



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: 25 February 2021

Appeal Ref: APP/J1535/W/20/3262667

Land at Bentons Farm, Middle Street, Bumbles Green, Nazeing EN9 2LN

- 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 Messrs R & V Bray against the decision of Epping Forest District Council.
 - The application Ref EPF/0897/20, dated 30 April 2020, was refused by notice dated 13 June 2006.
 - The development proposed is development of 1no. two storey four bedroom detached residential dwelling house together with double garage. Utilising existing access from Oak Tree Close.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The date of 13 June 2006 shown on the Council's decision notice is an administrative error, and the Council has clarified that its decision was issued on 5 October 2020.
3. The Council refers 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.
4. On 19 January 2021, the Government published the latest Housing Delivery Test (HDT) and both main parties have been given the opportunity to provide comments.
5. The present appeal scheme follows a previous appeal at the site for 2no four-bedroom dwellings, which was dismissed on 14 October 2019¹. Whilst I have had regard to the previous appeal decision, I have determined the current proposal on its own merits.

Main Issues

6. The main issues are:

¹ Appeal reference: APP/J1535/W/19/3232917

- 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;
- the effect of the proposal on the openness of the Green Belt;
- whether the proposal would conserve or enhance the character and appearance of the Nazeing and South Roydon Conservation Area; and
- would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

7. The appeal site is a roughly square, grassed parcel of land within 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.
8. Saved Policy GB2A of the Epping Forest District Council Local Plan 1998 Alterations Adopted 2006 (the Local Plan) sets out exceptions where new buildings would not be inappropriate development in the Green Belt. Furthermore, Policy GB7A of the Local Plan seeks to prevent conspicuous development in the Green Belt which would have an excessive adverse impact upon the openness, rural character or visual amenities of the Green Belt. However, Local Plan Policies GB2A and GB7A do not fully reflect the exceptions set out in paragraph 145 of the Framework and so they are not entirely consistent with the Framework. I have therefore proceeded on the basis of the approach set out in the Framework.
9. The appellant draws attention to the exception in paragraph 145 e) of the Framework, which sets out that limited infilling in villages is not inappropriate development. The Framework does not provide a definition of the terms 'limited infilling' or 'village' and therefore this is a matter for the decision maker.
10. There is no dispute between the parties that the appeal site is within a village. Given that the appeal site is near to surrounding development in the village, I see no reason to take a different view. The question, therefore, is whether the proposal constitutes limited infilling.
11. Paragraph 4.34 of the LPSV defines 'limited infilling' as the development of a small gap in an otherwise continuous built-up frontage, and also includes infilling of small gaps within built development. I consider that this is a reasonable definition and I have assessed the proposal on this basis.
12. The appeal site comprises an area of undeveloped land of approximately 0.19 hectares to the rear of Nazeing Telephone Exchange. A recent development of 4no detached dwellings is located to the west and the proposal would be accessed from here. Due to its open undeveloped nature; generous size; and location behind the built frontage comprising Nazeing Telephone exchange,

the character of the appeal site closely relates to the open countryside to the north, rather than being viewed as a small gap within built development. Therefore, I do not regard the proposal as the infilling of a small gap within built development. Furthermore, having regard to the location of the proposed dwelling behind the built frontage; the orientation of the proposal perpendicular to the frontage development in Middle Street; and the large separation to the development to the east, the proposal would not constitute the development of a small gap in an otherwise continuous built-up frontage.

13. Therefore, I find that the proposal would not meet the exceptions in paragraph 145 of the Framework and it therefore constitutes inappropriate development in the Green Belt, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

14. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development and it has both spatial and visual aspects.
15. The proposed 2 storey dwelling, double garage and associated hard surfacing would be located on land that is currently open and free of development. Accordingly, the proposal would cause a spatial loss of Green Belt openness. Furthermore, the proposed dwelling would be visible from Middle Street and Oak Tree Close, particularly during months when vegetation is not in leaf. It would also be visible from the nearby public right of way to the east of the appeal site. Consequently, the proposal would result in a visual loss of openness. Therefore, the proposal would, by virtue of its permanence and size, harm the openness of the Green Belt and it would be contrary to one of its purposes which is to safeguard the countryside from encroachment.

