



Appeal Decision

Site visit made on 24 September 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/J1535/W/19/3232917

Land at Bentons Farm, Middle Street, Bumbles Green, Nazeing EN9 2LN

- 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 R & V Bray against the decision of Epping Forest District Council.
 - The application Ref EPF/0510/19, dated 20 February 2019, was refused by notice dated 2 May 2019
 - The development proposed is described as "The development is proposed as an extension of a recently constructed plot of four residential dwellings on an adjoining site. The limited infill will comprise of 2 four bedroom residential dwellings, utilising the existing access and retaining the character and form of the existing dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council refer to policies within the Epping Forest Local Plan Submission Version 2017 (the LPSV) which was submitted for examination in September 2018 but has yet to be formally adopted. Thus, while it forms a material consideration, I afford it limited weight in this appeal.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the development would conserve or enhance the character or appearance of the Nazeing and South Roydon Conservation Area; and
 - if the proposal is inappropriate development, 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

Inappropriate development

4. The appeal site is a roughly square parcel of land that is currently laid to grass and lies within the Metropolitan Green Belt. The Framework states that inappropriate

development is harmful to the Green Belt and should not be approved except in very special circumstances.

5. Policy GB2A of the Epping Forest District Council Local Plan 1998 (the Local Plan) deals with exceptions where new buildings would not be inappropriate development within the Green Belt. Policy GB7A also seeks to restrict conspicuous development in the Green Belt that should not have an excessive adverse impact on the openness, rural character or visual amenities of the Green Belt.
6. However, in considering the construction of new buildings that are inappropriate development within the Green Belt, exceptions to this are at paragraph 145) of the Framework and includes limited infilling at paragraph 145 e) which is not reflected in Policy GB2A or GB7A of the Local Plan. Thus, these policies are not entirely consistent with the Framework and having regard to paragraph 213 of the Framework, in this particular instance, I afford them limited weight. Policy DM4 of the LPSV aligns more closely with the Framework, but as noted above, I only afford this limited weight. I have therefore considered this issue in relation to Section 13 of the Framework.
7. The appellant leans towards paragraph 145 e) of the Framework which states that limited infilling in villages need not be inappropriate development within the Green Belt. The Framework does not define what is considered to represent 'limited' or 'infilling' in villages' and the Council's policies within the Local Plan are of no assistance either. The Council agree that the site is within a 'village' and satisfies this particular element of paragraph 145 e). Given the location of the site in respect to surrounding development, I have no reason to disagree with that assessment.
8. In considering whether the development could be considered limited infilling or not, I find it a reasonable approach to rely on the definition that it would constitute a small-scale development that fills a gap in an otherwise built-up frontage. This would concur with the definition that the appellant has provided from paragraph 4.34 of the LPSV, which states that infilling is defined as the development of a small gap in an otherwise continuous frontage and includes infilling of small gaps within built development.
9. Firstly, one has to consider whether the development can be considered to be limited. It is clear that the site is not a small gap in that it is capable of accommodating two, four bedroom detached dwellings, separated by some 5m, and a detached double garage building. Additionally, neither can the development of two, four bedroom dwellings be regarded as small-scale. Consequently, the development cannot be considered to be 'limited'. Secondly, notwithstanding that the site to the west contains four recently erected dwellings and to the east the site has planning permission to extend and erect a workshop, the appeal site is not part of a continuous frontage development being set behind Nazeing Telephone Exchange and the commercial workshop building, in contrast to the recent development of four dwellings at Oak Tree Close which are not set behind frontage buildings. Accordingly, the proposal does not constitute limited infilling and thus is inappropriate development within the Green Belt, contrary to Section 13 of the Framework.

Openness

10. Paragraph 133 of the Framework tells us that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that openness is an essential characteristic of the Green Belt. The appeal site is currently undeveloped and the erection of two large dwellings and double garage

on the land, where no development currently exists, would inevitably mean that there would be a reduction to openness. This harm would be clearly visible through the gap between Nazeing Telephone Exchange and the commercial workshop and from the recent development on Oak Tree Close.

11. Thus, the development would erode the openness of the Green Belt and would be contrary to one of its purposes which is to safeguard the countryside from encroachment.

