



Appeal Decision

Site visit made on 5 January 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2021

Appeal Ref: APP/J1535/W/20/3260513

Land adj. St Aubyns, Daws Hill, Waltham Abbey E4 7RD

- 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 Mrs Elizabeth Taylor against the decision of Epping Forest District Council.
 - The application Ref EPF/1684/19, dated 5 July 2019, was refused by notice dated 29 April 2020.
 - The development proposed is the demolition of an existing outbuilding and the construction of a one-bedroom bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Epping Forest District Local Plan Submission Version 2017 (the emerging LP) is currently under examination. As a whole, the emerging LP, including Policies DM2 and DM22, is likely to be the subject of further modifications and it carries limited weight. However, the parts of emerging Policies DM4 and DM9 which are relevant to the appeal are consistent with the National Planning Policy Framework (the Framework) and the examining Inspector has written to the Council to confirm that Policy DM9 and the relevant parts of Policy DM4 do not require further modification. I therefore place moderate weight on emerging Policies DM4 and DM9, as they apply to the appeal proposal.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area; and
 - if the proposal is inappropriate development, 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 it.

Reasons

4. The site is a piece of fairly open scrub land, albeit with a number of trees across the site, some of which are fairly tall, and some of which are the subject of Tree Preservation Orders (TPOs). The area of the site nearest the access road is particularly densely vegetated. There is one building on the site, a one-storey, brick, former garage in a dilapidated state. The site is accessed from a private road, behind a gate, which serves both the site and the nursery.
5. The site is bordered by a detached dwelling and garden, land associated with a farm, and a commercial nursery including a large greenhouse. The wider area is characterised by a diverse range of farm, nursery, commercial, and residential buildings, with no coherent layout or architectural style. There is a mixture of developed land and open land and the area has a mixed suburban and rural character.

Inappropriate development

6. The site is in the Green Belt. It is proposed to demolish the existing building and to fell five trees, and to erect a 1-storey, 1-bedroom bungalow. The construction of new buildings should be regarded as inappropriate in the Green Belt other than in respect to a limited range of specified exceptions, as set out in Paragraphs 145 and 146 of the Framework.
7. One exception, at part (d), is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The garage is likely to have most recently been associated with the adjacent existing dwelling and is therefore in residential use class. However, the proposed dwelling would have a significantly greater footprint, volume, and height than the garage it would replace. The proposed building would therefore be materially larger than the building it replaces. There are no other buildings on the site and no other structures, at least not that rise above ground level.
8. It is agreed between the main parties that the site constitutes previously developed land. A further exception, at part (g), is the redevelopment of previously developed land, even if redundant, which would not have a greater impact on the openness of the Green Belt than the existing development. The greater volume, height, and footprint of the proposed building in comparison to the garage to be demolished would harm the spatial openness of the Green Belt. The site is not readily visible from the street, but the proposed building would be visible in glimpsed views, as well as from several neighbouring properties. The proposed landscaping would not fully screen views of the proposed building. It would therefore also harm the visual openness of the Green Belt. In addition, the provision of car parking and other residential paraphernalia into an open site would further harm openness. I assess the overall harm to openness to be moderate.
9. Accordingly, the proposal would be inappropriate development in the Green Belt in the terms of the Framework, and as reflected in Policies GB2A and GB7A of the Epping Forrest District Local Plan Alterations, adopted July 2006 (the LP) and emerging Policy DM4 of the emerging LP.

Character and appearance

10. The site comprises overgrown scrub and a dilapidated garage. The surroundings are mixed in character, architectural style, layout, and use. The

overall character is difficult to discern, other than the lack of consistency, and that although there is a large amount of development in the area, this is often interspersed with areas of open land.

11. The proposed dwelling would form a relatively small part of the overall site, maintaining the partially open character of the site and surroundings. The siting of the proposed building in a similar location to the existing garage, set back from the lane, is acceptable as there is no strong pattern to the siting of buildings in the area. The proposed architectural approach is for a clean design, with a degree of articulation to add visual interest, which is an acceptable design approach in the context of the mixed surrounding architecture.
12. Of the five trees proposed to be felled, the submitted Arboricultural Report confirms four are in poor physical condition. The fifth is in better health but is a relatively small tree. The loss of these trees would noticeably reduce the level of vegetation on the site and this would harm the appearance of the site, including from long distance views given the height of some of the trees to be lost. However, the trees are in poor physical condition, and if the proposal were otherwise acceptable then a suitable replacement planting strategy could be agreed by condition. Given the amount of garden land proposed, this could include significant planting in mitigation.
13. Consequently, subject to appropriate replacement planting, the proposal would not harm the character and appearance of the area. It therefore complies with the relevant parts of Policies CP7, DBE1 and DBE4 of the LP which, amongst other criteria, require sympathetic redevelopment of previously developed land, and high quality design which respects the character of the area and the landscape setting. It also complies with Chapter 12 of the Framework which, amongst other criteria, seeks high quality design.

Planning balance

14. Paragraph 143 of the Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in 'very special circumstances'. Paragraph 144 indicates that 'very special circumstances' will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
15. In this regard, the provision of a new dwelling would provide temporary economic benefit during construction and long-term economic benefit through the increased population and use of local services. It would also make a contribution towards the Council's housing supply. The proposal would be for the redevelopment of a small site to provide a dwelling, which is supported by Paragraph 68 of the Framework. However, these benefits would be limited because only one dwelling is proposed.
16. The appeal proposal has been designed to be accessible and adaptable for the future needs of occupiers. This does not go above and beyond policy requirements and weighs neutrally in the balance. That the proposal does not harm the character and appearance of the area also weighs neutrally in the planning balance.
17. Paragraph 144 of the Framework states that substantial weight should be given to the harm to the Green Belt caused by the inappropriate development I have identified. Consequently, I find that the other considerations in this case do not

clearly outweigh the harm to the Green Belt and the 'very special circumstances' necessary to justify the development do not exist. The proposal therefore fails to comply with Paragraph 143 of the Framework. It also fails to comply with the relevant parts of emerging Policy DM4 of the emerging LP, which reflects the Framework.

18. The Council cannot demonstrate a 5-year housing land supply. However, the application of policies in the Framework that protect the Green Belt provide a clear reason for refusing the development proposed. Paragraph 11(d) of the Framework is not therefore engaged.

Other Matters

19. The site falls within the zone identified by Natural England as being likely to result in harm to the Epping Forrest Special Area of Conservation (the SAC). The Council have identified that the proposal has the potential to adversely affect the SAC in terms of recreational pressure and air pollution. Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, so I have therefore not undertaken an AA.
20. The appellant has proposed a condition to only enable future occupiers of the bungalow to park electric vehicles, and no others, on site. However, this would be unenforceable and would not therefore meet the six tests for applying conditions to planning permission.
21. The appellant has submitted a draft, unsigned Unilateral Undertaking (the UU). This therefore has very limited weight. I also note that even in draft form, the UU does not propose a mitigation measure in relation to air quality.

Conclusion

22. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR