



Appeal Decision

Site visit made on 1 October 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st October 2019

Appeal Ref: APP/J1535/W/19/3224279

Former Haulage Yard, Hawes Lane, Waltham Abbey E4 7RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Hugh Morgan of E W Davies Farms Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/2088/18, dated 27 July 2018, was refused by notice dated 1 February 2019.
 - The development proposed is: Outline application with all matters reserved except access for the erection of up to 40 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The applicant name given on the application form differs from the appellant name given on the appeal form. It has been confirmed that the appellant is Mr Hugh Morgan who is a partner of E W Davies Farms Ltd and so I have reflected this in the heading above.
3. The proposal has been made in outline and approval is sought only for access. Appearance, landscaping, layout and scale are reserved for future consideration.
4. Since the application was submitted to the Council the National Planning Policy Framework (the Framework) has been revised. I have taken any comments made on relevant implications for the appeal into account in my reasoning.
5. My attention has been drawn to the Submission Version 2017 of the Epping Forest District Local Plan (the Submission Version Local Plan). This plan is not adopted and examination of it is not yet complete. The extent to which there are unresolved objections to the policies within it that I have been referred to has not been explained. It is possible its policies could be amended or deleted as a result of examination or that the plan is withdrawn or found unsound. As such, I give the policies within it limited weight in this decision.

Main Issues

6. The appeal site is within the Green Belt. The Council has taken the view that the land where the new dwellings are proposed is previously developed and that, subject to the reserve matters (over which the Council would have control), the proposed development would not have a materially greater impact

on the openness of the Green Belt than the existing development. Consequently, the Council considers that the appeal scheme is not inappropriate development in the Green Belt. Considering all of the information before me and in light of paragraph 145 (g) of the Framework, I am satisfied this is a reasonable assessment that I have no reason to disagree with.

7. Therefore, the main issues are:

- whether an appropriate mechanism exists to mitigate (i) the effect of the proposal on local primary school places and (ii) the Epping Forest Special Area for Conservation (SAC) and (iii) to ensure the proposal would make adequate provision for affordable housing,
- whether the proposal is in a suitable location having regard to its accessibility to services and facilities,
- the effect of the proposal on the supply of land for employment, and
- the effect of the proposal on the character and appearance of the area including the locally listed building of Sewardstone Hall.

Reasons

Mechanism for Mitigation and Affordable Housing

8. It is common ground between the main parties that a planning obligation is needed as the mechanism to secure mitigation for the effect of the proposal on (i) local primary school places and (ii) recreational pressure on the Epping Forest SAC and (iii) to ensure adequate provision would be made for affordable housing. I see no reason in this case to disagree with this view and in my judgement a planning obligation to secure these items is necessary and would be compliant with the tests set out in paragraph 56 of the Framework.
9. In respect of the SAC, the Council has confirmed that the proposal would not cause substantial harm as a result of air quality impacts but that residents may seek to use the SAC for recreation given the site is in close proximity to it. A mitigation strategy developed by the Council with Natural England and the Conservators of Epping Forest seeks a financial contribution of £352 per new dwelling to fund mitigation measures.
10. Despite the appellant's willingness in this regard, a draft planning obligation has been provided which is not complete. In particular, it is not signed or dated. As such it cannot be taken into account. Accordingly, on this main issue I conclude no appropriate mechanism exists to secure the above necessary mitigation as well as adequate provision for affordable housing. Accordingly, in respect of the SAC I cannot conclude the proposal would not be likely to have significant effects on the SAC either alone or in combination with other projects and the proposal would be likely to adversely affect the integrity of the SAC as a protected site.
11. In the absence of a completed planning obligation the proposal would not comply with the infrastructure, biodiversity or affordable housing policies of the Framework or Policy NC1 of the Epping Forest District Local Plan 1998 (the Local Plan). This resists development which could harm Special Areas of Conservation. My attention has been drawn to policies of the Submission Version Local Plan in respect of this main issue. As stated above I give them

only limited weight. Nevertheless this does not change my conclusion on this main issue.

Services and Facilities

12. The area around the appeal site has limited day to day services and facilities. The evidence indicates the closest bus stops are served only on Saturdays. An existing pedestrian and cycle route links the appeal site to services and facilities at Island Centre Way, approximately 1km away. These include a small supermarket, gym, doctor surgery and library. Further afield in the same direction is a railway station, approximately 2km away from the appeal site.
13. Access to the above services and facilities requires walking or cycling an unlit path lined with heavy vegetation in a secluded area. In my judgement, this is not an attractive route for unaccompanied children or other vulnerable people, particularly during the hours of darkness or in bad weather. Furthermore, the distance involved is likely to deter many people from walking and cycling.
14. I appreciate an increase demand for services and facilities as a result of new housing development could lead to an increase in provision, but there is no certainty of this. Consequently, the appeal proposal is likely to be reliant on private cars.
15. Compared with the existing development on the site, the evidence indicates the proposal would result in 15 fewer trips across a 12 hour period but a slight increase during the morning and evening peak hours. The appellant regards this effect on the highway network as neutral and not severe in terms of paragraph 109 of the Framework. They also note the existing commercial use has the capability of being extended, indicating existing trips may exceed those expected for the proposal.
16. However, the Framework states that the planning system should actively manage patterns of growth to support walking, cycling and public transport. In my judgement, the location of the proposal would not achieve this and would not reduce reliance on private cars or the need to travel, which are key components of the policies identified by the Council in respect of this main issue.
17. Other schemes have been referred to by the appellant in support of the proposal. However, based on the information provided I cannot be certain the circumstances of these schemes are directly comparable to those of the proposal before me and so I give them limited weight. I conclude on this main issue that the proposal is not in a suitable location having regard to its accessibility to services and facilities.
18. Accordingly, it would not comply with Policies CP1, CP3, CP6 and CP9 of the Local Plan Alterations 2006 (the Local Plan Alterations). Together seek to reduce reliance on the use of the private car, reduce the need to travel, ensure access by sustainable means of transport and generally promote sustainable patterns of development.
19. My attention has been drawn to policies of the Submission Version Local Plan in respect of this main issue. As stated above I give them only limited weight but this does not change my conclusion on this main issue.

