
Appeal Decision

Site visit made on 9 February 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/J1535/W/20/3261683

Sarnia Nursery, Avey Lane, Waltham Abbey EN9 3QH

- 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 Giuseppe Fantozzi against the decision of Epping Forest District Council.
 - The application Ref EPF/3087/18, dated 1 October 2018, was refused by notice dated 27 April 2020.
 - The development proposed is a new warehouse.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council refer to emerging policies of the Epping Forest Local Plan Submission Version 2017 (the LPSV), which was submitted to the Secretary of State for examination in September 2018. The plan has not been formally adopted and could be subject to further modification. Therefore, while the LPSV is a material consideration, I afford it limited weight.

Main Issues

3. The main issues are:
 - 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;
 - would the harm by reason of inappropriateness, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located in the Green Belt. The Framework in paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It outlines that the construction of new buildings, other than in connection with a small number of exceptions set out in paragraph 145, should be regarded as inappropriate development.

5. Saved Policy GB2A of the Epping Forest District Council Local Plan 1998 Alterations 2006 (the Local Plan) states that new buildings will not be permitted in the Green Belt, unless the proposal meets specified exceptions. However, these do not fully reflect the exceptions set out in paragraph 145 of the Framework and so the Policy is not entirely consistent with the Framework. I have therefore proceeded on the basis of the approach set out in the Framework.
6. The appeal site was formerly used as part of a nursery and included glasshouse structures. However, it currently comprises an area of hardstanding and there is no dispute that the land is lawfully used for open storage purposes. The appellant draws attention to the exception set out in paragraph 145(g) of the Framework, which concerns the limited infilling or the partial or complete redevelopment of previously developed land, providing that it would not have a greater impact on the openness of the Green Belt than the existing development. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
7. According to the Framework¹, previously developed land comprises land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. This definition excludes, amongst other things, land that is or was last occupied by agricultural or forestry buildings; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
8. The information before me indicates that there were pre-existing structures on the appeal site, which have been removed. There is little information to show the nature and purposes of those structures. I saw that there is one small brick-built building on the appeal site, which appears to be used as a W.C. On the basis of the information before me, I am unable to conclude that the appeal site is previously developed land.
9. I acknowledge that the existing site comprising hardstanding and open storage, including wooden pallets, causes some spatial and visual impacts on the openness of the Green Belt. Nevertheless, the proposal would introduce a large building where only one small building currently exists. By virtue of its permanence and size, the proposed building would have a significantly greater spatial impact on the openness of the Green Belt. Furthermore, the building would be conspicuous in Avey Lane and so it would also cause a moderate loss of visual openness. Consequently, even if the appeal site were regarded as previously developed land, the proposal would have a greater impact on the openness of the Green Belt than the existing development.
10. Therefore, I find that the proposal would not meet the exception in paragraph 145(g) of the Framework, which requires that redevelopment of previously developed land would not have a greater impact on the openness of the Green belt than the existing development. The proposal therefore constitutes inappropriate development in the Green Belt when assessed against the Framework, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

¹ See 'Annex 2: Glossary' – the National Planning Policy Framework 2019

Other considerations and Green Belt Balance

11. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework is clear that substantial weight should be given to any identified harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
12. Paragraph 83 of the Framework supports the sustainable growth and expansion of all types of business in rural areas. The proposal would provide economic benefits by supporting the growth of a rural business and providing a storage and distribution warehouse close to major road routes. I attach significant weight to these benefits.
13. The proposal would provide a more orderly access and parking arrangement at the site, which attracts moderate weight in favour of the proposal.
14. I acknowledge the appellant's reference to other buildings along Avey Lane, however the existence of such buildings would not justify inappropriate development in the Green Belt.
15. I have found that the proposed development would be inappropriate development in the Green Belt and I therefore attach substantial weight to the harm to the Green Belt, in accordance with paragraph 144 of the Framework.
16. Overall, the other considerations identified in support of the scheme, even when taken together, would not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to the Framework and Policies GB2A, GB7A, DBE4 and CP2 of the Local Plan, which seek to protect the Green Belt.

Other Matters

17. The Council has raised concerns that sufficient information has not been provided to show that the proposed development would not adversely affect the integrity of the Epping Forest Special Area of Conservation ('EFSAC') and there are no alternative solutions or imperative reasons of overriding public interest why development should be permitted. EFSAC is a designated Habitat site which is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Regulation 63(1) of the Habitat Regulations indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As I am dismissing the appeal for other reasons, it has not been necessary for me to consider this matter further.

Conclusion

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

C Osgathorp

INSPECTOR