
Appeal Decision

Site visit made on 6 April 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2021

Appeal Ref: APP/J1535/W/20/3250197

Ridge House, Hoe Lane, Nazeing, Waltham Abbey EN9 2RJ

- 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 Shorter against the decision of Epping Forest District Council.
 - The application Ref EPF/3086/19, dated 20 December 2019, was refused by notice dated 11 March 2020.
 - The development proposed is described as 'Erection of two five bedroom dwellings with associated access, parking and amenity space on land adjacent Ridge House'.
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Decision

1. The appeal is 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 11d) of the National Planning Policy Framework (the Framework), is relevant in this case. The results were published following the submission of the appeal evidence and therefore I invited the main parties to provide comments on any implications arising from the results. I have taken the comments received into account in making a decision.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including any effects on the openness of the Green Belt;
 - whether the site is an appropriate location for housing with regard to the spatial development strategy as set out by the Council's emerging Local Plan¹ (eLP); and
 - if the proposal is inappropriate, 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 development.

¹ Epping Forest District Local Plan Submission Version 2017

Reasons

Inappropriate development

4. The site forms part of a larger parcel of land associated with the residential property at Ridge House, which is located towards the end of a private access road that spurs from Hoe Lane. The site includes grassland and a driveway serving the dwelling and, amongst other things, features a garage, a shed, several storage shelters, stored vehicles and miscellaneous paraphernalia such as pieces of timber and metal. Notwithstanding the dwelling, the property otherwise mainly comprises grassland. Metal gates and a close boarded fence form the boundary with the access road and the rest of the property is bound primarily by vegetation.
5. The access road features a mixture of commercial and residential development on both of its sides, including housing that appears to have been completed relatively recently. However, the land at Ridge House is adjacent to open countryside on 2 of its sides. Burleigh Nursery, which is a former nursery that mainly consists of cleared ground, is located opposite. Planning permission has been granted there for residential development. Burleigh Lodge, which is adjacent to the nursery site, also benefits from permission for residential development. The approved layouts have been provided.
6. The Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. One specific exception to this is limited infilling in villages. Another is limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt. These are set out by sub-paragraphs e) and g) of paragraph 145 of the Framework respectively.
7. The Epping Forest Local Plan and the subsequent Local Plan Alterations (LP) precede the Framework. Policy GB2A of the LP specifies development types that are permissible in the Green Belt; however, it does not include any that reflect the exceptions mentioned above. Additionally, LP Policy GB7A explains that permission will be refused for development conspicuous within or beyond the Green Belt which would have an excessive adverse impact upon its openness, rural character or visual amenities.
8. Policy DM4 of the eLP includes exceptions to inappropriate development in the Green Belt that are similar to the ones in the Framework. However, it differs as it refers to limited infilling in 'smaller settlements' instead of 'villages'. I have not been referred to a definition of 'smaller settlements' for the purposes of the policy, but its supporting text explains that 'limited infilling' means the development of a small gap in an otherwise continuous built up frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes the infilling of small gaps within built development.
9. The Framework does not provide definitions of 'village', 'infilling' or 'limited' and the parties have not identified the extent of any defined settlement boundaries. However, case law² indicates that such boundaries may not be determinative and that whether development would accord with paragraph 145e) of the Framework is essentially a question of fact and planning judgement for the

² Julian Wood v SSCLG and Gravesham Borough Council [2014] EWHC 683 (Admin), [2015] EWCA Civ 195; and R (on the application of Tate) v Northumberland County Council [2017] EWHC 665 (Admin), [2018] EWCA Civ 1519

decision maker. This requires an assessment of the situation on the ground as well as any relevant policies. Having regard to this, I consider that the eLP provides a reasonable and useful definition of limited infilling.

