

Appeal Decision

Site visit made on 21 June 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/J1535/W/19/3226161

Ivy House, Coopersale Lane, Theydon Bois, Epping CM16 7NT

- 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 Neil Young against the decision of Epping Forest District Council.
 - The application Ref EPF/0156/19, dated 18 January 2019, was refused by notice dated 18 March 2019.
 - The development proposed is removal of artificial turf and retention of footpath and decking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An emerging plan, the Epping Forest District Local Plan Submission Version 2017, was submitted to the Secretary of State on 21 September 2018 for examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework (the Framework), I give it limited weight.
3. The application is part-retrospective. At the time of my site visit the decking was present around the pond. The footpath and artificial turf were not present.
4. The Council is no longer opposed to the appeal proposal on the grounds of inadequate information as to the risk of flooding. Having carefully considered everything before me, there is nothing in the evidence that goes against or contradicts the Council's conclusions in relation to that matter. I concur.

Main Issues

5. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt.
 - the effect of the proposal on the character and appearance of the area.
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development; openness of the Green Belt

6. The appeal site is a parcel of land in the open countryside and fronting onto Coopersale Lane (the Lane), a Protected Lane designated as such under the Council's policies due to its historic natural landscape. The site is located between a paddock in the same ownership as the appellant and open land associated with the neighbouring property to the east, Blunts Chase. The pond, to which decking has been added to one side, is on the shared boundary with Blunts Chase and adjacent to the Lane. The footpath, currently removed, is shown on the plans as running diagonally north-west across the appeal site from the pond decking in the direction of Ivy House, a large residence in the same ownership as the appellant. An access road running from the Lane to Ivy House is located on the west side of the appeal site.
7. The appellant says that the works to the pond are "engineering operations" and as such would constitute one of the exceptions to inappropriate development in the Green Belt, for the purposes of Paragraph 146 (Para 146) of the Framework. It is submitted that the decking, which is said to hold a new pond liner in place, permits a greater water level before overflow and would prevent flooding from the pond across the access and the Lane in adverse weather. Although I have seen no substantive evidence to indicate that there is or was a risk of such flooding, or of the technical need for such works, I note that Council in its delegated report refers to "substantial engineering operations to the edges of the pond". Therefore, I give the appellant's argument moderate weight, and find that engineering operations have indeed been carried out in respect to the pond and decking.
8. However, Para 146 and Policy GB2A of the Epping Forest District Local Plan and Local Plan Alterations (DP) only support engineering operations within the Green Belt as being not inappropriate where they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
9. The land prior to the installation of the decking, and footpath, was a largely undeveloped field next to a grassed paddock in an open countryside setting. Views of the land, and its natural pond, could be glimpsed through and between the gaps in the hedging fronting the Protected Lane and positively contributed to its natural character. The land therefore had a significant degree of both spatial and visual openness within the Green Belt.
10. The significant bulk of the decking construction would remove the sense of space both around the natural pond and between it and the open character of the Protected Lane. The footpath, albeit not currently present but never the less proposed in the appeal scheme, would deleteriously affect the openness of the largely green parcel of land in providing a long hard surface running diagonally across it. Further, notwithstanding harm to spatial openness, both the decking and footpath would be seen from the Lane from the access and through vegetation and would materially impact upon visual openness.
11. The removal of the artificial turf, and replacement with natural grass, would bring about a small improvement to openness within the Green Belt. However, for the above reasons this would be demonstrably outweighed by the adverse impacts caused by retention of the decking and footpath. Overall, the proposal

would constitute inappropriate development in the Green Belt and would cause significant harm to its openness.

12. Further, Paragraph 134 of the Framework states that one of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The proposal encroaches into countryside, through the urbanising effect of the proposed features, and therefore conflicts with this aim.

Character and appearance

13. The appeal proposal, to retain the decking and footpath, would introduce conspicuous, urbanising and utilitarian features which would undermine the natural, open and verdant character of the rural location. In effect, the development would entail the land taking on the appearance and function of a residential garden. This would be incongruous with the character and appearance of the area, and with the historic natural landscape of the Protected Lane.
14. In seeking to define a residential boundary with the Lane and extend the garden of the house, the extended garden of the residential curtilage would be substantially bigger than those of properties nearby, Blunts Chase and Blunts Farm Cottages. That which would be out of keeping with the prevailing character of development.
15. For the above reasons, the appeal proposal would cause significant harm to the character and appearance of the area.

Other considerations

16. The engineering operations associated with the decking, if as effective as suggested by the appellant, might prevent flooding from the pond across the access road and the Lane in adverse weather. The decking would also provide a clearly-defined flat surface adjacent to the pond as opposed to a more steeply-sloping muddy bank, and provide a clear visual guide as to the water's edge to persons entering site. These are benefits of moderate weight.
17. The proposed pathway would enable people to cross the land away from vehicular traffic associated with the access road. This is a benefit of moderate weight.
18. The appellant has suggested that the pond liner associated with the decking would bring about ecological enhancements and that further measures such as wildlife access ramps and pond planting could be provided by way of conditions. Further, that in removing the artificial turf, wild flower seeds could be sown into the new grassed area. These are benefits of moderate weight.

Planning Balance and Conclusion

19. Paragraph 144 of the Framework indicates that in considering any planning application, substantial weight should be given to any harm to the Green Belt. Accordingly, as I have found harm to the Green Belt I apply substantial weight in respect to it. I have also found that significant harm would be caused to the character and appearance of the area. In totality, the harm is of a magnitude which weighs very heavily against the proposal.
20. Having considered all matters raised in support of the proposal I conclude that, collectively, they do not clearly outweigh the totality of the harm I have

identified. Accordingly, very special circumstances do not exist and the proposal is contrary to the guidance in the Framework, and Policies CP2, GB2A, GB4, GB7, GB7A, HC4, DBE4 and LL10 of the LP of the DP which together seek to protect the Green Belt, its character and appearance and that of Protected Lanes. Accordingly, the appeal is dismissed.

Andrew Walker

INSPECTOR