



Appeal Decision

Site visit made on 26 May 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2020

Appeal Ref: APP/J1535/W/19/3240143

Providence Nursery, Avey Lane, Waltham Abbey EN9 3QH

- 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 Select Sweeper Hire Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/2453/18, dated 7 September 2018, was refused by notice dated 14 May 2019.
 - The development proposed is described as the “retention of a commercial building (warehouse)”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has been the subject of previous appeal decisions¹ (the previous appeals) which I have had regard to in my consideration of the development before me.
3. The Council has referred to Policies DM2, DM4 and DM22 of the Epping Forest District Council Local Plan Submission Version, 2017 (LPSV) in their reason for refusal. I note that the LPSV is yet to be adopted, and in their evidence, the Council advise that there are unresolved objections to the plan. It is therefore subject to change and while I have not been made aware of the specific nature of the unresolved objections, this limits the weight that I afford to these policies.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt 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 and the character and appearance of the area;
 - if the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other

¹ APP/J1535/C/16/3162076, 3162081, 3162083 and 3162098 dated 5 January 2018

considerations. If so, would this amount to the very special circumstances required to justify the proposal; and

- the effect of the development on Epping Forest Special Area of Conservation.

Reasons

Whether Inappropriate Development

5. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. In addition, inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 145 and 146 of the Framework state that the construction of new buildings and other forms of development are inappropriate development in the Green Belt, save for those circumstances as listed therein.
6. Policy GB2A of the Epping District Local Plan and Alterations 1998 and 2006 (the Local Plan) states that planning permission will not be granted for the use of land or the construction of new buildings or the change of use or extension of existing buildings in the Green Belt unless it is appropriate. This is consistent with the Framework which takes a similar aim in resisting inappropriate development within the Green Belt.
7. The appellant refers to the site being a "*limited and proportionate in-fill of land which may have been long term previously developed*" and thus, should be considered as an exception under paragraph 145 g) of the Framework which states that limited infilling or the partial or complete redevelopment of previously developed land need not be inappropriate development within the Green Belt, provided it complies with the exceptions listed therein.
8. Annex 2 of the Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land. However, the definition specifically excludes, "*land that is or was last occupied by agriculture or forestry buildings*". The lawful use of the site was confirmed at the previous appeals to be horticulture, which falls within the definition of agriculture. I have not been provided with any substantive evidence that the lawful use of the site has since changed following the previous appeal decisions and I must therefore conclude that the site cannot be considered to represent previously developed land.
9. The appellant also refers to the development as a replacement building of a similar size to the former glass houses that were situated on the site. Therefore, under paragraph 145 d) of the Framework the replacement of a building is accepted provided the new building is in the same use and not materially larger than the one it replaces. However, in this case, the building currently on the site is not being used for horticulture and thus is not in the same use as the building it seeks to replace. Therefore, it would not fall within any of the developments permitted under paragraphs 145 and 146 of the Framework and is therefore inappropriate development in the Green Belt.
10. Thus, I therefore conclude the development constitutes inappropriate development within the Green Belt. It is in conflict with policy GB2A of the Local Plan and paragraphs 145 and 146 of the Framework.

Openness and Character and Appearance

11. The appeal site forms a parcel of land that contains a single storey building on its eastern boundary. The site also contained a number of metal shipping containers, a caravan and other vehicles which were spread across the site. The totality of the site is clearly evident through the entrance and one can see the spread of containers and vehicles across the site.
12. While there is no definition of openness in the Framework, in the Green Belt context, it is generally held to refer to the freedom of, or absence of development. The fundamental aim of the Green Belt is to keep land permanently open. The commercial building is approximately 6.3m high with a footprint of some 226 sq. m. It is a sizeable building that is clearly visible from the entrance into the site. The building and its associated hardstanding, where vehicles and other equipment have been stored, has changed the appearance of the site. Consequently, notwithstanding the presence of buildings on adjoining sites, the commercial building has resulted in a reduction in openness to the Green Belt, to which I afford significant weight.
13. With regard to character and appearance, although the building is positioned close to existing trees, it is nonetheless conspicuous within the landscape. It is a sizeable utilitarian building that fails to improve, maintain or conserve the quality of the environment or respect the wider landscape setting of the site.
14. The building is in conflict with Policies GB7, CP2 and DBE4 of the Local Plan which seek, amongst other things, to ensure that developments enhance the character of an area and do not have an adverse impact on the openness, rural character or visual amenities of the Green Belt.

Other Considerations

15. The appellant refers to the Council's allocation of the appeal site as a designated employment area and is identified as site WAL.E7 – Providence Nursery, Avey Lane within the LPSV. However, the Council has clarified that this designation has been reviewed and the site is no longer considered suitable for an employment use.
16. The appellant also alludes to the continuing use of the building and its contribution to the economic viability of the area. However, the economic benefits relied upon would not only flow from a commercial building in this particular location, it would apply equally to a new building outside of the Green Belt and thus, is not related to this specific site or development. Consequently, the suggested benefits do not outweigh the harm to the aims of adopted policy which seek to restrict development within the Green Belt and conflicts with the aims of sustainable development in the Framework.

Epping Forest Special Area of Conservation

17. Epping Forest is a Special Area of Conservation (SAC) and a European site of nature conservation importance. It is established that any development, without avoidance measures, would be likely to have a significant effect on the SAC within the meaning of the Conservation of Habitats and Species Regulations 2010. This effect principally derives from identified atmospheric pollution and recreational pressures on the SAC. In this instance, it would be

the air pollution caused by the increase in traffic generated by the development that is likely to have an effect on the integrity of the SAC.

18. However, as the appeal is being dismissed on another substantive issue, it is not necessary to look at this matter in detail and had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and the requirement for any payments to off-set the impact of the development on the SAC.

Green Belt Balance and Conclusion

19. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the proposal and to the loss of openness of the Green Belt and harm to the character and appearance of the area resulting from the development. Against this, although I acknowledge that the appellant is seeking to contribute to the economic viability of the area, I do not find the circumstance's identified to be very special in order to outweigh the harm to the Green Belt.
20. 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. Thus, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR