



Appeal Decision

Site visit made on 20 December 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2021

Appeal Ref: APP/J1535/W/20/3257191

Land adjacent to Spinney Mead, Mill Lane, High Ongar, Ongar CM5 9RQ

- 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 Barry Saunders against the decision of Epping Forest District Council.
 - The application Ref EPF/2615/19, dated 28 October 2019, was refused by notice dated 12 March 2020.
 - The development proposed is described as a new detached bungalow as per drawing nos. 2202/04, 05 and 06.
-

Decision

1. The appeal is dismissed.

Procedural Matters & Background

2. Since the appeal was lodged the Government released the Housing Delivery Test (HDT) results on 19 January 2021 and published the revised National Planning Policy Framework (2021) (the Framework) on 20 July 2021. I have given the Council and appellant the opportunity to comment upon the implications of these for their respective cases.
3. The plans show three containers overlapping the appeal site and one near the entrance. The appellant informs me the site and part of the wider land is used for storage and laid to hardstanding for a building company and general storage, constituting a lawful development and use. However, there is no certificate of lawful use or development before me demonstrating the extent and nature of this. It is also not fully explained on the plans.
4. The aerial images from 2006 and 2009 show almost all of the appeal site and land to the south as grassland. Some of the wider land was used for storage and structures. However, much of this is now occupied by a bungalow, its driveway and garden areas. The 2017 image shows amongst other things three containers and some bays to the west of the land, one container next to the entrance, and paraphernalia. In 2018 a section of land is enclosed.
5. At my visit there had been changes to the configuration. There were four containers to the north of the appeal site, which had been spaced out and re-orientated, so not located as set out on the submitted plans. Most of the bays had been removed. Some fencing had been erected to the north of the driveway. There were also hardstandings, vehicle and plant storage, some taking place beyond that shown in 2017. The Council has had the opportunity

provide observations on the appeal evidence. It confirms it does not consider the use of the land for 10 years is demonstrated. Its position in relation to the operational development and containers is not fully clear.

6. The evidence provided does not adequately demonstrate a continuous lawful use of the land as suggested. Three of the containers shown in 2017 and on the plans had been moved/re-orientated at my visit. Therefore, in the absence of substantive evidence to the contrary, I have only regarded the single container by the entrance and the hardstanding south of the bungalow as shown in 2017 and present in the same position at my visit, to be lawful development for the purposes of my assessment of this appeal.

Main Issues

7. The main issues are:

- whether or not the proposed development would be inappropriate development in the Green Belt;
- the effect of the proposed development upon the openness of the Green Belt; and,
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

8. The site is within the Green Belt where the Framework states that inappropriate development is harmful and should not be approved except in very special circumstances (paragraph 147). The construction of new buildings is regarded as inappropriate development in the Green Belt, subject to exceptions in paragraphs 149 and 150. One exception in paragraph 149g) is the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, excluding temporary buildings, which would not have a greater impact on the openness of the Green Belt than the existing development.
9. Policy GB2A of the Epping Forest Local Plan with Alterations (2006) (the LP) states development including new buildings, will not be permitted in the Green Belt unless one of its exceptions are met. They include (iv) uses that preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, or, (viii) it is in accordance with other Green Belt policy. Policy GB7A states permission will be refused for development conspicuous within the Green Belt which would have an excessive adverse impact upon the openness, rural character, or visual amenities.
10. Policy DM4 of the emerging Epping Forest District Local Plan (2017) (the ELP) includes an exception to inappropriate development (vi) similar to that at paragraph 149g) of the Framework. While the ELP is yet to be found sound or adopted, it has been examined, so given the stage of preparation and the degree of consistency with the Framework, I attach significant weight to DM4.
11. The appeal site comprises primarily grassland with some hardstanding and containers. It comprises part of wider land to the south of a bungalow

approximately 120m south of the village limits of Ongar, surrounded by primarily agricultural land to the south, east, and west. The eight dwelling scheme adjacent to the village envelope may result in the appearance of the village extending further south. However, to the south of this scheme the character changes markedly to dwellings and uses on much larger plots with greater spacing, vegetation and openness. Given the limited number and large plot sizes, the plots further south do not appear as being within the village.

12. Even if some such as the bungalow and historic mill buildings north of the appeal site were considered part of the village, the appeal site, and the sizeable parcel of land to its south are open and largely undeveloped. Therefore, even noting the permission south of Rob Roy there is a considerable gap of open land to these next dwellings south of the recent bungalow north of the appeal site, which are also well-spaced. Therefore, the appeal site and plots to the south are not part of a village, and this proposed dwelling would not represent infilling within a village under paragraph 149f) of the Framework.
13. Based upon what I saw at my visit and the evidence before me the appeal site could at least in part be described as comprising previously developed land. On this basis my findings in respect of openness will be determinative as to whether or not the proposed development constitutes an exception to inappropriate development as defined in paragraph 149g) the Framework.

