
Appeal Decisions

Site visit made on 7 January 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2021

Appeal A: APP/J1535/W/20/3257117

Jamesmead, Waltham Road, Nazeing, Waltham Abbey, Essex EN9 2LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr William Pett against the decision of Epping Forest District Council.
 - The application Ref EPF/2442/19, dated 7 October 2019, was refused by notice dated 4 February 2020.
 - The development proposed is redevelopment of the site from existing residential and outbuilding.
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Appeal B: APP/J1535/W/20/3257134

Jamesmead, Waltham Road, Nazeing, Waltham Abbey, Essex EN9 2LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr William Pett Junior against the decision of Epping Forest District Council.
 - The application Ref EPF/2444/19, dated 9 October 2019, was refused by notice dated 4 February 2020.
 - The development proposed is redevelopment of part of the site from existing residential mobile home and outbuilding for 1 private family dwelling.
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Appeal C: APP/J1535/W/20/3257144

Jamesmead, Waltham Road, Nazeing, Waltham Abbey, Essex EN9 2LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr William Pett Senior against the decision of Epping Forest District Council.
 - The application Ref EPF/2445/19, dated 9 October 2019, was refused by notice dated 4 February 2020.
 - The development proposed is redevelopment of part of the site from existing residential mobile home and outbuilding for 1 private family dwelling.
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Decisions

1. Appeal A is dismissed. Appeal B is dismissed. Appeal C is dismissed

Preliminary Matters

2. As set out above there are three appeals, each relating to a different part of a single site. Appeal A relates to a refusal of outline planning permission for redevelopment of part of the site to provide for five detached dwellings. Appeals B and C relate to other parts and to individual redevelopment

proposals for a single detached dwelling each. I have considered all the proposals on their individual merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated.

3. Each application was made in outline, with all detailed matters reserved for later consideration. I have dealt with the appeals accordingly, and considered the plans provided over siting and access in each case as being indicative of what is intended.

Main Issues

4. In the case of each appeal these are

(i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies

and the effects on

(ii) the supply of gypsy and traveller pitches in this District

(iii) the character and appearance of the area

(iv) the safety of users of the adjacent public highway, and

(v) the Epping Forest Special Area for Conservation (SAC).

Should there be any harm by reason of inappropriateness within the Green Belt, or for any other reasons, would these then be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposals.

Reasons

(i) whether the proposals would be inappropriate development in the Green Belt

5. The development plan currently comprises the Epping Forest District Council Local Plan adopted in 1998 with alterations made in 2006 (LP). Significant weight is given to the emerging Epping Forest District Local Plan (Submitted Version) 2017 (LPSV) as this is reaching an advanced stage towards adoption. The Framework is also 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. Framework paragraph 145 advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, other than in relation to specific exceptions. These include, at 145 g), limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
7. The appeal relates to different parts of a site that falls within the Metropolitan Green Belt and contains a number of mobile homes, ancillary buildings, hardstanding areas and other undeveloped areas. It might be deemed as partly

previously developed land under the definition contained in the Framework. The Appeal A proposal relates to the complete width of the front part of the site and a portion of the mid part towards the side adjoining the end of the existing frontage housing on Long Green. Five detached dwellings are indicated, four along the frontage and one to the rear. These would replace the existing walled entrance, part of the sealed drive and parking area, an assumed unoccupied caravan pitch and a semi-detached pair of mobile homes. The proposed plot 3 dwelling, towards the rear, would also use part of the land provided through the demolition of the barn in the centre of the site and the removal of the detached mobile dwelling to its rear. Compared to what exists on this part of the site at present, the five detached dwellings would result in a significantly greater built footprint.

8. 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. The fact that there is other development in the vicinity and the area is not entirely undeveloped countryside does not alter the fact this land is within the Green Belt, and where the loss of openness is an established planning policy consideration.
9. As the Appeal A proposal for five detached dwellings would quite clearly have a greater impact on the openness of the Green Belt than the existing development, it would not meet the terms of the exception defined in Framework paragraph 145 g). Therefore, I consider the Appeal A proposal to comprise inappropriate development within the Green Belt under Framework policy.
10. The Appeal B scheme shows a large detached house set to one side of the rear of the site. It would replace one of the detached mobile homes in this location and also occupy land released by the removal of the adjacent barn and attached outbuildings. Despite the removal of these existing elements, the large, two-storey dwelling of permanent construction would be visually more dominant than what exists and result in an overall loss to Green Belt openness. In this respect, this proposal would also not benefit from the paragraph 145 g) exception. Therefore, I consider the Appeal B proposal to also be inappropriate development within the Green Belt under Framework policy.
11. The large detached house shown in the Appeal C proposal would occupy the undeveloped part of the site which widens at one side towards the rear. As there are no buildings here at present, this scheme might not be previously developed land and, resulting in a loss to a present openness, would clearly be inappropriate development within the Green Belt as defined in the Framework.
12. In each of the three appeals, the proposals would be in conflict with LP policies GB2A and DBE4E and LPSV policies SP6 and DM4, insofar as these apply protection to the Green Belt by seeking to preserve its openness and resisting inappropriate development.

