
Appeal Decision

Site visit made on 30 June 2020

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2020

Appeal Ref: APP/J1535/W/20/3245000

The Barn, 5 Chambers Manor Mews, Epping Upland, Epping CM16 6NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Barber against Epping Forest District Council.
 - The application Ref EPF/1629/19, is dated 27 June 2019.
 - The development proposed is described as new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development plan consists of the Epping Forest District Local Plan (1998) (the Local Plan) and the Local Plan Alteration (2006) (the Alterations). It is on these adopted policies, and the National Planning Policy Framework (the Framework) that I have based my decision. The Epping Forest District Local Plan Submission Version 2017 has been submitted for examination but remains unadopted. I therefore afford the emerging policies limited weight unless these are consistent with the Framework. Where I have found there is consistency between the Framework and the emerging policies, I have afforded them significant weight.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt and its effect on the openness of the Green Belt; and
 - Whether any 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

Inappropriate development and openness

4. The appeal site is located in a rural and sparsely developed area, along a small road called Chambers Manor Lane, off Manor Road, in an area identified as Metropolitan Green Belt according to the Local Plan and the Alterations. The site, at present forms part of the garden and is within the curtilage of The Barn, 5 Chambers Manor Mews.

5. The fundamental aim of the Green Belt policy, as stated within the Framework, is to prevent urban sprawl by keeping land permanently open. The Framework also states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. The appellant maintains that the site falls within paragraph 117 of the Framework on the basis that it is previously developed land and refers to a 1970s OS plan submitted as part of the Design and Access Statement. The appellant also mentions paragraph 137 of the Framework. Although paragraph 137 does mention the role of previously developed land in the Green Belt, it is in relation to changes to Green Belt boundaries rather than the determination of planning applications.
7. The Framework states that the construction of a new building in the Green Belt should be regarded as inappropriate, subject to a number of exceptions set out in paragraph 145 of the Framework. Paragraph 146 identifies further forms of development that are not inappropriate.
8. The appellant has not expressly indicated whether he considers that the proposed development would not be inappropriate, in the terms of the Framework, or expressly cited any of the exceptions contained within paragraphs 145 and 146 of the Framework. Reference is made to the proposal potentially representing infill development, albeit in relation to the Local Plan rather than the Framework.
9. Nevertheless, if one were to consider the proposed development as infill and it were in a village location, then a case could be made for it to be an exception and therefore not inappropriate development in the Green Belt under paragraph 145 e).
10. In addition, if the development were not to have a greater impact on the openness of the Green Belt than the existing development or not cause substantial harm to it while re-using previously developed land and contributing to meeting an identified affordable housing need within the area, then the appeal might also be considered to be not inappropriate development under paragraph 145 g). However, based on the evidence before me, I have no reason to believe that the development proposal would contribute to meet the identified affordable housing needs of the area. Consequently, it would not meet the exception criteria set in paragraph 145 g) of the Framework.
11. I note that the Framework does not provide a definition of what constitutes being in a village for the purposes of applying paragraph 145. In reaching a conclusion on this issue, I have considered the boundaries of urban areas and of any nearby settlements, as well as the boundaries of the Metropolitan Green Belt as set in the Local Plan and the Alterations. As the case of *Wood*¹ confirms, a village boundary defined in a Local Plan is a relevant consideration, but not necessarily determinative, particularly if it does not accord with an assessment of the extent of the village on the ground.
12. The appeal site is located at quite some distance from any urban centre or edge of any village within the District. The closest settlement appears to be Epping Green and this is at quite some distance from the appeal site. The area immediately surrounding the appeal site is characterised by open green

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

- agricultural fields and therefore not within a village or within the limits, or in proximity to, any recognisable conurbation.
13. Consequently, the present proposal does not meet the exception criteria set in paragraph 145 e) and therefore cannot be considered as limited infilling in villages.
 14. An essential characteristic of the Green Belt, as set out in paragraph 133 of the Framework, is its openness and permanence. The concept of openness has both a spatial and visual dimension. In a spatial sense, any building on land that was previously free of development will have some impact on the openness of the Green Belt. As the proposal is for a new dwelling, this would be the case with the appeal.
 15. Furthermore, from a visual perspective, the proposed new development would result in a substantial increase in the amount of built form on the site. Although it would be no higher than the adjoining buildings and would be accommodated within the site without disturbing the existing trees and hedge cover, as the present buildings are visible from the highway, it is my view that so would the proposed development.
 16. In conclusion, the proposal would reduce the openness of the Green Belt. It would also be a form of inappropriate development which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, in this regard, the proposal would be in conflict with Policies CP2, GB2A, DBE1 and DBE4 of the Local Plan and the Alterations, which together seeks to achieve sustainable forms of development, protected the green belt and the quality of the rural and built environment and ensure that new buildings respect their setting, and the Framework.

Other considerations and whether very special circumstances exist

17. The Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt, by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.
18. I have found that the appeal scheme would amount to inappropriate development and the Framework requires that substantial weight is given to such harm. It would also reduce openness in the Green Belt.
19. The benefits of the proposed development primarily relate to its contribution to the housing supply, those associated with the construction process and the spending potential of future occupants. Nonetheless, given that the Framework indicates that substantial weight should be given to the identified Green Belt harm, in terms of it being inappropriate development and its effect on openness, any benefits would be comfortably outweighed by that harm, particularly bearing in mind the modest scale of the development proposed.
20. In conclusion, for the reasons set above, the very special circumstances necessary to justify the development are not present.

Other Matters

21. The appeal site falls within the 'Zone of Influence' of the Epping Forest Special Area of Conservation. It is my duty, as the competent authority, to consider whether the proposed development would constitute a likely significant effect on the sensitive interest features of the designated site or sites as set out within Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017.
22. It is anticipated that, without mitigation, new residential developments in this area and of this scale could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.
23. Therefore, by virtue of its protected status, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (CHSR) would be required were I minded to allow the appeal. Nevertheless, as the appeal is to be dismissed for other reasons, no further consideration is required on this matter as there is no prospect of planning permission being granted.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

Andre Pinto

INSPECTOR