Nazeing and South Roydon Conservation Area (CA)

12. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
13. I find the CA to display an open and loose knit character that is reinforced by the open layout of development along Middle Street and is complemented and softened by the presence of mature landscaping. Although development towards the centre of the village is more closely knit, it nonetheless displays a degree of openness as a result of spacing about and between dwellings that is reinforced by the open character of the surrounding countryside. I find the significance of this part of the CA largely derives from its open landscape and historic pattern of development which goes on to cover the majority of the CA.
14. While I accept that a development within the CA should not be considered unacceptable in principle, it is essential that great weight is given to an assets conservation as stated at paragraph 193 of the Framework. In this instance, although development exists surrounding it, the appeal site nonetheless contributes towards the open landscape that is an important and fundamental character of the CA. The introduction of built development would suburbanise the site, thereby further eroding the open character of the CA. Moreover, the siting of the dwellings behind existing frontage development would result in a discordant form of development that would be out of keeping with the prevailing character of the area, resulting in additional harm to the CA.
15. While I accept that a cul-de-sac development in itself would not be harmful, the suburbanisation of the site would neither preserve or enhance the CA and the significance that is derived from the open landscape. This harm would be clearly visible from surrounding properties, including those that have recently been constructed along Oak Tree Close. Additionally, from the submitted plans although unit five would be sited effectively behind the telephone exchange, the gap between it and the commercial building allows oblique views of the countryside beyond. Therefore, I am not persuaded that the development would not also affect long views of the fields beyond the appeal site, further harming the character of the CA.
16. Given the size of the CA and as the proposed development would only result in harm to part of the significance of the heritage asset, I find it to be less than substantial. Accordingly, the Framework requires at paragraph 196 that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
17. In this case the development would make a contribution to housing provision. However, this would not amount to more than moderate weight as a public benefit.

Nevertheless, given the harm I have identified to the setting of the CA as a designated heritage asset, the benefits do not outweigh the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets. Thus, the proposal would be in conflict with policies HC6 and HC7 of the Local Plan and the Framework which seek, amongst other things, to ensure that developments are sympathetic to the character and appearance of a Conservation Area.

Other Matters

18. I acknowledge that the design of the dwellings is acceptable, following the Essex Design Guide and that suitable materials could be employed. I also note that the Parish Council supported the development and that neighbouring occupiers did not object or make a representation regarding the development. I accept that as a windfall site the development would boost the supply of housing within the District which would support local services and facilities. While these matters are material considerations that weigh in favour of the proposal, I do not consider that either individually or cumulatively they outweigh the harm identified above.
19. The appellant also refers to an appeal decision¹ which allowed a development on Middle Street. Although planning policy has moved on considerably since this decision was made, notwithstanding that the inspector did not find the landscape to be outstanding, it was nonetheless recognised as being pleasantly rural. Moreover, while the inspector did not comment specifically about the effect of the proposal on the CA, the development sought was a double garage and not for two detached dwellings within the Green Belt. Thus, I do not find that this particular decision represents an irresistible precedent to find in favour of a proposal that would cause harm or lead me to alter my findings on the main issues. In any case, I have considered the appeal on its own merits, which is a fundamental principle that underpins the planning system.

Other Considerations

20. Paragraph 144 of the Framework requires decision makers to 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 resulting from the proposal, is clearly outweighed by other considerations.
21. The appellant puts forward a range of benefits that are considered to amount to very special circumstances to justify the development. However, all of the benefits would not only flow from dwellings in this location, they would apply equally to new dwellings within those areas that are identified as appropriate for development or outside of the Green Belt and thus, are not related to this specific site or proposal. Consequently, I only afford the benefits limited weight and they are not considered to be the very special circumstances required to outweigh the substantial weight given to any harm to the Green Belt.
22. Furthermore, having regard to footnote 6 of the Framework, as the development would result in harm to a designated heritage asset and is located within the Green Belt, and I have found that the policies within the Framework provide a clear reason to dismiss the appeal, even if the Council is unable to demonstrate a five year supply of deliverable housing sites and the policies which are the most important for determining the appeal are out-of-date, the 'tilted balance' would not

¹ T/APP/5215/A/80/04145/08 dated 21 August 1980

be engaged and the presumption in favour of sustainable development anticipated in paragraph 11 of the Framework does not apply.

Green Belt Balance

23. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness of the Green Belt resulting from the development. Against this, I attach little weight to the appellant's assertion that the benefits of the proposal amount to the very special circumstances required to justify the development.

Conclusion

24. I therefore conclude that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist. I have also found that the development would fail to preserve or enhance the CA. Thus, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR