The Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2020

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2020

Appeal Ref: APP/J1535/W/20/3250040
Summer House, Hamlet Hill, Roydon, Harlow, Essex CM19 5LA

- 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 Mark Wheeler (Buildrow Property Services Ltd) against the decision of Epping Forest District Council.
- The application Ref EPF/1524/19, dated 13 June 2019, was refused by notice dated 12 February 2020.
- The development proposed is erection of two chalet bungalow dwellings with associated parking, amenity spaces and in curtilage refuse and cycle store.

Decision

1. The appeal is dismissed

Main Issues

2. The main issues are:

   - whether the proposal would be inappropriate development in the Green Belt having regard to development plan policy and the National Planning Policy Framework (the Framework)
   - the effect on the openness of the Green Belt and the character and appearance of the area
   - the effect on the Epping Forest Special Area of Conservation
   - if the proposal were inappropriate development in the Green Belt, whether the harm for this reason, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. The proposal relates to part of the back garden of Summer House, a detached dwelling set back from the main road running through Hamlet Hill. This property has a large area laid to grass at the rear, which also extends laterally behind the intervening side garden to Havana, the next-door dwelling. As its name suggests, Hamlet Hill is a small settlement and falls within the Metropolitan Green Belt.

4. The proposal would involve the removal of an outbuilding and the erection of two dwellings within the part of the garden adjacent to Summer House that rises up to the side of Havana. The homes would be sited quite close up to the rear of the Havana side garden and would not have a direct frontage onto Hamlet Hill. The building line of the dwellings at the back would match, extending slightly beyond that of Summer House, and line up with the rear boundary of Havana. The remaining grassed area beyond would then be sub-divided between Summer House and the two new dwellings, providing each a back garden. The new dwellings would be served by a drive running from the existing access serving the host property.

5. The development plan currently comprises the Epping Forest District Council Local Plan adopted in 1998 with alterations made in 2006 (LP). Some weight is given to the emerging Epping Forest District Local Plan (Submitted Version) 2017 (eLP). The Framework is an important material planning consideration, which sets out the great importance Government attaches to Green Belts. This states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence.

6. Paragraph 145 advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, other than in specific exceptions including, at e), limited infilling in villages. The Framework does not define infilling, but it is commonly understood to comprise the development of a small gap in an otherwise continuously built up frontage.

7. This side of Hamlet Hill is sporadically developed, with large open gaps along the frontage. The appeal site is at the rear of the side garden to Havana, which abuts the road, and so the two dwellings would not be part of any frontage along the street. I might agree that Hamlet Hill was a small village and the two dwellings comprised a limited amount of development. However, the site would not comprise infilling as commonly understood due to the absence of a continuously built up frontage in this location. Therefore, the proposal fails to comprise the limited infilling in villages, as specified in paragraph 145 e) of the Framework, which might otherwise exempt the scheme for being considered as inappropriate development within the Green Belt. For the same reason, the proposal conflicts with eLP Policy DM4. Whilst this has yet to gain adopted status, it is consistent with the Framework and I give this moderate weight.

The effect on the openness of the Green Belt

8. Framework paragraph 145 g) also deems as not inappropriate in Green Belt the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). This is provided it would not have a greater impact on the openness of the Green Belt than the existing development.

9. The Framework defines previously developed land as that which is or was occupied by a permanent structure, including the curtilage of the developed land. This definition excludes land in built-up areas such as residential gardens. Therefore, given the sporadic nature of development along this side of Hamlet Hill, should the appeal site be considered not in a built-up area, as curtilage to Summer House the site might meet the definition of previously developed land. On the basis of paragraph 145 g), this expressly requires an assessment of the impact on the openness of the Green Belt compared to the existing

development. This would be an assessment I would need to undertake in any case, given the general objective of the Framework to keep the Green Belt permanently open.

10. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. A consideration of openness in the Green Belt has a spatial as well as a visual aspect. The proposed two dwellings, and the domestic paraphernalia normally associated with their gardens, would be in place of mainly open, undeveloped land that is laid to grass. Accounting for the removal of the outbuilding, the occupation of this site with two dwellings would result in a significant net loss to the current degree of Green Belt openness in a spatial sense. The proposal would thus not benefit from the exemption in Framework paragraph 145 g) over development deemed to be inappropriate in the Green Belt.

11. The site, set back from the road behind some vegetation, would be partly screened from views along Hamlet Hill. Backing onto a large expanse of farmland, any public views would likely be from a distance, where the two dwellings would be viewed against the backdrop of the existing houses and trees. The loss to the visual openness of the Green Belt in this location might be less pronounced than that found in a purely spatial sense, but this would still be evident. The proposal would cause appreciable harm in respect of reducing the openness of the Green Belt, contrary to one of the main purposes of national and local Green Belt policy.

12. The scheme would be of a rather uncharacteristic form, in being back land development along the rear boundary to the side garden of Havana. There would be some limited harm to the semi-rural character and appearance of this area from this scheme consolidating the rather sporadic development along this section of Hamlet Hill, although there would be limited impact on the actual street scene. The main harm is through the development occupying vacant land and thus reducing the openness of the Green Belt in this location. As such I find the proposal contrary to LP Policy GB7A, eLP Policy DM4 and the Framework.

The effect on the Epping Forest Special Area of Conservation

13. There is currently an impasse in progressing small scale proposals such as this where, in combination with other developments, they are likely to have a significant effect upon the Epping Forest European protected site, due to reduced air quality. However, I do not intend to grapple with this issue because, should there have been an agreed way forward in enabling this scheme to mitigate for air quality impacts so as to satisfy the EU Habitats Directive, this would not have altered the Green Belt harm already identified, which comprises the determinative matter in this appeal.

Whether Green Belt or other harm would be clearly outweighed by other considerations so as to amount to very special circumstances

14. The appellant refers to other Green Belt sites in the vicinity of Hamlet Hill where the Council has allowed housing. The Paradise Farm[1] example seems to relate to a previously developed site that originally had involved more buildings

[1] Council reference EPF/3222/18 – three dwellings approved in November 2019

and hard standing. The Yard Hill Farmhouse site[2] has some similarities with this proposal but is at the end of Hamlet Hill where development is somewhat more consolidated. Nearby, the dwelling allowed at Raven Brook, Broadley Common[3] seems more like an obvious rounding off of a stretch of quite closely arranged road frontage development, not comparable to this proposal. The two dwellings permitted at The Brambles[4], also Broadley Common, form part of a more consolidated area of development, near to the road. None of the precedents cited has such a close degree of similarity as might justify the amount of Green Belt harm found from this proposal. Collectively these examples add little weight in favour of this appeal.

15. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 requires I give substantial weight to the Green Belt harm found, which derives from both the inappropriateness of this proposal and its diminution of openness. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Conclusion

16. My decision is based on the merits of this proposal and so the appellant's concerns over how the matter was dealt with by the Council prior to the appeal can have little bearing. I find that the other considerations in this case do not clearly outweigh the Green Belt harm identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would conflict with the Framework and be contrary to LP policies CP2, GB2A, GB7A and eLP Policy DM4, insofar as these relate to development within the Green Belt. Having taken all further matters raised into account, I therefore conclude that the appeal should be dismissed.

Jonathan Price

Inspector

[2] EPF/1237/19) – two dwellings approved in December 2019
[3] Council reference EPF/2629/15 detached chalet bungalow adjacent to Raven Brook, Broadley Common.
[4] Council reference EPF/2483/17 two dwellings on land adjacent to The Brambles, Broadley Common.