10. There is a clear distinction between the built up area of Nazeing, which includes relatively compact residential development along streets such as Palmers Grove, and the ribbon of development dispersed along Hoe Lane. The access road's entrance is opposite a field and the housing located off it is set behind landscaping when viewed from Hoe Lane. These features provide a further sense of separation from the built up area. Whilst the housing beside the access road is more condensed than along Hoe Lane, it has far fewer properties grouped together than the built up area and I have not been referred to any services or facilities in the vicinity. Consequently, the development beside the access road is distinct from Hoe Lane and the built up area. Therefore, for the purposes of my assessment, the site is not part of the village of Nazeing, nor is the development beside the access road a village. In this context I do not consider that they are smaller settlements either.
11. Together with the rest of the land at Ridge House, the site provides a transition between the development along the access road and the adjacent open land. Whilst the proposed dwellings would not extend beyond the front wall of Ridge House, the proposal would nevertheless fail to be infilling as the land beyond the site, which is mainly limited to a container, tank and grassland behind fencing, does not form a built up frontage. It would thus not infill a gap within a continuous frontage or satisfy the eLP definition in other respects. Moreover, whilst access into the site would be taken from the same position as an existing access, a driveway and parking areas would be created on grassland beyond the existing dwelling, which would have the effect of creating a new frontage and extend development further along that side of the access road.
12. Based on the evidence and my observations on the ground, I do not consider that the proposal constitutes limited infilling in a village or smaller settlement. It thus fails to fall within the exception provided by paragraph 145e) of the Framework.
13. The Council has stated that the site satisfies the definition of previously developed land in the terms of the Framework. The appellant has not explicitly stated that the proposal would satisfy paragraph 145g) of the Framework. However, for reasons that I go into below, the development would have a greater impact on the openness of the Green Belt than the existing site.
14. The proposed dwellings would be 2 storeys in height, larger in size and bulkier than the existing buildings, structures and paraphernalia. Moreover, the development is likely to give rise to residential paraphernalia of its own. The proposal would therefore have a greater impact on openness spatially. The position of the dwellings close to each other in a cul-de-sac arrangement and the siting of one of them next to the access road would also have a greater visual impact on openness than the comparatively spacious existing site. The loss of openness would undermine the Green Belt's purpose to assist in safeguarding the countryside from encroachment.
15. The proposed creation of a paddock would not overcome the issues identified and landscaping at the boundaries of the site would take a significant amount of time to have any meaningful impact. I am not convinced that landscaping would be able to provide mitigation to the extent that the development would

not be harmful. Moreover, the use of landscaping to screen the development would have its own impacts on openness.

16. My findings in respect of the above matters would persist even if the permitted schemes were built out. The approved and constructed housing beside the access road does not set a compelling precedent and is not directly comparable with the appeal scheme, which is occupied by a residential property at the end of the access road and forms part of land adjacent to open countryside. Indeed, my findings are consistent with those of other Inspectors who dealt with appeals at Ridge House³ and were cognisant of the permitted schemes.
17. The appellant sets out that the evidence base to the eLP indicates that the level of harm caused by the release of all the land at Ridge House for around 21 dwellings would be very low, low or medium and the landscape is resilient to change⁴. It is also advanced that the site has only not been progressed as it forms part of a larger strategic option that is less suitable than alternate ones. Full details of the evidence base have not been provided, but I have no reason to doubt what the appellant reports.
18. The Inspector examining the eLP has produced advice which confirms that main modifications to it are required to remedy issues of soundness and that amendments to its spatial development strategy, as set out by Policy SP2, may be needed⁵. However, firm and substantive evidence which suggests that the site is likely to be designated for housing or released from the Green Belt has not been provided. In addition, considerations of the effects of notional development in the context and for the purposes of site selection processes will not necessarily be comparable with the impacts of specific proposals. In this case, the size of the site and the scale of the proposed development is not comparable with the development considered in the evidence base. In any event, the site is currently in the Green Belt and the proposal would be inappropriate development for the reasons set out above.
19. The proposal fails to constitute a recognised exception to inappropriate development in the Green Belt. The development would thus be inappropriate. It would not assist in safeguarding the countryside from encroachment and the harm to openness would be moderate. Substantial weight should be given to any harm in the Green Belt and, in that context, the proposal would result in excessive adverse impacts on openness in the terms of LP Policy GB7A. I therefore find that the proposal conflicts with LP Policies GB2A and GB7A and eLP Policy DM4.