Openness

14. The proposed new dwelling would be a 'T' shape building approximately 11m x 12.2m, have a maximum ridge height of approximately 4m, and volume of approximately 304 cubic metres. It would incorporate a significant proportion of hardstanding for parking and circulation within the plot, as well as associated vehicle movements, residential activity, and paraphernalia. It would be considerably larger in height, volume, and extent than the collective size of the development I consider might be lawful.
15. This development would result in a significantly increased scale, bulk, mass, and area of permanent built development, resulting in significant visual and spatial harm to the openness of the Green Belt. There are some mature trees along Mill Lane, however, some are thin with wide gaps. Given this and the height of some of the hedges, the harm from the development would be visible from the surrounding land, particularly from Mill Lane to the east.
16. Future landscaping and vegetation growth would reduce the visibility of the new development. However, it would take some significant amount of time to establish and even allowing for this, would not fully mitigate the harm to openness. Matters such as the final design of the dwelling, driveway area and boundary treatments could also be the subject of suitably worded planning conditions. However, these and other conditions could not overcome the harm.
17. For the reasons set out above the proposed development would result in a significantly harmful effect to the openness of the Green Belt, thereby constituting inappropriate development. It would conflict with Policy GB2A and GB7A of the LP, which amongst other things, seek to resist inappropriate development and preserve the openness of the Green Belt. The development would also conflict with paragraphs 137, 147 and 149g) of the Framework which seek to keep Green Belt land permanently open, define, and resist inappropriate development.

Other considerations

18. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is clear that substantial weight should be given to any identified harm to the Green Belt.
19. The development would result in a small economic benefit during construction and a small and sustained benefit to the local economy once occupied. I have not been provided with evidence in respect of the Council's housing land supply position. However, even if it were very acute, the provision of one additional accessible dwelling would be a limited benefit. Even if I had an adequate means before me to secure the permanent removal of all paraphernalia from the land, and further long term landscaping improvements, this would overall, result in a moderate visual improvement to character and appearance. Overall, the benefits are attributed moderate weight in favour of the scheme.
20. The eight dwelling scheme off Mill Lane is understood to be an allocated site in the ELP adjacent to the village envelope. The single dwelling to the south was a replacement for a pre-existing larger building. Therefore, these are not directly comparable to the circumstances of this appeal proposal, which I have considered on its own merits. Although it is suggested the new building is of a height that would be permitted development for an outbuilding, it is not clear which permitted rights could result in a comparable development on this appeal site. These matters are can therefore only attributed limited weight.
21. The Council does not raise an objection to the design of the new dwelling and based upon the evidence before me, I see no reason to disagree. This is a neutral matter. Compliance with policies in respect of matters such as the accessible nature of the dwelling, parking, highway safety, and access to services and facilities, would also be neutral matters in the planning balance.

Other Matters

22. The Council's second reason for refusal relates to the absence of evidence to demonstrate the development would not result in a likely significant effect upon the Epping Forest Special Area of Conservation (the SAC), due to the effect upon air quality. The Conservation of Habitats and Species Regulations 2017 (as amended) requires where a project is likely to result in a significant effect on a European site, the competent authority is required to make an Appropriate Assessment of the implications on the integrity of that site.
23. The appellant has indicated a willingness to provide a financial contribution towards the mitigating the effects of the development. Section N.2.1 of the Procedural Guide: Planning appeals – England (2021) confirms if an appellant intends to send a planning obligation, it must be executed, and a certified copy provided. I do not have a planning obligation before me securing a financial contribution or other alternative mitigation measures. As no mitigation is before me and it is not put to me the development would result in benefits to the SAC weighing in its favour, I have not looked at this matter in detail. A finding of no harm to the SAC would have been a neutral matter in the balance.

Green Belt Balance & Conclusion

24. The factors and benefits set out by the appellant attract moderate weight overall. They would not clearly outweigh the harm identified to the Green Belt,

which carries substantial weight, so as to amount to the very special circumstances necessary to justify the proposal. Therefore, proposed development conflicts with both the development plan and the Framework, as well as Policy DM4 of the ELP, as there are not very special circumstances demonstrated, that would outweigh the harm to the Green Belt.

25. The proposed development would be contrary to the development plan and the National Planning Policy Framework taken as a whole, and there are no considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR