



Appeal Decision

Site visit made on 19 January 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/J1535/W/21/3271411

Oaklee Farm, Manor Road, Lambourne End, Romford RM4 1NB

- 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 Lee against the decision of Epping Forest District Council.
 - The application Ref EPF/1338/20, dated 26 June 2020, was refused by notice dated 22 September 2020.
 - The development proposed is to remove all existing structures, hardstanding, compound boundary fencing and material stores and construct a single storey two bedroom detached contemporary dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party, particularly as the revisions do not alter the policies upon which this appeal turns.
3. The Council has referred to the emerging Epping Forest District Local Plan (ELP), including the Submission Version 2017 and proposed Main Modifications (MM) required by the Inspector in the Examination. Consultation on the MM has concluded and the responses received have been reported to the Inspector. However, the extent of any unresolved objections to Policies DM2, DM4, DM22 and SP6 referred to in this appeal is unclear. The Council expect the ELP to be adopted later this year but, in accordance with the requirements of paragraph 48 of the Framework, these policies currently attract limited weight in my consideration of the merits of this appeal.

Main Issues

4. The main issues are: -
 - whether the development would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the development is inappropriate within the Green Belt, 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

5. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Whilst referring to the now replaced Planning Policy Guidance 2, the Local Plan¹ reiterates this stance in its explanation behind its Green Belt policies, including Policy GB2A. It includes exceptions to the presumption against development in the Green Belt, but these are not as extensive as those within the Framework, so it is not as positive as it and would not be fully consistent with it. Policies SP6 and DM4 of the ELP, more closely reflect the Framework, but could be subject to unresolved objections. With these points in mind, I only afford limited weight to these policies regarding matters relevant to this main issue.
7. The wording of the Framework is the most up to date expression of the national policy position on development in the Green Belt. Paragraph 149 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions, which includes 'limited infilling or the partial or complete redevelopment of previously developed land'.
8. Since the determination of the appeal application, the Council has granted a Certificate of Lawful Use² for the existing compound boundary fencing, the existing access road and for equestrian and storage uses. The appeal site would therefore qualify as previously developed land and the proposal would involve its redevelopment. However, the conclusion on whether the proposal would accord with this exception, and not be inappropriate development, would hinge on if the proposal would not have a greater impact on the openness of the Green Belt than the existing development. I shall come to this point in the next main issue.

Openness

9. As set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof being their openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.
10. Policy GB7A of the Local Plan also refers to the openness of the Green Belt but it is not fully consistent with the Framework, as it also requires consideration of the rural character and visual amenities of the Green Belt. As outlined above, I only afford limited weight to this policy and Policies SP6 and DM4 of the ELP in respect of the matters relevant to this main issue.
11. The appeal site is situated to the west of Manor Road and constitutes a smaller parcel of land incorporating a compound and its access road. It is set within land primarily used for grazing that forms part of the wider undulating landscape north of Romford and surrounding settlements. The compound is

¹ Epping Forest District Local Plan (Adopted January 1998 and Alterations Adopted July 2006).

² Planning Ref: EPF/2944/20 CLD – 5 February 2021.

enclosed by fencing and planting and includes a number of structures and materials stored on a hardstanding.

12. The Officer Report confirms that the Council's concerns are restricted to the spatial impact of the proposal and the appellants suggest that the site was previously occupied by several larger structures, the foundations of which are in situ under the hardstanding. However, those structures are no longer present within the site, so would not constitute the existing buildings on site.
13. The proposed detached dwelling would be set low within the site, to a height similar to the existing fence enclosures, but the amount of built form would have a greater and more adverse spatial impact on the openness of the Green Belt, than what is currently present on site. This would be contrary to the main aims of Green Belt policy at local and national levels, as set out above, including inappropriate development.

Other Considerations

14. The main parties agree that the Council is not able to demonstrate a five-year supply of deliverable housing sites. Although the Council suggest it intends to deliver more homes in the last ten years of its plan period, it still has a shortfall and I am mindful of the support offered in the Framework to the Government's objective to significantly boost the supply of homes. Nevertheless, given that the proposal would only contribute one rural home to the supply and mix of housing in the district, the weight afforded to this benefit would be limited.
15. Some short-term economic benefits would arise from, for example, use of local employment and procured materials during the construction period. The proposal would also be situated in an accessible location in close proximity of local shops, services, and facilities that would be supported by future occupiers, thereby positively contributing to the local economic vitality and viability. However, given the modest scale of the proposal, such economic and social benefits would be limited.
16. While residents of the proposed scheme would be eligible for work and could contribute to the local economy, they could equally already be employed in the district. Council Tax receipts in conjunction with the proposal would also only be likely to make a modest contribution within the District, which would amount to economic benefits of very limited weight.
17. The proposal would be constructed to high environmental standards and would utilise, amongst other things, rainwater harvesting and onsite electricity generation to provide high environmental performance. Due to minimisation of energy consumption, these would amount to environmental benefits, but would be limited in scale and kind due to the magnitude of the proposal.
18. The retention and enhancement of planting within the site and other improvements to the biodiversity and ecology of the site would be relatively extensive for a small scheme such as that proposed, so I afford considerable weight to these environmental benefits.
19. The reduction in vehicle movements to and from the site would also be a modest environmental benefit. Similarly, removing commercial activity from the site would benefit neighbouring occupiers regarding noise and disturbance that may emanate from the site, but the magnitude of those operations is only likely to yield a social benefit of limited weight.

20. The site could be used more effectively for housing but the proposal would not safeguard and improve this particular environment, a key component of the Framework's objective of making effective use of land.
21. The main parties also agree that the proposal would comply with local and national policies in respect of the effect of the proposal on the character and appearance of the area; living conditions of neighbouring occupiers and future occupiers of the proposed dwelling; land contamination; and highway safety, access, and parking. In particular, the proposal is responsive to the landscape and topography of the site and would result in a high-quality design and form of development. However, policy compliance is an absence of harm, which equates to a neutral impact, that would neither weigh in favour nor against the appeal scheme.
22. I have been referred to two of the Council's decisions for homes on previously developed land. The first of these is Millers Farm³, immediately to the south, and the second relates to Stapleford Farm⁴, elsewhere within the district. Both applications appear to relate to the removal of buildings and/or uses of greater significance than those found within the appeal site, so they would not be comparable with the appeal scheme. I have also considered the argument that the grant of planning permission would not set a precedent for other similar developments given the nature of the site, its location and topography. However, each application and appeal scheme must be determined on its own individual merits.

Other Matters

23. There is evidence to suggest that recreational activity and air quality is harming the Epping Forest Special Area for Conservation (EFSAC), but the appeal site is situated outside of the 0-3km Zone of Influence for recreational disturbance. Since the determination of the planning application, the Council has adopted an Interim Air Pollution Mitigating Strategy, which requires numerous mitigation measures, which can be controlled by planning conditions and a legal agreement. The appellants have indicated they are happy to meet these requirements to ensure that appropriate mitigation is implemented.
24. I am conscious of the requirement to undertake an 'Appropriate Assessment' of the effects of the development on the designated sites. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development.
25. Given that I have found harm in relation to the main issues, unless there is another material planning consideration which suggests that permission should be granted, it is not necessary for me to consider this matter further.

Planning Balance and Conclusion

26. The Council cannot currently demonstrate a five-year supply of deliverable housing sites, as required by the Framework. In these circumstances the so-call tilted balance approach to decision making would normally be engaged

³ Planning Reference: EPF/1440/18, to remove existing barn, stables and livery store and build 3-bed dwelling.

⁴ Planning Reference: EPF/0238/19, to cease use as breakers yard, repairs and storage and build 8 dwellings.

but, given my findings on the main issues, the conventional untilted planning balance applies.

27. The development plan for the area includes the Local Plan but the Council is working on its ELP. I have already outlined above that I give limited weight to the aforementioned policies from these documents, due to their consistency with the Framework and the stage reached in the route to adoption. It follows therefore that I also afford limited weight to the conflict of the proposal with these policies.
28. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness which gives rise to additional harm. These harms render the appeal scheme contrary to the aims of the policies of the development plan and the ELP, as I have identified them, and the relevant sections of the Framework.
29. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is 'clearly outweighed by other considerations.'
30. The other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
31. The proposal would be contrary to those elements of the development plan that refer to development in the Green Belt. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR