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## Appeal Decision

Site visit made on 4 October 2022

**by Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

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

**Decision date: 18 October 2022**

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**Appeal Ref: APP/J1535/W/22/3296104**

**Lodge Hall, Hoe Lane, Nazeing, Waltham Abbey, EN9 2RW**

- 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 J Hall against the decision of Epping Forest District Council.
  - The application Ref EPF/1992/21, dated 19 July 2021, was refused by notice dated 16 December 2021.
  - The development proposed is the erection of a 4 bedroom detached dwelling with associated parking, access and amenity area.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council's Development Plan includes the Epping Forest Local Plan 1998 and Alterations (2006). The Council has completed consultation into Main Modifications to its emerging Local Plan. Given the level of progress made towards the adoption of this plan I accord only limited weight to its policies.

### Main Issues

3. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt, including the effect it would have on openness,
  - Whether the location of the appeal site can be accessed by a genuine choice of transport mode,
  - The effect of the proposal on the Epping Forest Special Area for Conservation, and
  - 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 in the Green Belt.

### Reasons

*Whether the development would be inappropriate development*

4. Hoe Lane extends for several miles through land designated as Green Belt from Nazeing village at its southern point through several employment sites and nurseries towards Brett Lane.

5. Lodge Hall, the appeal site lies at the end of a linear group of houses surrounded by open fields located on the north side of Hoe Lane. It comprises former stables which have a lawful use as a dwelling. The appeal site comprises an unused paddock. The appeal scheme would be for a single detached two storey dwelling with access taken from the gated access serving Lodge Hall.
6. New buildings in the Green Belt should be regarded as inappropriate development unless meeting certain exceptions. Paragraph 149 of the National Planning Policy Framework (the Framework) 2021, identifies that whilst the development of new buildings in the Green Belt is regarded as 'inappropriate', there can be exceptions. The appellant relies on Paragraph 149(e), limited infilling in villages, to substantiate the exception in this case.
7. I do not consider that the string of dwellings of which Lodge Hall lies at the end of, can be considered as lying within Nazeing village. They lie a considerable distance away from the built up part of Nazeing and are unrelated to any part of it. Even the appellant in his comments<sup>1</sup> recognises that the site lies outside the Nazeing settlement boundary. Given the distance, I do not consider that the appeal site can be regarded as part of Nazeing either physically or visually as the appellant suggests.
8. The development at Stoneshot Farm, granted on appeal<sup>2</sup>, does not alter the physical context of the appeal site which could be justified as lying within Nazeing. Whilst the Framework does not include a definition of a village, the site cannot be regarded as physically and visually within the built up area of Nazeing. Therefore the appeal scheme cannot be regarded as amounting to limited infilling (Paragraph 149e).
9. I find therefore find that the appeal scheme does not fall within Paragraph 149e) of the Framework. I have considered the references referred to by the appellants to the Court of Appeal decision<sup>3</sup> but the issue of 'isolation', fundamental to that judgement, is not at issue here.
10. For the above reasons, I conclude that the appeal scheme is inappropriate development in the Green Belt which conflicts with Policies GB2A and GB7A of the Local Plan with Alterations and Policy DM4 of the emerging plan.

#### *Location of development*

11. The appeal site is located well away from shops and services. This was a point acknowledged in the Stoneshot Farm appeal decision where the Inspector recognised that the car would be the most likely form of transport.
12. The site is not on a bus route and the nearest route is some distance away. Given the distance from the limited services in Nazeing, access by foot or even by bike would be unlikely given that Hoe Lane is narrow, without footways and is unlit. For these reasons a genuine choice of transport from the site does not exist.
13. My Inspector colleague in the Stoneshot Farm appeal balanced the site's location with the extant permission for 18 dwellings in making her decision.

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<sup>1</sup> Letter dated, 24<sup>th</sup> August 2022

<sup>2</sup> App/J1535/W/18/3206950

<sup>3</sup> Braintree BC v SSCLG & Ors [2018] EWCA Civ 610

However, there are no mitigating circumstances which balance in favour of the scheme on this main issue in this appeal.

14. Given the location of the appeal scheme I conclude that it conflicts with Policies CP1, CP3, ST1 and ST2 of the adopted Local Plan with Alterations and Policy T1 of the emerging plan.

#### *The Epping Forest SAC*

15. The appeal site is located around 6.9km from the boundary of the Epping Forest Special Area of Conservation (SAC), a European Site. Given this distance I understand that there would be no recreational impacts but there would still be impacts arising from air pollution. The Council normally requires mitigation through planning obligations. In this case although the appellant has indicated that they would be prepared to include an agreement or Undertaking to address the Council's reason for refusal none is before me.
16. Although the Council has not amplified this reason in its statement the intention of the Policy is clear from the officer's report to Committee. If I were allowing this appeal, an appropriate assessment would be required although no mechanism to address mitigation has been submitted with the application.
17. The Inspector, in the Stoneshot farm decision, balanced the likely air pollution derived from the industrial use of the site through HGV movements against that generated by the appeal scheme. In this scheme there would be additional traffic movements reflecting the site's location away from shops and services.
18. I therefore conclude on this issue that in the absence of planning obligations the scheme conflicts with Policies CP1, CP6, and NC1 of the Local Plan and Alterations and the emerging policies DM2 and DM22 of the emerging local plan.

#### *Other Matters*

19. The Council has indicated that the tree belt along Hoe Lane lies within the Nazeing and South Roydon Conservation Area (the CA); this includes part of the appeal site. The only reference to this is included in its officer report and no reference is made in either its reasons for refusal or in its statement.
20. From the appeal scheme it appears that there would be less than substantial harm arising from the appeal scheme on the character and appearance of the CA. However, the development of a single dwelling in this location would not override the less than substantial harm arising from this scheme by reason of its position within the site. No public benefits have been suggested by the appellant which could be balanced against the less than substantial harm.

#### *Whether very special circumstances exist*

21. The appeal scheme is not an exception to the presumption against inappropriate development in the Green Belt. It can be distinguished from the Stoneshot Farm decision given the extant permission at the time of the appeal, the fact that it was a brownfield site and that the Inspector identified the provision of market and affordable homes as meriting the very special circumstances which could be balanced against any Green Belt harm arising.

22. Whilst the proposed dwelling has been located within the site it is the principle of housing which is paramount in determining the impact of this scheme on their permanence and openness of the Green Belt.
23. The scheme does not include matters which overcome the harm which I have found in this scheme.
24. Therefore, I conclude that very special circumstances do not exist and the appeal scheme conflicts with policies GB2A and GB7A of the Local Plan and Alterations and Policy DM4 of the emerging local plan.

### **Conclusions**

25. There are no very special circumstances which would allow an exception to this development in the Green Belt. Its location does not offer a genuine choice of transport modes resulting in additional traffic movements and air pollution leading to the potential for harm to the Epping Forest SAC.
26. In making this decision, I have considered the representations in favour of the scheme, but these do not persuade me that a decision should be taken other than in accordance with the Development Plan.
27. Accordingly, the appeal is dismissed.

*Stephen Wilkinson*

INSPECTOR