



Appeal Decision

Site visit made on 12 April 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2022

Appeal Ref: APP/J1535/W/21/3275842

Temple Farm, High Street, Roydon, Harlow CM19 5LW

- 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 Mrs B Frederick against the decision of Epping Forest District Council.
 - The application Ref EPF/0456/21, dated 17 February 2021, was refused by notice dated 5 May 2021.
 - The development proposed is described as the "change of use and conversion of existing agricultural buildings to create 5 new dwellings".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal is inappropriate development for the purposes of the Framework and its effect on the openness of the Green Belt,
 - 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 on the integrity of the Epping Forest Special Area of Conservation.

Inappropriate Development

4. The appeal site lies within the Metropolitan Green Belt. The Framework states at paragraph 137 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Furthermore, the essential characteristics of the Green Belt is their openness and permanence. The construction of new buildings, and certain other forms of development, should

- be regarded as inappropriate in the Green Belt, other than in a limited range of specified exceptions, as set out in Paragraphs 149 and 150 of the Framework.
5. The Framework sets out clearly in Paragraphs 147-151 that unless an exception can be demonstrated, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where very special circumstances exist. The appellant asserts that as the proposal would be the re-use of buildings that are of a permanent and substantial construction, the exception set out in paragraph 150 d) of the Framework applies, which is echoed in Policy DM4 of the Epping Forest District Council Local Plan Submission Version 2017 (LPSV).
 6. Although close to the built-up area of Roydon, the land about the appeal site is decidedly rural in character. The larger agricultural building to be converted into units 1-4 is constructed of a steel frame, under a corrugated asbestos sheeting roof. The walls were covered in vertical timber which was missing in some areas so that bales stored within could be seen. One could also see through the building which, at the time of my visit, housed livestock in parts with large areas to the rear covered in plastic sheeting. The other element of the development which would provide unit 5 is part of another larger building and is constructed of corrugated asbestos sheeting walls and roof. At the time of my visit, it was being used to repair vehicles.
 7. The appellant refers to a previous planning application¹ (the previous application) at the appeal site which considered a similar development. The Case Officer reported that the buildings were of a permanent and substantial construction and that proposed units would be of a traditional rural design. Consequently, the development would not be inappropriate development within Green Belt.
 8. However, permanent and substantial construction is not defined in the Framework or the LPSV and is inevitably a matter of planning judgement. I have very little before me to demonstrate that the buildings, especially the larger of the two, are suitable for conversion without the need for a significant proportion of the structural elements of the building to be repaired or rebuilt. Furthermore, although the appellant undertook a preliminary risk assessment of the site, I have not been provided with any form of structural survey and I am left without any helpful evidence on this particular matter.
 9. Nevertheless, in order to comply with its requirements, paragraph 150 d) of the Framework states that developments need not be inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Paragraph 138 of the Framework sets out the five purposes that the Green Belt serves, and in this instance, safeguarding the countryside from encroachment and the prevention of urban sprawl are pertinent.
 10. Openness is the absence of development, and it includes both spatial and visual aspects. It has been established that the impact of development on openness and Green Belt purposes is not necessarily related to its size but also to its purposes. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a

¹ EPF/1084/19

result. Equally this does not mean that the openness of the Green Belt has no visual dimension.

