
Appeal Decision

Site visit made on 1 December 2021

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date :8th December 2021.

Appeal Ref: APP/J1535/W/21/3274432

Woodlands Farm, Stapleford Road, Stapleford Abbots, Essex RM4 1EJ

- 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 Javeed Akhtar against the decision of Epping Forest District Council.
 - The application Ref EPF/1731/20, dated 10 August 2020, was refused by notice dated 10 November 2020.
 - The development proposed is 3no. two storey, four bedroom dwellings and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has referred to policies in the Epping Forest District Local Plan Submission Version 2017 (LPSV), which is subject to consultation on proposed modifications following Examination in Public and is anticipated for adoption in early 2022. Given their advanced stage of preparation, I have given significant weight to the emerging LPSV as and where necessary in my decision.

Main Issues

3. The main issues for the appeal are:
 - whether the proposal is inappropriate development for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development; and
 - the effect of the development upon the Epping Forest Special Area of Conservation (SAC).

Reasons

Whether or not proposal is inappropriate development

4. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. New

buildings are inappropriate in the Green Belt, save for a few exceptions listed in paragraph 149 of the Framework. The appeal proposal is within the Green Belt and is sought under exception 149(e) in respect of being a limited infill in a village, notwithstanding that the appellant has stated in the statement of case that the proposal would constitute inappropriate development.

5. The appeal site is at the end of a ribbon form of development on the western side of Stapleford Road, with residential properties extending southwards and open land to the west and north. The appeal site forms a portion of a large gap between the last of these residences, known as Oakfields, and Woodlands Farm, which is a collection of buildings to the northwest. There are no buildings on the appeal site nor on the other land forming part of the gap, but there is a loose-knit line of trees that broadly identifies the extent of the plot.
6. Woodlands Farm has been granted permission in principle to redevelop for a number of dwellings, although the full details of that case are not before me in this appeal. Nonetheless, there would remain a significant and verdant gap constituting open undeveloped land between the edge of Woodlands Farm and the boundary of the appeal site. Even if a scheme were to be approved and built out at Woodlands Farm, this would not change the spatial relationship between it and the appeal site.
7. On this basis, both visually and spatially, the proposed development of the appeal site for three dwellings would not be viewed as an infill, appearing as an edge of settlement development extending built form into the countryside. The proposal would therefore fail to meet any exceptions listed in paragraph 149 of the Framework, would harmfully impact on the openness of the Green Belt and would be inappropriate development as a result.
8. The proposal would be contrary to policies GB2a and GB7a of the Epping Forest Local Plan (the LP) and policies SP6 and DM4 of the LPSV, that together seek to protect the Green Belt from inappropriate development.

Other considerations

9. The main parties are in agreement that a five-year housing land supply cannot be demonstrated. Further to this, the appellant has submitted that very special circumstances exist insofar as the proposal would meet a localised housing need, and that the permission in principle at Woodlands Farm defines a new extent of the village. The presence of this permission, it is argued, erodes the importance of the Green Belt role to the village and it is further suggested that the proposal would be of limited impact both visually and in terms of activity generated.
10. The lack of a housing land supply would not, on its own, amount to a very special circumstance and I note that the LPSV contains allocations sufficient to meet the local housing needs of Stapleford Abbots. In addition, I have observed that Woodlands Farm is divorced from the village environs by a significant gap that is open countryside in character. I do not, therefore, consider that the openness of the gap or its contribution to the village edge would be diminished by any development within the confines of the existing extent of built form at Woodlands Farm. The purposes of the Green Belt, as set out in paragraph 138 of the Framework, would prevail in this instance.

11. The proposal would introduce a level of domesticity and activity that, whilst moderated by the small-scale nature of the development, would conflict with the spatial objectives of keeping Green Belt land open. Reduction of the visual effects of the proposed development with landscaping would not overcome or justify the loss of this openness, such that the irreversible harm to the Green Belt would remain.
12. Taken as a whole, these other considerations would not amount to very special circumstances needed to justify a departure from Green Belt policy.

Effect on the SAC

13. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site¹, must consider mitigation within the Framework of an Appropriate Assessment rather than at the screening stage. This responsibility now falls to me within this appeal.
14. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of European sites.
15. The appeal site falls within 6km of a SAC. The site is designated at European level for the diverse species range of flora, fauna and habitats within the Epping Forest. The forest is a large ancient wood-pasture with habitats of high nature conservation value including ancient semi-natural woodland, old grassland plains, wet and dry heathland and scattered wetland.
16. The SAC and its qualifying features are at risk from increases in nitrogen oxide, ammonia and nitrogen deposition, largely emitted by vehicular traffic. The proposal would generate vehicular traffic and therefore, either alone or in combination with other schemes, would be likely to have a significant effect on the quality features of interest of the identified European site. In such instances, it is incumbent upon me to undertake an Appropriate Assessment.
17. The appellant has not provided any information in respect of the potential air quality effects of the appeal proposal on the SAC nor any mitigation measures arising to tackle such effects. Whilst there is a stated willingness to accept a condition or legal agreement to mitigate the effects through a financial sum, no formal mechanism for paying such contributions has been secured and no obligation has been submitted to the appeal. I do not consider that the provision of detailed environmental information, in respect of a matter of such importance as this, could or should be left to conditional approval.
18. Since I am dismissing on other grounds, I do not need to undergo the task of Appropriate Assessment in this instance. Nonetheless, on the evidence before me I can only conclude that, in the absence of necessary mitigation, the proposal would have an adverse effect on the integrity of the designated site contrary to policies of the CP1, CP6 and NC1 of the LP, that give the highest level of protection for internationally designated sites of biodiversity interest.

Other Matters

19. There is agreement between the main parties that the Council cannot currently demonstrate a five-year housing land supply and I am therefore directed to

¹ Now the National Site Network following withdrawal from the EU

paragraph 11(d) of the Framework. However, based on my findings above, the so-called tilted balance is not engaged as the policies of the Framework in relation to Green Belt land and protection of the natural environment provide clear reasons for refusal.

20. My attention has been drawn to other sites where permission for dwellings has been granted, although these are physically separate from the appeal site and, in any event, each case is to be determined on its own merits. I also note that the proposal was subject to pre-application advice and is designed to be commensurate to the surroundings, able to be delivered now. However, the plans before me show a development that fails to accord with local and national planning policy and as such these matters have little weight.

Conclusion

21. For the reasons given above, the appeal is dismissed.

David Wallis

INSPECTOR