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# Appeal Decision

Site visit made on 10 May 2022

**by C Shearing BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 May 2022**

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**Appeal Ref: APP/J1535/W/21/3279987**

**Graylands, The Street, Sheering, Harlow CM22 7LY**

- 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 Richard Franks against the decision of Epping Forest District Council.
  - The application Ref EPF/1108/21, dated 20 April 2021, was refused by notice dated 14 June 2021.
  - The development proposed is change of use from agricultural land to residential use.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I observed at the time of the site visit that the change of use had taken place, and I am considering the appeal as retrospective.
3. The Council refer to Policy DM4 of the Epping Forest Local Plan Submission Version 2017 (the LPSV). The LPSV has been independently examined, and the policy is not subject to main modifications. In accordance with paragraph 48 of the National Planning Policy Framework (the Framework), and given the advance stage of plan preparation, I attribute this policy moderate weight.

## Main Issue

4. The main issues are:
  - i. whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
  - ii. the effect of the development on the openness of the Green Belt;
  - iii. 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 the very special circumstances necessary to justify the development.

## Reasons

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 in the Green Belt is, by definition,

harmful to the Green Belt and should not be approved except in very special circumstances.

6. Paragraph 150 of the Framework sets out that certain other forms of development are not inappropriate in the Green Belt, including at e) material changes in the use of land, provided that they preserve its openness and do not conflict with the purposes of including land within it.
7. The Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence (paragraph 137). Openness has a spatial as well as a visual aspect. Paragraph 138 also sets out the five purposes served by the Green Belt, which includes assisting in safeguarding the countryside from encroachment.
8. Policies GB2A and GB7A of the Epping Forest District Local Plan Alterations 2006 (the EFDLPA) broadly conform with the Framework insofar as this appeal is concerned, stating in summary that change of use of land should preserve openness and not conflict with the Green Belt purposes. This is similarly the case with emerging Policy DM4 of the LPSV.
9. The appeal site lies in a residential area which backs onto open countryside. The property of Graylands and its main garden are not within the Green Belt, but the land to the south of it is. The red line of the appeal site encompasses both these areas. There is a general line of demarcation between the rear gardens of properties on The Street and the more open land behind them, which is separated by fencing and foliage. The main garden of Graylands is characterised by typical residential features including a raised patio, pergola and a separate area of decking for seating. This contrasts with the land to the south of it, which is more open in its character and comprises grassland that is free from any built forms, other than the surrounding boundaries which are predominantly post and rail fencing.
10. The change of use of the land and subsequent enlargement of the garden at Graylands has resulted in the land becoming more domestic in its character. This has occurred through the introduction of domestic paraphernalia, including a formal planted area on the western boundary, positioning of a bench and demarcated parking area for a lawn mower. While the scale of these features is modest, they nonetheless erode the former open character of the land.
11. As the land is used by a single dwelling I do not consider that the potential for noise pollution or increased pedestrian movements arising from the development cause harm to the character of the Green Belt or conflict with its purposes. As external lighting could be controlled by condition if the appeal were allowed, I do not consider that light spillage would cause additional harm.
12. For the reasons above I find the development does not preserve the openness of the Green Belt and encroachment into the countryside has occurred. Consequently, it is inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policies GB2A and GB7A of the EFDLPA and also emerging Policy DM4 of the LPSV, as well as the Policies of the Framework.

### *Other Considerations*

13. I have had regard to the evidence, including letters from third parties, regarding the former use of the site and stating that it was previously part of a larger residential garden. While this may have been the case, the appeal before me relates to the change of use of the land from an agricultural use and my assessment relates to the current circumstances. Nonetheless, the aerial photographs provided by the appellant also demonstrate that while the appeal site may have been part of the garden of Green Acres, it was more open in its character than it is currently as it formed part of a larger parcel of land extending to the west. The appellant also states that the land was previously used for residential purposes in excess of 10 years. Matters relating to the lawful existing use of the land fall outside the scope of this appeal under Section 78 of the Act. Overall I attach limited weight to the historical use of the land.
14. I have also had regard for the relationship of the appeal site to the neighbouring land. While the appeal site differs in its character and degree of openness to the expanse of farmland to the south, it nonetheless formerly had an open quality which is characteristic of the Green Belt. The site to the west contains former stable buildings as well as some domestic items. However, it also maintains an open character and contributes to the transition between the open countryside and the residential properties. I therefore give limited weight to the circumstances arising from the character of the neighbouring sites.
15. The appellant has suggested a condition could be imposed to remove permitted development rights for the creation of new buildings within the extended garden. The Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so, and the Planning Practice Guidance states that such a condition may not pass the test of reasonableness or necessity. I do not consider that there is clear justification for imposing such a condition in this instance. Furthermore, I am not convinced that such a condition would be successful in maintaining the openness of the land, given that planning permission could still be obtained and encroachment through other paraphernalia could still occur.

### **Conclusion**

16. I conclude that the development is inappropriate in the Green Belt in the terms set out by the Framework and would cause a harmful loss of openness. To this harm I must attach substantial weight.
17. For the reasons set out above, the weight of the other considerations in this instance do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist. The appeal should therefore be dismissed.

*C Shearing*

INSPECTOR