
Appeal Decision

Site visit made on 11 February 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 31 March 2020

Appeal Ref: APP/J1535/W/19/3240214

Mays Wish, Foster Street, Hastingwood, Harlow CM17 9HR

- 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 Nishal Gandesha against the decision of Epping Forest District Council.
 - The application Ref: EPF/0997/19, dated 22 March 2019, was refused by notice dated 11 June 2019.
 - The development is the change of use of the agricultural land to a B8 use and erection of a Marquee/Storage Unit for a temporary period of two years. (Retrospective).
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Decision

1. The appeal is dismissed

Procedural Matters

2. On my site visit, I noted that the development had commenced in accordance with the submitted plans. I am therefore considering this appeal retrospectively.
3. The Council amended the description of the development from 'temporary permission for two years for the erection of a marquee' to 'change of use of the agricultural land to a B8 use and erection of a Marquee/Storage Unit for a temporary period of two years. (Retrospective)'. The amended description has also been used by the appellant on the appeal form. I consider that the revised description represents a more succinct summary of the development and have therefore proceeded on this basis.
4. References are made, in the appeal documents, to the Epping Forest District Local Plan Submission Version (2017). Whilst I have had regard to these policies, I have been unable to give them full weight on account that they are not yet adopted parts of the Development Plan.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework);
 - the effect of the development on the character of the area;
 - the effect of the development on the living conditions of the occupiers of the adjoining property, with particular reference to noise and disturbance

- the effect of the development upon the Epping Forest Special Area of Conservation (the SAC), with particular reference to air quality; and
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the development is inappropriate

6. The Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. However, paragraph 145 of the Framework specifies that new buildings should be regarded as inappropriate unless specific exceptions apply.
7. The building is being used for storage and distribution and its construction has resulted in the loss of agricultural land. In consequence, it would not support the undertaking of farming or forestry. The building, as a commercial unit, would not support the undertaking of activities, such as outdoors sport or recreation. Furthermore, the development does not represent the provision of limited affordable housing for local community needs.
8. The development represents a new building on what had been undeveloped, agricultural land. As such the development does not represent either a proportionate extension; an appropriately sized replacement building; or redevelopment.
9. The appeal site is close to a number of buildings in Foster Street. However, the form of development on the appeal site and immediately adjacent properties is for dwellings to be arranged in a linear pattern, with any outbuildings to the rear being of limited heights. Beyond these sites are fields. The appeal development conflicts with this character as it is not located in between comparable forms of development. In consequence, it does not represent a limited infill.
10. Owing to these reasons, the development represents an increase in the built form and, in consequence, has resulted in a significant loss of the openness that is an intrinsic part of the role of the Green Belt.
11. In addition, the development does not pertain to mineral extraction; engineering operations; local transport infrastructure; the re-use of buildings; an appropriate change in the use of the land; or development brought forward under a Community Right to Build Order, or a Neighbourhood Development Order.
12. Therefore, the appeal scheme does not fall within the forms of development set out in paragraphs 145 and 146 of the Framework.
13. Taking all these matters into account, I therefore conclude that the development comprises inappropriate development in the Green Belt as defined by the Framework. The development would also fail to accord with the requirements of Policy GB2A of the Epping Forest Local Plan (1998) (the Local Plan). This policy also seeks to avoid the carrying out of inappropriate development in the Green Belt.

Effect on the character of the area

14. The appeal site consists of a relatively flat site that was, pre-development, utilised for agricultural purposes. The remainder of the site contains buildings associated with the storage and distribution of goods, and a dwelling. The site is relatively level, with a mixture of boundary treatments. Of note is that the boundaries adjacent to the building that is the subject of this appeal comprise wire fences and planting. Development in Foster Street is arranged in a linear form. To the rear and on one side of the appeal site are fields. Beyond these is a road (to the side of the appeal site) and a footpath to the rear.
15. The building is of a significant height and is taller than many others within the vicinity. Furthermore, it has a large footprint and is constructed from materials unrepresented on buildings in the surrounding area. For these reasons, the development appears to be an incongruous addition to the landscape. Owing to the building's projecting beyond the predominantly linear form of development within Foster Street, the development represents an encroachment into the countryside.
16. By reason of the pattern of development in the vicinity, the structure is clearly visible from the road closest to the side boundary and the footpath to the rear, in addition, to a lesser extent from Foster Street itself. This causes concern as the topography of the appeal site and the surrounding area is relatively flat meaning that views of the development exist from a number of vantage points. Furthermore, the presence of hedges and trees occurs on an intermittent basis. This means that the development is not screened. In consequence, the rural, physically open character of the vicinity has been compromised.
17. I therefore conclude that the development has an adverse effect on the character and appearance of the surrounding area. The development also impacts on the Green Belt purpose of safeguarding the countryside from encroachment. The development, in this regard, would not comply with the requirements of Policy GB7A of the Local Plan. This policy, amongst other matters, seeks to ensure that new developments are not conspicuous and do not have an adverse effect on the character of the Green Belt.

