



Appeal Decision

Site visit made on 20 October 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2020

Appeal Ref: APP/J1535/W/20/3255293

44A Coopers Close, Chigwell IG7 6EU

- 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 Moe Ahmad against the decision of Epping Forest District Council.
 - The application Ref EPF/0312/20, dated 10 February 2020, was refused by notice dated 21 April 2020.
 - The development proposed is described as a "ground floor extension to 44a. New 3-bedroom dwelling (44b)".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Epping Forest District Council Local Plan Submission Version 2017 (the LPSV) is currently under examination. However, as the LPSV has reached an advanced stage and information has been provided as part of the appeal on the examining Inspector's advice regarding the main modifications to the plan, I have attached moderate weight to its emerging policies.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the Epping Forest Special Area of Conservation; 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 very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

4. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Furthermore, the

essential characteristics of Green Belts is their openness and permanence. The construction of new buildings should be regarded as inappropriate in the Green Belt, other than in a limited range of specified exceptions, as set out in Paragraphs 145 and 146 of the Framework. Of relevance to the appeal proposal is the exception set out in Paragraph 145(e) of the Framework, for limited infilling in villages.

5. Policy GB2A of the Epping Forest District Local Plan 1998 with Alterations 2006 (the Local Plan) predates and is inconsistent with the Framework in that it does not include the limited infilling exception test. Therefore, it carries limited weight in that regard and I have applied the exception tests set out in the Framework.
6. The Framework does not provide a definition of what constitutes an infill development. However, paragraph 4.34 of the LPSV states that, for the purposes of Policy DM4, infilling means the development of a small gap in an otherwise continuous built-up frontage, or the small-scale redevelopment of existing properties within such a frontage. The definition shall also include infilling of small gaps within built development and that limited infilling should be appropriate to the scale of the locality and not have an adverse impact on the character of the countryside or the local environment.
7. The Council argue that the development does not represent limited infilling as the appeal site lies beyond the settlement boundary of Chigwell Row as defined within Inset Map 12¹. In addition, the site represents an important function by preventing the expansion of development into the countryside and thus, urban sprawl. The appellant argues that as Policy DM4 of the LPSV refers to infilling within smaller settlements and that paragraph 4.34 clarifies that limited infilling means the development of a small gap in an otherwise continuous frontage and includes the infilling of small gaps within built development, the proposal would constitute the partial infilling of a small gap.
8. The appeal site forms a parcel of hardstanding and an area of unmanaged grass that lies to the north and east of No. 44A Coopers Close. The dwelling at No. 44A is an end of terrace property with the appeal site abutting the open countryside that also extends to the north and east. The arrangement of dwellings at Coopers Close results in an 'L' shaped layout at the appeal site. Therefore, the property at No. 46 is sited perpendicular to No. 44A with the front elevation of No.44A facing onto the side elevation of No. 46.
9. The proposal seeks to erect a dwelling onto the end of the terrace and adjoining No. 44A. The appellant argues that as a result of the positioning of the site between No. 46 and No. 44A, the proposal would represent the partial infilling between the two areas of built development. However, I am not persuaded that the development would infill the gap between No. 44A and No. 46 as it would simply result in lengthening the terrace of dwellings to the northeast and towards the open countryside beyond, retaining the gap between the two areas of built development.
10. In addition, I do not agree that the development would form a logical completion of Coopers Close, as a gap at the end of the terrace of dwellings does not exist given that it adjoins the open countryside beyond and not an area of built development. Consequently, the existing arrangement between

¹ Epping Forest District Council Local Plan 1998 Sheet E – Chigwell Row Inset Map 12

the appeal site and No. 46 would remain unchanged with the front elevation of the proposed dwelling facing onto the side of No. 46 and the gap between the sites remaining post development. Thus, given the 'L' shaped arrangement of the dwellings at this particular location, the proposal would not infill a small gap within built development. Therefore, I do not consider the proposal to represent limited infilling within the terms as set out within the supporting text to Policy DM4 of the LPSV.

11. Thus, the proposal would not be considered to represent 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 Policy DM4 of the LPSV. Whilst this has yet to gain adopted status, it is consistent with the Framework and I give this moderate weight.

Openness

12. The concept of openness is not just related to visual appearance or the extent to which development can be seen but is an intrinsic quality, which along with its permanence, is an essential characteristic of the Green Belt. While there is no definition of openness in the Framework, in the Green Belt context, it is generally held to refer to the freedom or absence of development. The fundamental aim of the Green Belt is to keep land permanently open.
13. The construction of the dwelling would result in built development where there is not presently any buildings, save for an outbuilding to the rear of the site. The development of a new building and its associated paraphernalia would inevitably lead to the loss of openness. Therefore, although the development would be seen against the backdrop of other dwellings on Coopers Close, the development of the site with a dwelling would nonetheless reduce the openness of the Green Belt. Thus, it would be in conflict with Policy GB7A of the Local Plan.

Epping Forest Special Area of Conservation

14. The Council confirms that there is currently no way forward on securing appropriate mitigation from 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.
15. However, given my findings on the substantive matter before me, I do not intend to consider this particular issue further 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 I have already identified.

Other Considerations

16. The appellant states that the proposal would represent sustainable development with good access to services and facilities. The proposal would also make a modest contribution towards the Council's housing land supply position. Whilst I acknowledge these benefits, they would apply equally to new dwellings within those areas that are identified as appropriate for development and thus, are not related to this specific site or proposal. Consequently, I do

not find the appellant's argument to amount to the very special circumstances required to clearly outweigh the harm to the Green Belt.

Other Matters

17. Pursuant to footnote 6 of the Framework, this includes land designated as Green Belt. Given my findings in regard to the harm to the Green Belt, the Framework therefore provides a clear reason for refusing the proposal, and the presumption in favour of sustainable development does not apply.

I acknowledge that the appellant received positive pre-application advice for a development at the site. However, this does not alter my assessment of the main issues.

Green Belt Balance and Conclusion

18. 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 resulting from the development. Against this, I do not find the appellant's arguments regarding the sustainability of the appeal and the modest contribution towards the Council's housing land supply to amount to the very special circumstances required to outweigh the harm to the Green Belt.
19. The proposal therefore fails to comply with Paragraphs 143 and 144 of the Framework. It fails to comply with the relevant parts of Policy GB7A of the Local Plan which seeks to resist development that would not preserve the openness of the Green Belt and that would be conspicuous from within or beyond the Green Belt. It also fails to comply with emerging Policies DM4 and SP6 of the LPSV which seek, amongst other things, to reflect the Framework in relation to inappropriate development and to protect the openness of 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