Nazeing and South Roydon Conservation Area

16. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
17. The previous Inspector stated that the significance of this part of the Conservation Area (the CA) largely derives from its open landscape and historic pattern of development. I agree. It has an open and spacious character due to the loose knit nature of development and the greenery provided by mature landscaping. The prevailing form of development consists of ribbon development fronting the road, and the spaces between the buildings provides views of the surrounding countryside, which contributes to the open character of the area. The undeveloped nature of the appeal site to the rear of the existing built frontage contributes to the open character of the CA.
18. The siting of the proposed dwelling behind the existing frontage development would result in a discordant form of development that would be out of keeping with the prevailing character of the area. The orientation of the proposed dwelling perpendicular to the buildings in Middle Street would further emphasise the incongruous nature of the proposal. Whilst the scale of the

proposal would be reduced in comparison to the previous appeal scheme, it would nonetheless suburbanise the site, which would erode the open character of the CA.

19. Having regard to the modest amount of proposed development, I find that the degree of harm to the significance of the CA would be less than substantial. In accordance with paragraph 196 of the Framework, any harm should be weighed against the public benefits.
20. The proposal would deliver some public benefits in terms of adding to the overall provision of housing in the area and contributing to the local economy. However, the small scale of the proposal limits the weight that I give to these factors, which I consider in greater detail later in this decision. There would also be some opportunities for ecological enhancement through additional landscaping, which would provide a limited benefit.
21. In accordance with paragraph 193 of the Framework, great weight should be attributed to the designated heritage asset's conservation irrespective of whether the harm identified amounts to less than substantial harm. I find that the public benefits would not outweigh the harm to the designated heritage asset. The proposal would therefore be contrary to the historic environment policies contained within the Framework.
22. For the above reasons, I conclude that the proposed development would fail to preserve or enhance the character and appearance of the CA. The proposal would therefore conflict with Policies HC6 and HC7 of the Local Plan and the Framework, which, amongst other things, seek to ensure that developments are sympathetic to the character and appearance of conservation areas.

Other considerations and Green Belt Balance

23. 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.
24. The HDT results published 19 January 2021 show that the Council has a measurement of just 49% of homes delivered against its requirement over the previous 3 years. Paragraph 59 of the Framework sets out an objective to significantly boost the supply of homes. The proposed development would provide a benefit in contributing towards addressing the substantial shortfall in the supply of new housing. Furthermore, the proposal would create some employment at construction stage, and the occupiers of the proposed dwelling would provide economic support to local facilities and services. These benefits weigh in favour of the proposal, however this would be limited by the small amount of development.
25. Compliance with resource efficiency standards such as energy and water would help off-set the environmental impacts of the development, however there is no substantive evidence before me that this would go above and beyond policy requirements and so this weighs neutrally. Furthermore, whilst the design of the proposed dwelling is acceptable, it is not innovative or outstanding and so this carries neutral weight. There would be some

opportunities for ecological enhancement through additional landscaping, which would provide a limited benefit.

26. I have had regard to the appellant's reference to a development of 4no dwellings on land at Nazeing Common. However, there are limited details before me of the circumstances that led to approval being granted, and I have nevertheless determined the appeal scheme on its own merits.
27. I have found that the proposed development would be inappropriate development in the Green Belt and it would cause a loss of Green Belt openness. I therefore attach substantial weight to the harm to the Green Belt, in accordance with paragraph 144 of the Framework. In addition, I have found that the proposal would fail to preserve or enhance the character and appearance of the CA.
28. Overall, the other considerations identified in support of the scheme, even when taken together, would not clearly outweigh the totality of the harm to the Green Belt and other harm. 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 and GB7A of the Local Plan, which seek to protect the Green Belt.
29. Whilst the HDT results indicate that the delivery of housing was substantially below the housing requirement over the previous three years, 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

30. 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.
31. I have had regard to the representations in support of the proposal from Nazeing Parish Council and local residents. Furthermore, I note that the Council's Area Planning Sub-Committee West supported a motion to grant planning permission subject to conditions. However, this would not alter my decision.

Conclusion

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

C Osgathorp

INSPECTOR