
Appeal Decision

Site visit made on 18 June 2019

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2019

Appeal Ref: APP/J1535/W/19/3224734

Langridge Cottages, Nazeing, Essex EN9 2EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Cooper against the decision of Epping Forest District Council.
 - The application Ref EPF/2128/18, dated 31 July 2018, was refused by notice dated 29 October 2018.
 - The development proposed is a barn/storage unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issues in this appeal, Government policy has not materially changed and it was not therefore necessary to invite any further comments from the different parties involved.
3. The Local Planning Authority (LPA) has referred in its decision notice to the Epping Forest Local Plan submission version (2017) (ELP), as has the appellant in the appeal submissions. It has yet to complete its examination in public, and so is yet to become an adopted policy document. The LPA considers that it conforms with the contents of the Framework, and as such, that it should receive substantial weight. However, the LPA refers to unresolved matters concerning the plan. I therefore afford the policies which it contains limited weight in my decision.
4. At the time of my site visit, the proposed development was under construction although not complete.

Main Issues

5. The main issues are (i) whether or not the proposal would be inappropriate development in the Green Belt; (ii) the effect of the proposal on the openness of the Green Belt; (iii) the effect on the character and appearance of the area;

and (iv) if it 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 necessary to justify the development.

Reasons

The site

6. The proposed barn/storage building would be located close to other domestic buildings and outbuildings to the rear of the main dwelling, and which include a single storey barn and some small garage type storage buildings. The immediate area around the appeal building also includes machinery and equipment. The appeal site adjoins an open grassed area: on my site visit I saw that there were no animals grazing on the land and that the grass had been cut. To either side are large, agricultural, commercial greenhouses and there is a scattering of other buildings, including dwellings, in the wider area.

Whether inappropriate development

7. The Epping Forest District Local Plan Alterations (2006) (ELPA) 'saved' policy GB2A states that permission will not be granted for the use of land or for the construction of new buildings in the Green Belt unless it is for specific purposes which includes for agriculture, horticulture or forestry. Policy DM4 of the ELP states that within the Green Belt planning permission will not be granted for inappropriate development except in very special circumstances, in accordance with national policy.
8. The Framework states, at paragraph 145, that a local authority should regard the construction of new buildings as inappropriate in the Green Belt unless they constitute one of a number of specified exceptions. One of these is for buildings for agriculture or forestry. A further exception is for the provision of appropriate facilities for outdoor sport or recreation so long as the facilities preserve its openness and do not conflict with the purposes of including land within the Green Belt.
9. In the appeal statement, the appellant says that the site comprises about 3 acres and that it was bought by him in the mid-1990s as an extension to his property: it was used by the children for general play and as an extension to the original garden. It has remained as an open grassland ever since and needs to be managed as such. The appeal statement notes that *'whilst the open space part of the appeal site is now used for recreational purposes and no longer farmed commercially, it still remains as unimproved grassland'*.
10. The appellant considers that there is no definition of agriculture or recreation and so the site could be classified as agricultural or recreational land. However, the Town and Country Planning Act 1990 defines agriculture as including *'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes.'*

11. The proposed building is not intended for agricultural purposes as defined above. The need to maintain the site in a reasonable condition akin to an agricultural use of the land does not amount to such a purpose. Furthermore, it is not intended that the proposed building is to be used for recreational purposes but would be used for maintenance purposes for the upkeep of the land, drainage ditches and the access road to the site. The proposal would not fall under any of the exceptions in relation to the construction of new buildings which fall under 'saved' Policy GB2A of the ELPA and the Framework.
12. The age of the ELPA policies does not in itself mean that they are out of date. It depends on the degree of consistency with the Framework and there are some differences. Saved policy GB2A uses the term appropriate rather than inappropriate. However, this in itself would not lead to the proposed development being not inappropriate.
13. I therefore conclude that the development constitutes inappropriate development, contrary to 'saved' policy GB2A of the ELPA, policy DM4 of the ELP and paragraph 145 of the Framework.

Effect on openness

14. 'Saved' policy GB7A of the ELPA states that proposed development within the Green Belt will be refused if it would have an excessive adverse impact on the openness.
15. The Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl and to keep land permanently open.
16. The proposed development is screened by trees and hedging and by buildings, including the commercial glass houses. However, the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. It is an established principal that the openness of the Green Belt has a spatial as well as a visual aspect. The proposed building would have the height of a two storey building and it would not keep land permanently open. While there are large commercial glass houses in the immediate vicinity, these are likely to be not inappropriate in the Green Belt because of their agricultural use and where, therefore, openness would not be a consideration: the same does not apply to the appeal proposal which, by its size, would constitute significant harm to openness.
17. I therefore conclude that the proposed development would be contrary to 'saved' ELPA policy GB7A which opposes any development in the Green Belt which would have an excessive adverse impact upon openness. It would also be contrary to Green Belt policy in the Framework which aims to preserve openness.

Character and Appearance

18. The proposed building would include a large dormer window arrangement. It would be close to other buildings which incorporate dormers and the proposed use of wood would be a traditional use for barns.
19. However, the proposed use of dormers, by their size, shape and overall appearance, would have an untypical and incongruous appearance in its rural

setting where there is a scattering of houses amongst commercial buildings. They would significantly and adversely harm the area's character and appearance.

20. I conclude that the proposed development, by virtue of its massing and design would have an unacceptable effect on the character and appearance of the area. It would be contrary to 'saved' ELPA policy DBE4 which requires the design of buildings to respect local character in terms of traditional plan form. It would also be contrary to the Framework where it concerns achieving well designed places.
21. As 'saved' policy GB2A concerns the Green Belt, I have not considered it further in relation to character and appearance, because this is a separate matter.

Other considerations

22. The appellant states that the building is required to store tools and equipment in order to allow for the maintenance of the land, the drains, hedges and trees. By so doing, it is contended that it helps to prevent the land from flooding. The storage facility for tools and equipment would also allow for the continued maintenance of the part of the private road in front of the appellant's dwelling. These are matters which give moderate weight in favour of the proposed development.
23. Both main parties have put forward contentions concerning permitted development rights. The evidence before me on this matter is not, though, of a substantive nature and it does not justify such a fallback position. Hence, I have determined the appeal before me on its merits and so this matter carries only limited weight in my decision.
24. The appellant considers that the site could be developed at some future date for commercial glasshouses, but that is not the proposed development being considered in this appeal and again, it is not a matter to which I can attribute any significant weight.

Planning Balance

25. The Government attaches great importance to Green Belts, and the Framework in paragraph 144 requires that *'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt'*. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, are clearly outweighed by other considerations.
26. I have concluded that the proposal would result in inappropriate development and that there would also be significant harm to openness. Furthermore, I have concluded that the design of the building would amount to other harm relating to the character and appearance of the area.
27. The other considerations which arise are not sufficient to outweigh the totality of the harm which I have found. Consequently, very special circumstances do not exist.

Conclusion

28. For the reasons outlined above and taking into account all matters raised, the appeal is dismissed.

Steven Hartley

INSPECTOR