Spatial development strategy

20. The Council contends that the proposal conflicts with the eLP's spatial development strategy on the basis that it is outside settlements. Whilst not specified on the decision notice, it is also put forward that the proposal conflicts with eLP Policy P10, as the site is outside the development locations it allocates for Nazeing. However, the strategy seeks to deliver a minimum number of homes and the use of previously developed land in the Green Belt is identified in its sequential approach to allocating housing. Having regard to these matters and the examining Inspector's findings mentioned above, I cannot be certain

³ Appeal references: APP/J1535/W/17/3183825; APP/J1535/W/18/3212134

⁴ Site SR-0135B of the Council's Strategic Land Availability Assessment

⁵ Letter titled 'Inspector's Advice After Hearings' and dated 2 August 2019

that the housing requirement identified in the eLP can be satisfied without development outside settlements. Moreover, I have already identified that paragraph 11d) of the Framework is relevant due to the under delivery of housing in the district. The Council cannot currently demonstrate a 5 year supply of deliverable housing sites either, albeit I have not been provided with detailed evidence as to the extent of the shortfall.

21. Based on the evidence before me and the strategy's susceptibility to change, eLP Policies SP2 and P10 carry very limited weight and thus I do not consider that conflict with these policies should indicate against the development. Nevertheless, the site is an inappropriate location for housing given its Green Belt location for the reasons identified above.

Other considerations

22. LP Policy GB2A has limited consistency with the Framework in the particular circumstances of this case. It is out of date and the proposal's conflict with it attracts modest weight. LP Policy GB7A is more consistent given its aim to protect openness and thus the conflict with it attracts moderate weight. The examining Inspector has not raised any issues with eLP Policy DM4 of relevance to the proposal and it is generally consistent with the Framework. The conflict with it also attracts moderate weight.
23. The outer sides of the land at Ridge House form part of the boundary of the Nazeing and South Roydon Conservation Area. However, the Council has not identified that the proposal would harm the significance of the Conservation Area and I have no compelling reasons to disagree.
24. The Council contends that the appellant has not provided sufficient information in order to establish whether the proposal would adversely affect the integrity of the Epping Forest Special Area of Conservation (SAC). An adverse effect on the SAC would indicate against the development. However, if I were to find that there would be no adverse effects, including on air quality, these would constitute neutral considerations rather than ones indicating in favour of the development.
25. The proposal would provide family sized homes that would make a valuable contribution to addressing the district's under supply and delivery of housing even though the number of houses proposed is limited. These matters attract moderate weight in favour of the development.
26. The appellant puts forward that the site's suitability for development in the eLP's evidence base weighs in favour of the development. However, I have established that the location of the site is inappropriate as it is inappropriate development in the Green Belt and conflicts with the eLP Policy DM4. Whilst eLP's policies SP2 and P10 do not indicate against the proposal, this is a neutral factor, rather than a consideration telling in favour of it.
27. I note that the proposal has generated both local support; however, this in itself is not a substantive or determinative matter. It is raised that the proposal would be compatible with the character and appearance of the area and similar to other recent development nearby. However, the absence of harm is a neutral factor and I have found that the proposal is not directly comparable with housing development in the vicinity.

Planning Balance and Conclusion

28. Paragraph 144 of the Framework explains that very special circumstances to justify development in the Green Belt will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
29. There are other considerations in this case that weigh in favour of the proposal. However, the proposal would be inappropriate development in the Green Belt, the harm to openness would be moderate and any harm to the Green Belt must be given substantial weight. In conclusion, I find that the other considerations do not clearly outweigh the harm identified and thus the very special circumstances necessary to justify development in the Green Belt do not exist. Whilst paragraph 11d) of the Framework is relevant, the policies in the Framework that protect the Green Belt provide clear reasons for refusing the development.
30. The proposal is contrary to the development plan taken as a whole. The material considerations identified do not outweigh the proposal's conflict with the development plan. I have not therefore considered the effect of the proposal on the SAC, as this would not have any bearing on my decision.
31. For the above reasons, the appeal is dismissed.

Mark Philpott

INSPECTOR