



Appeal Decision

Site visit made on 16 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/20/3259287

Rolls Park, Rolls House, High Road, Chigwell IG7 6DJ

- 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 and Mrs James Murphy against the decision of Epping Forest District Council.
 - The application Ref EPF/1044/20, dated 19 May 2020, was refused by notice dated 16 July 2020.
 - The development proposed is redevelopment of the site to provide 7 houses, comprising 2no 4 bed detached, 4no 3 bedroom semis, and 1no 3 bed detached.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.
3. 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.

Main Issues

4. 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;
 - the effect of the proposed development on the character of the area;
 - 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

5. 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.
6. Saved Policy GB2A of the Epping Forest District Council Local Plan 1998 Alterations Adopted 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.
7. The appellant draws attention to the exception in paragraph 145 g) of the Framework. This concerns the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), providing that it would not have a greater impact on the openness of the Green Belt than the existing development.
8. According to the Framework¹, previously developed land comprises land occupied by a permanent structure, including the curtilage of the developed land. The appeal site includes a dwelling and 2 outbuildings and there is no dispute between the main parties that the land is within the definition of 'previously developed land'. I see no reason to disagree. Therefore, the question is whether or not the proposal would have a greater impact on the openness of the Green Belt than the existing development.
9. 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.
10. The appeal site comprises a substantial 2 storey detached dwelling and 2no single storey outbuildings. I note that one of the outbuildings has an extant planning permission to convert to a 2-bed dwelling, which has not been implemented to date. The main garden area is located to the west of the dwelling. The proposal would involve the demolition of the existing buildings and redevelopment of the site to provide 7no dwellings with private gardens and on-site parking, which would be grouped around a shared surface road. There would be an area of open amenity land towards the northern boundary.
11. The information before me indicates that the proposed development would result in an increase in volume of 47% over and above the existing development on site. Therefore, the proposed development would clearly result

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

- in an increase in the amount of built form compared to the existing development.
12. Moreover, the proposal would significantly increase the spread of buildings across the site, which would encroach into areas that are predominantly open and free of buildings. I appreciate that there are existing outbuildings towards the northern boundary, however the proposed dwellings would be of a greater height and scale. Consequently, the proposed development would cause a spatial loss of Green Belt openness.
 13. In visual terms, the provision of 7 no dwellings would be a more intensive use of the land and result in additional activity, parking and domestic paraphernalia. There would be views of the proposal from the existing access road that serves neighbouring dwellings. Furthermore, the spread of built form across the site would be visible from surrounding fields and the proposal would visually encroach into the countryside.
 14. Having regard to the above, the proposed development would, by virtue of its permanence and size, have a greater spatial and visual impact on Green Belt openness than the existing development. Therefore, I find that the proposal would not meet the exception in paragraph 145 g) of the Framework.
 15. Furthermore, I have considered whether the exception in paragraph 145 e) of the Framework would apply. This relates to limited infilling in villages. The Framework does not provide a definition of the term 'limited infilling', however it is generally understood to denote the development of a relatively small gap within an otherwise built up frontage.
 16. The area is rural in character and development is loose knit. There is no substantive evidence before me to indicate that the appeal site is within a village. Furthermore, given the size of the site and the number of proposed dwellings, the proposal would not be seen as the development of a relatively small gap within an otherwise built up frontage. Accordingly, the proposal would not meet the exception in paragraph 145 e) of the Framework.
 17. For the above reasons, the proposal would not meet the exceptions in paragraph 145 of the Framework. It 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.

Character

18. The appeal site is located in the countryside where there is a loose grain pattern of development. The buildings in the vicinity are generally of individual design and are situated on spacious grounds, which reflects the rural character. The appeal property is consistent with this.
19. The proposed development would significantly increase the spread of buildings across the appeal site and it would have a compact, close-knit layout with prominent parking areas and modest rear gardens. Furthermore, the design and layout of the proposal would be relatively uniform and regular, which would be at odds with the existing development in the area. Taken together, these factors would result in a distinctly sub-urban character that would fail to respect the rural context of the site. Whilst I note that the proposal includes an

area of open amenity land which could accommodate planting, this would not be sufficient to overcome the harm that I have identified.

20. For these reasons, I conclude that the proposed development would be harmful to the character of the area. The Council has cited conflict with Policy DBE10 of the Local Plan, however this relates to residential extensions and so it is not directly relevant to the appeal scheme. Nevertheless, the proposal would be contrary to Chapter 12 of the Framework, which sets out the importance of achieving well-designed and attractive places, and to ensure that developments are sympathetic to local character.

Other considerations and the Green Belt Balance

21. 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.
22. 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 proposal would provide a benefit in contributing towards addressing the substantial shortfall in the supply of new housing. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly as indicated in paragraph 68 of the Framework. Furthermore, economic advantages would arise from the construction of the proposed dwellings and long-term economic benefit through the increased population and use of local services. However, these benefits would be limited because of the modest number of dwellings proposed.
23. Whilst the Framework promotes the effective use of previously developed land, this is subject to proposals safeguarding the environment. Given the harm to the Green Belt and the character of the area, I attach limited weight to this factor.
24. The appellant points to a fall-back position possible under permitted development rights, including extensions to the existing dwelling and an outbuilding. The appellant submits that the volume of the proposal would be 7% less than the extended buildings. Only limited details indicating the footprint and location of such extensions has been provided. It is not the place for this appeal to determine the lawfulness or otherwise of potential development. A certificate of lawful development is not before me and as such the extent of permitted development rights and subsequent comparative impact has not been formally established. Furthermore, whilst the extensions may be permitted development, I have limited evidence before me to demonstrate that there would be a greater than theoretical possibility that such development might take place. This therefore limits the weight I can give this matter.
25. In any event, whilst full drawings are not before me, the extensions that could potentially be built under permitted development would be ancillary to the existing buildings and so would not result in a spread of dwellings across the

site or materially change the pattern of development. As such, they would have less effect on both the openness of the Green Belt and the character of the surroundings than would the appeal proposal.

26. I have had regard to the appellant's reference to previous Council decisions and appeal decisions. These do not however alter my findings on the main issues relating to this case. Details of the specific nature of those proposals are not before me and I am nevertheless required to determine the appeal based primarily upon its own merits. I have therefore proceeded on that basis.
27. 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 the character of the area. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to the Framework and Policy GB2A of the Local Plan, which seek to protect the Green Belt.
28. 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

29. 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.
30. I have had regard to the representations in support of the proposal from some local residents, however this would not alter my decision.

Conclusion

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

C Osgathorp

INSPECTOR