(ii) the supply of gypsy and traveller pitches in this area

13. The combined area of the three appeals is identified as a proposed traveller site allocation under reference RUR.T3 in the LPSV. This was not an element of the plan which, upon Examination, was required to be the subject of changes to remedy matters of soundness. Therefore, this allocation is most likely to

endure once the plan progresses towards adoption, following the forthcoming consultation upon main modifications. The fact that residential occupation on this site is not restricted to gypsy or traveller families has no bearing on this allocation, neither is there any clearly demonstrated administrative fault in the local plan procedures for deciding upon this.

14. Each of the appeals would cause a loss of the land allocated to meet a need identified for traveller accommodation in this District, resulting in a harmful reduction in the residential provision made for this category of occupant, in conflict with LPSV policies SP2, H4 and P14.

(iii) the character and appearance of the area

15. The permitted use is for the siting of four mobile homes on the entire Jamesmead site and the LPSV allocation is for up to the same number for travellers. The appeal proposals would lead to seven detached houses of a permanent, bricks and mortar nature. Compared to the authorised use of the site, the proposals would result in a more prominent and intensive housing scheme, extending the limits to suburban development into an area which is currently comparatively less developed and more semi-rural in nature. Such intensification of residential development, attributable to all three appeal proposals, would harm the character and appearance of this area generally, in conflict with LP policies LL1 and LL2 and LPSV Policy DM3.

(iv) the safety of users of the adjacent public highway

16. The appeals relate to outline schemes and so reserved matter details to provide an improved joint access, possibly with a reduction in frontage hedging to afford better visibility onto the public highway, might be feasible. Generally, however, there is not shown to be good accessibility to regularly required services by foot, cycling or public transport from this site. Therefore, the appeal schemes would add to the numbers of households dependent upon regular car journeys to meet daily needs and there would be a material increase in vehicular movements at the site entrance.
17. Notwithstanding the potential for improved visibility, the proposals would add to vehicular manoeuvres, including the slowing, stopping and turning of traffic, at a point along a stretch of main distributor highway, the principal function of which is to carry traffic freely and safely between centres of population. I have considered the highway evidence submitted by the appellants in respect of each appeal. However, this is insufficient to avoid a finding of material harm in each case to the safety of users of the public highway in this location, in conflict with LP Policy ST4 and LPSV Policy T1.

(v) the Epping Forest SAC

18. In combination with other development growth in this area, and despite proposed sustainable construction measures, these proposals would likely have a significant effect upon the Epping Forest SAC in terms of increased air pollution, for which no suitable mitigation would be provided. I am advised that the Council has agreed an interim air pollution mitigation strategy with Natural England, but this has yet to be finally adopted.
19. Although this would likely lead to a means to provide such mitigation in the near future, through developer contributions towards strategic measures, this

procedure is not currently available. Therefore, due to the absence of appropriate mitigation, each of the appeal proposals remains in conflict with LP Policy CP6 and LPSV Policy DM22, due to a failure to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).

Whether there are the very special circumstances necessary to justify the proposals

20. There would be social benefits from these appeal schemes in helping to meet the housing supply needs of the area, particularly through providing plots available for self or custom built dwellings, although these would be small. In each scheme, the construction works and future household spend would also provide further small benefits to the local economy. The high level of sustainable construction intended is not an exceptional factor, so adds little weight in favour of any of the appeal schemes.
21. I have had regard to the personal circumstances put forward, whereby the appellants are a Romany gypsy family who wish to consolidate their status to being permanently settled in traditional bricks and mortar dwellings. However, the appellants have consent to reside permanently on the site, which would not be altered by the Traveller Site designation within the LPSV. The benefit of the proposals in meeting the personal needs for bricks and mortar accommodation provides only a small amount of weight in favour of each appeal.
22. The Framework requires substantial weight be given to the Green Belt harm found, both from the inappropriateness of the development proposals and the resulting loss of openness. There would be further significant harm to the character and appearance of the area, to the interests of highway safety and from a failure to comply with the Habitats Regulations. For these reasons, and as explained above, each proposal would be in conflict with both the adopted and the emerging development plans, when these are considered in their entirety.
23. I find that the other considerations in these cases do not clearly outweigh the Green Belt and other harm that I have identified. Consequently, the very special circumstances necessary to justify any of the three appeal proposals do not exist. For the reasons set out above, having taken into account all other matters raised, I conclude that all three appeals should be dismissed.

Jonathan Price

Inspector