Living conditions

18. The development is to the rear of a dwelling and is sited on an irregular shaped plot. In consequence, the site narrows to the side of the dwelling with the space in between the dwelling and the side boundary serving as access to the development.
19. By reason of this arrangement, vehicles associated with the development would need to manoeuvre in proximity to the neighbouring dwelling (called Amber Cottage) and its garden. In consequence, this increases the level of noise and disturbance which prevents the occupiers of the adjoining property from experiencing satisfactory living conditions on account of the noise and disturbance that has been generated.
20. I acknowledge that within the wider appeal site, there are additional buildings that are also in use for storage and distribution purposes. I also note that parts of the appellant's property have been used for commercial activities for a notable period of time. However, the development before me would allow for the site to be used on a more intensive basis. This increases the potential for a

larger number of vehicle movements on the site, which might be of a larger, commercial type. In consequence, there is a greater risk of excessive noise and disturbance.

21. The situation is exacerbated by the narrow width of the entrance adjacent to the dwelling. This means that vehicles have to pass close to the boundary with the adjacent residential property and therefore there is insufficient distance for the additional noise to be screened or diffused.
22. Whilst the site's permitted use appears to be related to agriculture, the likelihood exists for commercial vehicles to arrive at the site, be loaded and unloaded and depart at regular intervals. In addition, staff would be expected to attend the appeal development. In consequence, the original use of the site is unlikely to have the same harmful impacts as the permitted use.
23. I therefore conclude that the development adversely effects the living conditions of the occupiers of the adjoining property. The development, in this regard, would fail to comply with the requirements of Policy DB2 of the Local Plan. This policy, amongst other matters, seeks to ensure that planning permission is not granted for new buildings that have an adverse effect on living conditions.

Epping Forest Special Area of Conservation

24. The site is near to the Epping Forest Special Area of Conservation (SAC). The significance of this is, in part, derived from the presence of ancient woodland and pasture, heathland, grassland (including unimproved acidic grasslands), and scattered woodland. In consequence, it is an environment of great importance and sensitivity.
25. Whilst the evidence before me is indicative that the development would not result in an increase in the level of recreation that takes place within the SAC, the appeal scheme would result in more vehicle movements. Owing to the location of the development, there is a likelihood that this change would result in more vehicles travelling through the SAC.
26. As it is likely that this increase in vehicle movements would result in an ongoing detrimental impact to the air quality of the SAC, the development would impinge upon its special environmental significance. Therefore, such an adverse impact would not be desirable.
27. The Council has identified the need for increased air quality monitoring within the SAC, which would enable it to develop a SAC air quality mitigation strategy. Such a strategy would ensure that the current appeal scheme does not lead to an adverse effect upon the significance of the SAC.
28. Whilst this might prove to be effective, I am unable to conclude that the impacts of the development would be mitigated as I have no form of a legal agreement before me by which such a financial contribution could be secured. In consequence, the development would lead to an increase in the level of road traffic within the SAC, which would lead to a deterioration in air quality.
29. In reaching this view, I have had regard as to whether a condition could be imposed in order to overcome this point. However, given that the obligation would require a financial contribution as previously mentioned, a condition

would not meet the statutory tests for the imposition of planning conditions. In consequence, a planning condition would not overcome my previous concerns.

30. I therefore conclude that the development has an adverse effect on the SAC, and particularly its air quality. The development, in this regard, would fail to comply with the requirements of Policies CP1 and CP6 of the Local Plan. These policies, amongst other matters, seek to avoid or minimise the effects of development on the environment and concentrate new economic development in urban areas.

Other Matter

31. I acknowledge that the local Parish Council and the occupiers of some properties (although not the occupiers of Amber Cottage), did not raise any objections to the development. Whilst this is a matter of note, it is only one of the matters that must be considered. It therefore does not outweigh the harm identified in respect of the Main Issues.

Conclusions

32. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition to the adverse impacts on openness, the Green Belt's purpose of safeguarding the countryside from encroachment has been eroded by the development. Substantial weight should be given to this harm. Very special circumstances will not exist unless the harm to the Green Belt and the other identified harm are clearly outweighed by other considerations.
33. I have given moderate weight to the fact that it is intended that the development would be installed for a fixed period of time and that the building could be removed in a relatively straight forward manner. However, in the intervening period the effects are so significant that the development has an adverse effect on the character and appearance of the countryside, the Green Belt, living conditions of the occupiers of neighbouring properties, and the SAC. Accordingly, this point is outweighed.
34. I also acknowledge the development would support economic activity and would enable the appellant to grow their business, however, the evidence before me is not indicative of such impacts being notably large. In consequence, I can only attribute minimal weight to them. Therefore, the substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations to demonstrate the presence of very special circumstances.
35. In conclusion, and for the preceding reasons, the appeal should be dismissed.

Benjamin Clarke

INSPECTOR