11. The development would utilise the existing buildings without the need for any extensions. Thus, in that regard, spatially the openness of the Green Belt would be preserved. However, it does not follow that because a building in a typical rural use does not harm openness or conflict with Green Belt purposes, that the same building in a different use would be similarly acceptable in the Green Belt. Consequently, there would be a visual impact as a result of the alterations to the buildings and their residential occupation. The expanse of glazing in the west elevation of the larger building would be considerably more conspicuous than the current arrangement, and the visual impact of the development would be exacerbated by the extent of light spill from the buildings. Vehicle parking areas in a prominent position to the front of the buildings would also result in a conspicuous increase in vehicle movements and parking.
12. Furthermore, the garden areas to be positioned to the rear of the buildings would extend the area of domestication. There would also be an increase in activity and associated domestic paraphernalia around the dwellings, resulting in an encroachment into the countryside. Thus, the construction of independent dwellings would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. In this regard, the proposed new dwellings and their permanent residential occupation would have a greater visual impact on openness than the existing buildings.
13. Thus, even if the buildings are considered to be permanent and substantial, the proposed new dwellings and their permanent residential occupation would have a greater visual impact on openness than the existing building. Therefore, the construction of independent dwellings would conflict with the Green Belt purpose of safeguarding the countryside from encroachment.
14. By virtue of having a greater impact on openness than the existing development, the proposal would not meet the exception set out at paragraph 150 d) of the Framework. Thus, it would be in conflict with Policies CP1, CP2, CP6, LL1, GB2A, GB7A and ST1 of the Epping Forest Local Plan and Alterations 1998, Policies DM2, DM3, DM4, DM22 and SP2 of the LPSV, and the Framework which seek, amongst other things, to protect the Green Belt from inappropriate development, which is by definition, harmful to the Green Belt.

Other Considerations

15. The appellant refers to the planning history of the site and the adjoining buildings. Of particular note is reference to the previous application at the site, with the appellant stressing that in the consideration of that development, the Case Officer opined that the buildings were of a permanent and substantial construction, and that their change of use would not impact on the openness of the Green Belt. Thus, the appellant argues that as the proposal did not represent inappropriate development within the Green Belt, it would follow that the proposal before me should be the subject of the same findings.
16. Furthermore, the appellant states that site has been the subject of previous permissions to allow the conversion of other buildings at the farm into dwellings, some of which have since been converted. Thus, the use of buildings at the site for residential purposes has been established at the site.

Green Belt Balance

17. I recognise that the planning history and former decisions at the site are a material consideration, and that the Council previously arrived at a different conclusion on the conversion of the subject buildings into dwellings. However, this does not alter my findings on the substantive issues that I have reached as set out above. Furthermore, the matter before me is not the previous application, which was not appealed against, but rather it is the subject of the planning application that was refused planning permission and for the matters as set out within the decision notice. Additionally, although I acknowledge that there must be a level of consistency within the planning system, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.
18. Moreover, the proposal before me seeks planning permission in its own right and not the prior approval of matters under Class Q(a) or Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Consequently, I am not persuaded that permission granted for the conversion of other buildings at the site through the prior approval process represents an appropriate reason to find in favour of the development before me, as the objectives of the Development Plan and that of the GPDO are mutually exclusive. Therefore, the permission granted to change the use of the buildings under Class Q of the GPDO is not a determinative factor.
19. Moreover, as the site lies within the Metropolitan Green Belt, having regard to paragraph 11 d) i and footnote 7 of the Framework, the application of the policies in the Framework that seek to protect designated Green Belt land provide a clear reason for refusing the appeal proposal. The presumption in favour of sustainable development envisaged in the Framework does not apply in this instance. The appeal proposal conflicts with the Development Plan and Framework taken as whole, and there are no material considerations that outweigh that conflict.
20. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. Against this, I attach little weight to the appellant's arguments put forward that very special circumstances exist to justify the development. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause.

Epping Forest Special Protection Area (SAC)

21. New residential development close to the Epping Forest SAC is likely to have a significant effect on the habitat site through vehicle movements and increased air pollution. As the competent authority it is necessary for me to carry out an appropriate assessment to ensure that no significant adverse effects would arise from the proposed development, either alone or in combination with other developments in the area.
22. As the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and whether any payment required by the Council would off-set the impact of the development on the Epping Forest SAC.

Conclusion

23. The proposal would be inappropriate development in the Green Belt and openness would not be preserved. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm.
24. Thus, there are no other considerations in this case that would clearly outweigh the harm to the Green Belt. Therefore, the very special circumstances necessary to justify development within the Green Belt do not exist and the development would conflict with the Green Belt protection aims of the Framework.
25. Overall, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR