
Appeal Decisions

Site visit made on 9 February 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2021

Appeal A Ref: APP/J1535/W/20/3254238

Taw Lodge, Epping Lane, Stapleford Tawney, Romford RM4 1ST

- 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 Braha (Landvest Development Ltd) against the decision of Epping Forest District Council.
 - The application Ref EPF/0511/20, dated 2 March 2020, was refused by notice dated 15 May 2020.
 - The development proposed is demolition of existing buildings; and erection of 7 residential dwellings and associated landscaping and infrastructure.
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Appeal B Ref: APP/J1535/W/20/3262810

Taw Lodge, Epping Lane, Stapleford Tawney, Romford RM4 1ST

- 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 Braha (Landvest Development Ltd) against the decision of Epping Forest District Council.
 - The application Ref EPF/1673/20, dated 6 August 2020, was refused by notice dated 22 October 2020.
 - The development proposed is demolition of existing buildings; and erection of 6 residential dwellings and associated landscaping and infrastructure.
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Decisions

1. Appeal A and Appeal B are dismissed.

Procedural Matter

2. On 19 January 2020 the latest Housing Delivery Test results were published. These indicate that the presumption in favour of sustainable development, as set out at paragraph 11(d) of the National Planning Policy Framework (the Framework), is consequently applicable for both appeal proposals. The main parties have been given an opportunity to provide comments in respect of any implications arising from the results.

Main Issues

3. The main issues are:
 - whether the proposals would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effects of the proposals on the character and appearance of the area;

- whether the site is an appropriate location for housing, with particular regard to access to services, facilities and sustainable transport options; and
- would 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 proposals.

Reasons

Inappropriate development

4. The site includes a bungalow, a 2 storey dwellinghouse and several commercial buildings at Taw Lodge. Works to convert a barn adjacent to the site into residential accommodation are near completion. Notwithstanding the bungalow's small rear garden and an enclosed grassed area towards the rear of the site, the spaces between and around the buildings form yards. Trees and hedgerows are present at the boundaries of Taw Lodge.
5. It is common ground between the main parties that the site is within the open countryside and the Green Belt. It is also agreed that it comprises previously developed land. Based on the evidence and my observations on site, I have no compelling reasons to disagree.
6. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145(g) of the Framework establishes that exceptions to that include development consisting of limited infilling or the partial or complete redevelopment of previously developed land, provided that it would not have a greater impact on the openness of the Green Belt.
7. The Epping Forest Local Plan and the subsequent Local Plan Alterations (LP) precede and adopt a different approach to development in the Green Belt. LP Policy GB2A specifies the development types that are permissible in the Green Belt; however, it does not include comparable exceptions to those set out by paragraph 145(g) of the Framework. In addition, LP Policy GB7A establishes that permission will be refused for development conspicuous within or beyond the Green Belt which would have an excessive adverse impact upon the openness, rural character or visual amenities of the Green Belt.
8. Notwithstanding the dwellinghouse, all the existing buildings would be removed. These include a large building towards the centre of Taw Lodge, several smaller buildings and the bungalow. The largest building is effectively 2 storeys in maximum height, whilst the other buildings comprise a single storey. Principally due to the removal of the largest building, both proposals would result in a significant reduction in the overall footprint and volume of the buildings on site. There would also be a substantial decrease in hardstanding and an increase in soft landscaping.
9. When the proposed semi-detached dwellings are taken together as a pair in each appeal scheme, the proposed dwellings would be larger in footprint, volume and height than all but the largest existing building to be removed. In addition, the largest building's height would be exceeded by 3 dwellings in each scheme. The proposed buildings would be close to each other and nearer to the boundaries of Taw Lodge than the largest building. Whilst none of the proposed buildings would be of a scale and massing comparable with the largest building,

the distribution of built form would nonetheless harm and have a greater impact on the openness of the Green Belt than the existing development.

10. Additionally, both schemes propose 2 dwellinghouses roughly in line with the existing dwellinghouse and a bungalow would be sited perpendicular to the one to be replaced. Those buildings would be prominent beyond the site's boundary vegetation from the access and on approach when ascending Epping Lane and harm the openness of the Green Belt visually. Furthermore, I viewed the site from similar positions to viewpoints 1, 2, 3 and 6 as identified within the appellant's Landscape and Visual Appraisal, which are located along Public Right of Way 209_18 (PRoW). The size and position of the buildings would have a negative visual impact on openness from the PRoW, albeit the harm would be modest due to its distance from the site. Additional landscaping would not be able to screen the development in a reasonable timeframe or mitigate the effects to the extent that the proposals would not be harmful.
11. The appellant has referred to a 7 dwelling scheme nearby at Theydon Mount Kennels¹ and a 30 dwelling scheme further afield². The nearby scheme was under construction when I visited. Both schemes were approved in the Green Belt on previously developed land and involve the removal of buildings. I have not been provided with full details of the circumstances of the schemes. Nonetheless, neither are directly comparable with the appeal proposals due to differences in the layout, prominence and visibility of the development.
12. The Council also approved 2 dwellings on the site in a similar location to the largest building³. Whilst I have no reason to doubt that the approved scheme will be implemented if the appeals are dismissed, it is not comparable with either proposal in terms of the amount of development proposed or its effects on the openness of the Green Belt. None of the approved schemes at Taw Lodge or nearby set a compelling precedent for either appeal proposal. Although the existing bungalow can be extended by means of permitted development rights, compelling evidence has not been advanced which suggests that any extensions to it would be more harmful than the proposals.
13. The proposals would have a greater impact on the openness of the Green Belt than the existing development on the site. Overall, the level of harm would be moderate. The appellant does not argue that the other exceptions set out at paragraph 145 of the Framework are applicable. The proposals are therefore inappropriate development in the terms of the Framework. Substantial weight should be given to any harm in the Green Belt and, in that context, the proposals would result in excessive adverse impacts on openness in the terms of LP Policy GB7A. The proposals thus conflict with both LP Policies GB2A and GB7A. They also conflict with Policies SP6 and DM4 of the emerging Local Plan⁴ (eLP), which reflect the Framework in respect of Green Belt matters.

Character and appearance

14. Epping Lane features clusters of residential, agricultural and commercial development along it that are separated by fields. It has an open, spacious and rural character as a result. Taw Lodge appears as a small agricultural or

¹ Council reference: EPF/3227/18

² Council reference: EPF/3034/16

³ Council reference: EPF/0494/19

⁴ Epping Forest District Local Plan Submission Version 2017

commercial complex that has evolved and diversified and is surrounded by fields in a sparsely settled landscape.

15. The schemes adopt different approaches to layout, with the Appeal A scheme intending to provide a loosely knit grain of development and the Appeal B scheme intending to reflect a farmstead informed by nearby rural development. The dwellings in both schemes would include contemporary features but their overall appearance would respect the local vernacular, the dwelling to be retained and the converted barn.
16. Nonetheless, the proportions and features of the dwellings and the gardens around them would result a domestic character prevailing at the site and the amount of residential development apparent in the area would increase significantly. Moreover, I have already identified that the spaces between the dwellings would be limited and openness would be harmed. I consider that the proposals would cause modest levels of harm to the sparsely settled character of the area and the local landscape. For the reasons stated earlier, the schemes approved on site and nearby do not lead me to alter my findings.
17. The proposals would harm the character and appearance of the area. They are contrary to LP Policies DBE1, DBE4 and LL2 and eLP Policies SP7, DM3 and DM9, which seek to ensure that development respects its setting, local character, the countryside and landscapes.
18. The Council has referred to several other policies in respect of this main issue. LP Policy DBE1 and eLP Policy DM1 seek to prevent detrimental impacts on the amenity of neighbours and ecology and are not directly relevant. LP Policy LL10 relates to the inadequate retention of trees, natural features and man-made features of significance and eLP Policy DM10 relates to housing standards. The Council's case does not otherwise identify concerns in respect of these specific matters and so I have no compelling reasons to find conflict with those policies. LP Policy LL11 seeks to control the quality of landscape schemes. Notwithstanding that the harm could not be mitigated by landscaping, I have no reason to find that the landscaping schemes would be inappropriate directly.

Location

19. The site is located approximately 2 miles from the nearest settlement of Abridge, which benefits from a variety of services and facilities. In addition, settlements including Stapleford Abbots, Theydon Bois and Epping are also within a few miles of the site. The future occupiers of the properties would likely travel to some or all these settlements to satisfy the requirements of daily life. However, there are no footpaths or streetlights along Epping Lane and no bus services operate nearby such that there is little prospect that the occupiers would walk or cycle to the nearest settlements regularly. Instead, the occupiers would depend on private motor vehicles to satisfy day-to-day needs.
20. I recognise that opportunities to maximise sustainable transport solutions vary between urban and rural areas and short trips to the settlements by private motor vehicles would generate limited environmental impacts, albeit the impacts would accumulate over time. In addition, the Council has not contested the findings of the Highway Statement for either scheme, which suggest that the development would generate fewer vehicle trips than the existing commercial use.

21. Unilateral Undertakings (UUs) dated 17 December 2020 have been provided for each scheme which include a package of measures that are intended to maximise sustainable transport options. These include the provision of electric charging points and an electric bike per dwelling, travel plans and infrastructure to enable the dwellings to be connected to high speed broadband.
22. I am not satisfied that the UUs are effective as they have not been signed in the presence of a witness. In any case, the measures could be secured by means of conditions. I cannot be sure that the dwellings would be connected to high speed broadband as this is not within the control of the appellant. Moreover, it has not been demonstrated that broadband would reduce the need to travel. However, the travel plan, charging points and bikes would slightly increase the likelihood of alternative transport modes to cars being taken up by the occupiers.
23. Taking all the above considerations into account, the site is in an appropriate location for housing, with particular regard to access to services, facilities and sustainable transport options. The proposals accord with LP Policies ST1, ST2 and CP1, eLP Policy T1 and paragraphs 78 and 103 of the Framework, which promote development in accessible locations and sustainable travel modes and seek to reduce environmental impacts and the use of private motor vehicles. They also accord with eLP Policy SP2, which identifies a spatial strategy that involves providing homes on previously developed land in the Green Belt.
24. The Council also refers to LP Policy CP2 and eLP Policy SP1 in respect of this main issue. However, these policies are not directly relevant as the former seeks to protect the quality of the rural and built environment and the latter essentially repeats the presumption in favour of sustainable development.

Other considerations

25. The examining Inspector for the eLP has produced advice which confirms that main modifications to it are required to remedy issues of soundness. It is therefore subject to change. Moreover, the extent of main modifications proposed by the Council is not entirely clear. The identified conflicts with the eLP's policies thus attract limited weight.
26. The appellant has put forward that the development would provide public benefits in the form of the New Homes Bonus, Council Tax revenues and increased Parish Council precept. However, having regard to the advice within the Planning Practice Guidance on local finance considerations⁵, I do not consider that these are benefits weighing in favour of the proposals.
27. Whilst both proposals would make use of previously developed land and development at the site may reduce the need for housing elsewhere in the Green Belt, the land would not be used efficiently or effectively as a result of the harm identified in respect of the main issues. In addition, firm evidence has not been provided which demonstrates that the proposals would use suitable brownfield land in a settlement or remediate land in accordance with paragraphs 118 and 170 of the Framework, with the evidence indicating that there is a low likelihood of contaminant hazards on site.

⁵ Reference ID: 21b-011-20140612

28. The appellant contends that the Council cannot demonstrate a 5 year supply of deliverable housing sites. It is advanced that there is as little as 1.15 years supply. This considerable shortfall has not been contested by the Council. Additionally, the latest Housing Delivery Test results indicate that there are also significant issues with housing delivery in the district. In this context, the proposals would make significant contributions to housing supply even though the number of dwellings provided would be limited. In addition, small sites such as this can be built out quickly and thus contribute to housing delivery. The proposals would also contribute to the mix of housing in the district. Furthermore, I recognise that the LP policies related to housing are out of date because of the Council's supply and delivery positions.
29. Although the future occupiers would be dependent on private motor vehicles for daily life, they would nonetheless be likely to rely and spend money on the services and facilities in the nearest settlements. The development would thus contribute to the vitality of rural communities, albeit the level of benefit would be limited given the scale of the development. There would also be limited benefits from the construction process. In addition, fewer vehicle trips may improve highway safety and capacity and I see no reason to doubt that landscaping and biodiversity enhancements could be provided.

Planning Balance and Conclusion

30. Considerations advanced by the appellant, particularly those in respect of increasing housing supply and delivery, weigh in favour of the proposals. However, having regard to the substantial weight that must be attached to the harm to the Green Belt, and taking into account the harm to the character and appearance of the area, the very special circumstances necessary to justify development in the Green Belt do not exist. Whilst the presumption in favour of sustainable development at paragraph 11(d) of the Framework is applicable, for both proposals the policies in the Framework that protect the Green Belt provide clear reasons for refusing the development.
31. The proposals conflict with the development plan as a whole. Material considerations do not outweigh the conflict with the development plan. Therefore, I conclude that both Appeal A and Appeal B should be dismissed.

Mark Philpott

INSPECTOR