Employment Land

20. In respect of this main issue the Council's decision notice refers to Policies E 1 and SP 2 of the Submission Version Local Plan. The Council considers substantial weight should be afforded to emerging Policy E 1 in particular but it has not been explained why. Given the aforementioned uncertainty around policies of this emerging plan, I give them limited weight.
21. The Council's decision notice does not direct me to any adopted development plan policies to support its position on employment land and as such I find no conflict with the development plan in this regard. Paragraph 121 of the Framework states that a positive approach should be taken to proposals for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.
22. In particular, the Framework states that proposals to use employment land for homes in areas of high housing demand should be supported, provided this would not undermine key economic sectors or sites. I appreciate the Council's concern about the loss of employment space. But in light of limited evidence regarding adopted development plan support for the Council's position or detailed evidence explaining how the loss in this particular case would be harmful, I give more weight to the Framework as a material consideration. Based on the information provided, I therefore conclude that the effect of the proposal on the supply of land for employment would not be harmful in this case.

Character and Appearance

23. The area has a mixed character. To the west and north is open grassland, trees and hedges with some sporadic development along Hawes Lane. To the east and south is a mix of residential and commercial development along Sewardstone Road and Mott Street. Side roads branch off of Sewardstone Road including Butlers Drive which is immediately to the south of the appeal site but separated from it by a public footpath. Butlers Drive consists mainly of suburban semi-detached 2 storey dwellings set back from the road with long back gardens.
24. The northern part of the appeal site is open grassland which is free of buildings and surrounded by trees and hedges. The southern part of the appeal site is currently occupied by a mixture of industrial buildings (some of which are large), open storage, hardstanding, car parking areas and 2 dwellings including Sewardstone Hall which is locally listed.
25. The appeal proposal would broadly replace the existing industrial buildings and uses on the southern part of the site with dwellings, leaving the northern part of the site undeveloped. Given the existing industrial character and appearance of the southern part of the site and the intention to contain the proposed dwellings within the previously developed part of the site, I am satisfied the proposal would not result in a significantly urbanising effect.
26. Moreover, based on the information provided, in my judgement the proposal would reflect the character and appearance of Butlers Drive and so would not appear incongruous in its context, particularly when viewed from the public footpath along the southern side of the site. Nor would it be particularly

prominent given the land is flat, surrounded by vegetation and the proposed dwellings would be set significantly back from Sewardstone Road. The evidence indicates the height and volume of buildings proposed would not exceed the existing and so I do not consider the quantum of development proposed to be harmful to the character and appearance of the area either.

27. The existing dwelling at Sewardstone Hall is currently sited close to industrial development on the site which compromises its setting. In my judgement, other residential development within its setting instead of the current industrial context would result in an improvement to its setting, particularly with the hall left to retain a prominent position near the entrance of the site as is proposed. I therefore conclude the proposal would not harm the character or appearance of the area or the setting of the locally listed building of Sewardstone Hall.
28. Accordingly, I find no conflict with Policies CP1, CP2, DBE1, HC13A, LL1 and LL2 of the Local Plan Alterations. Together these seek that development conserves and enhances the character and appearance of the area including locally listed buildings. My attention has been drawn to policies of the Submission Version Local Plan in respect of this main issue. But as stated above I give them only limited weight.

Planning Balance

29. The evidence indicates the Council cannot demonstrate a 5 year housing land supply and so the policies which are most important for determining the application are out-of-date. If I were to accept the housing land supply shortfall suggested by the appellant 40 new homes would make a significant contribution. This number of homes (including affordable homes) is a significant benefit which carry significant weight in my decision.
30. There would also be benefits arising through construction, new customers for the nearest services and facilities, junction improvements at the entrance to the site and a general improvement in the site's appearance. However, even with paragraph 11 (d) of the Framework engaged and the weight I give to the conflict with development plan policies identified above reduced, in my judgement the benefits would not outweigh the harm.
31. Moreover, paragraph 11 (d) of the Framework sets out that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development. In this case, such policies include those relating to SACs and so there is a clear reason to refuse the development in this case.

Conclusion

32. For the reasons given above the appeal is dismissed.

L Perkins

INSPECTOR