8 July 2016.
  - The development proposed is residential development.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by B the Middle Limited against Basildon District Council. That application is the subject of a separate Decision.

### Preliminary Matters

3. The application was made in outline with details of access provided and those over layout, appearance, landscaping and scale reserved for later consideration. I have dealt with the appeal accordingly. The submitted plan of twelve detached dwellings, with Magdalen House retained and converted to six flats, has been considered insofar as it is indicative of a possible layout and amount of housing.
4. On 24 July 2018, since this appeal was made, Government published the revised National Planning Policy Framework (the Framework). Having granted the parties an opportunity to make further comment, my decision reflects this.

### Main Issues

5. The appeal is against the failure of the Council to determine the application. The Council had since resolved<sup>1</sup> that it would have been minded to refuse planning permission had there been the opportunity to determine the proposal. Based on the putative reasons for refusal provided by the Council, the main issues in the appeal are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

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<sup>1</sup> Basildon Council Planning Committee Tuesday 23 October 2018

- the effect on the openness of the Green Belt;
- the effect on future housing delivery in this area;
- if the proposal were inappropriate development in the Green Belt whether the harm for this reason, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the proposal (*the Green Belt balance*).

### **Policy Framework**

6. The development plan comprises the Basildon District Local Plan Saved Policies (LP) where Policy BAS GB1 defines the extent of Green Belt as shown on the accompanying Proposals Map. The emerging replacement for the LP is the Revised Publication Local Plan 2018 (RPLP) approved for consultation and submission by the Council on 18 October 2018.
7. The RPLP retains the extent of Green Belt as currently applying to the appeal site. This is compared to the previous iteration of this emerging plan which had proposed excluding the part of the site fronting the road from the Green Belt and allocating this for residential development. However, as the RPLP has yet to be the subject of Examination, and might still be the subject of further change, I give it limited weight. This decision is therefore based primarily on the currently adopted LP.
8. The Framework is also an important material consideration to which I give substantial weight. This affirms the great importance attached by the Government to Green Belts, where the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open.

### **Reasons**

*Whether the proposal would be inappropriate development in the Green Belt*

9. The site fronts Potash Road and comprises the existing dwelling, Magdalen Lodge, its surrounding garden area and the horse paddocks at the rear. The appeal site is entirely within the Green Belt. The site is largely open with varying amounts of trees and vegetation along the edges. The opposite side of Potash Road marks an edge of the main built-up part of Billericay and is outside the Green Belt.
10. The proposed residential development would involve the construction of new buildings which paragraph 145 of the Framework regards as inappropriate in the Green Belt. This is other than in relation to a number of defined exceptions, none of which would apply to this scheme. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The degree of the harm resulting from the inappropriateness of the development would be significant as the housing would occupy a quite extensive area of Green Belt.

*The effect on the openness of the Green Belt*

11. The proposal would conflict with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. The site is

currently occupied by just the existing dwelling and the ancillary features associated with this, including the adjacent stables, but is otherwise mainly undeveloped garden space with extensive horse paddocks. The development of the site with housing, involving the dwellings themselves, the estate road and private drives, along with the boundary treatments of the plots and the inevitable array of domestic paraphernalia, would quite clearly have a considerable impact on the relative openness of the appeal site. As a consequence of the quite large area of housing proposed I must therefore find significant harm to arise from a loss of openness to the Green Belt.

*The effect on future housing delivery in this area*

12. The evidence from the Council is that there are other sites currently being promoted for housing along the same stretch of Potash Road. The local highway authority (LHA) has advised the cumulative impact of a number of potential developments on the capacity of the Stock Road junction would require to be assessed. The LHA has also referred to such housing schemes generating a need to widen Potash Road which might be achieved by developers contributing land for this purpose, which would require a single masterplan for the various sites to achieve this. The Council is therefore concerned that the cumulative impacts of development in this section of Potash Road might prejudice the preferred housing allocations within the RPLP. However, as I give limited weight to this emerging plan, the same must apply to any harm arising from this proposal potentially prejudicing future housing delivery in this area.

*The Green Belt balance*

13. The Council cannot demonstrate a five-year supply of deliverable residential sites and so paragraph 11 of the Framework requires that the LP policies most important for determining applications involving the provision of housing are considered out-of-date. This then means granting permission unless, as in this case within the Green Belt, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Therefore, the so-called 'tilted balance' provided by paragraph 11, whereby permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole, does not apply in this case.
14. The Council's Green Belt Study and Outline Landscape Appraisal are part of the evidence base informing the emerging RPLP. Neither alter the fact the appeal site is currently within the Green Belt and the requirement to apply national policy in respect of this.
15. The ability to provide safe and suitable vehicular access, avoid flood risk and cause no material harm to the living conditions of neighbouring residents, nature conservation interests and the wider Green Belt landscape are all neutral factors rather than positive benefits of the scheme. This applies also to the commitment to contribute towards the education, healthcare and transport impacts of the housing proposed. The intention is to provide a good quality design and sustainable method of construction for the residential development. Whilst this is not in doubt, as the proposal is in outline apart from access details, the high quality of design is not demonstrated.

16. Residential development of this site, including the intention to make a policy-compliant contribution towards affordable housing, would provide significant social benefits in helping boost provision and addressing the five-year supply deficit. There would be significant local economic benefits also to the construction and servicing sectors and from additional household expenditure. The location of the site on the edge of a town would provide future occupiers good accessibility to a wide range of services, facilities and public transport options. The proposal would enable the retention of the existing planting around the site. However, the bolstering of this existing landscaping in association with the housing would not provide significant further environmental benefit beyond those which the site presently offers.
17. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 requires that I give substantial weight to the harm found, which is significant and derives both from the proposal being inappropriate development within the Green Belt and reducing its openness. 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 and I find the proposal contrary to the Green Belt policies of the LP and the Framework.

### **Conclusion**

18. For the reasons set out I conclude that the appeal should be dismissed, and planning permission refused.

*Jonathan Price*

INSPECTOR