



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: 15 December 2022

Appeal Ref: APP/J1535/W/22/3288554

The Hedges, Harlow Road, Roydon, CM19 5HE

- 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 Construct Land and Homes (Roydon) Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/0325/21, dated 4 February 2021, was refused by notice dated 22 June 2021.
 - The development proposed is demolition of an existing residential dwelling and associated outbuildings and the erection of five new residential dwellings, together with car parking, landscaping and reconfiguration of access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was accompanied by an unsigned and undated draft Undertaking. I have not been able to accept this as providing a guarantee of mitigation in respect of main issue 3 below.
3. The Council's decision letter refers to paragraphs included in the previous adopted National Planning Policy Framework which was superseded in 2021 after the decision letter was issued. The appellant also refers to the appeal scheme as representing 'limited infill in villages' and refers to Paragraph 145 of the Framework. However, this is an old reference and the correct one should be Paragraph 149(e) of the adopted National Planning Policy Framework (the Framework) 2021. I have determined the appeal on this basis.
4. 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 emerging policies.

Main issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, including the effect the development would have on its openness;
 - The effect of the development on the character and appearance of the area,

- The effect of the proposal on the Epping Forest Special Area for Conservation.

Reasons

Whether the proposal is inappropriate development in the Green Belt including effects on openness

6. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and substantial weight should be given to that harm. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt but lists exceptions which include part 149e) referring to limited infilling in villages. This is central to this main issue.
7. The Councils Policies GB2A and GB7A of the adopted Local Plan 1998 and 2006 and emerging Policies SP6 and DM4 of the Local Plan Submission version 2017 seek to protect the Districts' Green Belt apart from a number of exceptions broadly consistent with the Framework.
8. The appeal site comprises a detached residential property and garden located on the south side of Harlow Road. The garden extends by around 90m depth from the road frontage and broadens in width to extend behind the rear gardens serving the 2 neighbouring properties to the east, Fedsden bungalow and Deben bungalow up to the boundary with the dwelling 'Green Pastures'. To the west of the site is a modern estate accessed by Little Brook Road and to its south is a paddock beyond which are open fields.
9. I accept that Roydon is a village, being a small settlement with a limited range of services. The Council has not contested this point. The appellant states that the proposed scheme represents limited infilling within the village and cites a case¹ by one of my Inspector colleagues as justification for why this appeal should be allowed.
10. The scheme would include a net increase of four dwellings on a site contained on three sides by existing development. I am satisfied that the appeal scheme represents limited infilling and is an exception as defined by Paragraph 149e) of the Framework.
11. For these reasons, I find that the appeal scheme is not inappropriate development. I conclude therefore that the appeal scheme does not conflict with Policies GB2A and GB7A of the adopted Local Plan 1998 and 2006 and Policies SP6 and DM4 of the Local Plan Submission version 2017. For this reason, a consideration in respect of 'openness' is unnecessary.

Character and appearance of the area

12. The appeal site comprises, 'The Hedges', a detached 1.5 storey dwelling with a thatched roof and rendered walls dating from the nineteenth century. The Council identify this as a non designated heritage asset.
13. The Heritage Statement submitted with the appeal indicates that the building dates from around 1839 and was originally 2 cottages with a timber box frame. Records indicate that by 1973 it was a single dwelling house. Overtime original

¹ APP/J1535//A/13/2198529

features have been removed and it has a large rear extension and a porch. Despite these changes a large number of original features including structural timbers, beams and parts of the internal wall between the 2 original cottages are retained, as evidenced from the appellant's Statement.

14. The Statement acknowledges through a detailed assessment against the HEAN² guidance and the Council's own criteria for local listing that the building has limited residual architectural and historic interest and that alterations and extensions have greatly reduced the ability to appreciate these.
15. Policies CP2(iv), CP7 and HC13A of the adopted local Plan 1998 and 2006 and Policies DM7 and DM9 of the emerging local plan Submission version 2017 are consistent in seeking to protect the District's local heritage.
16. I acknowledge the findings of the Heritage Statement but find that the building has certain qualities which merit its retention. Its historic interest as former agricultural cottages is still apparent in its elevational treatment and thatched roof; these qualities distinguish it from other buildings in the area surrounding the site which are of a more contemporary design.
17. Whilst parts of its internal fabric have been removed, enough has been retained to merit the building's retention. Furthermore, the building has a singular presence in the streetscene being located atop a rise on Harlow Road. Its loss would therefore adversely impact on the character and appearance of the local area.
18. For these reasons, I conclude that the loss of the Hedges would adversely impact on the character and appearance of the streetscene. This would conflict with Policies CP2(iv), CP7 and HC13A of the adopted local Plan 1998 and 2006 and Policies DM7 and DM9 of the emerging local plan Submission version 2017.

The Epping Forest SAC

19. The appeal site is located within 3km Zone of Influence of the Epping Forest Special Area of Conservation (SAC), a European Site. Given this distance I understand that there would be both recreational and air quality impacts arising from the proposed scheme.
20. The Council normally requires mitigation through planning obligations although in this case in respect of air quality it is satisfied that the draft planning conditions could address the latter were I minded to allow this appeal. In respect of the former regarding recreational impacts the appellant included with the appeal a draft Unilateral Undertaking with covenants in favour of the Council to address this matter. However, this was not signed or dated and for this reason I do not accept this as proving assurance on mitigation.
21. I therefore conclude on this issue that in the absence of planning obligations the scheme conflicts with Policies CP1 and CP6 of the Local Plan 1998 and Alterations 2006 and the emerging policies DM2 and DM22 of the emerging local plan.

Planning balance and conclusions

22. Both parties recognise that there is a severe deficit of housing land as required by the Framework. These circumstances, together with the age of the most

² Historic England Advice Notes

important policies deems that they are out of date. The tilted balance is not invoked, however, because the Framework at Paragraph 11d(i) and footnote 7 protects both areas and assets of particular importance, which include the Epping Forest SAC.

23. The fact that policies have to be considered as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 219, which amongst other things, states that the closer that local policies are to policies in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date for reason of an inadequate land supply to still carry significant weight.
24. I find that the Policies CP2(iv), CP7, HC13A, CP1 and CP6 are broadly consistent with the Framework and therefore carry significant weight in the determination of this appeal.
25. I make no comment on the emerging policies given the current status of the emerging local plan.
26. Despite its location in the Green Belt the appeal site falls within Paragraph 149e) of the Framework as limited infilling in a village; it is therefore not inappropriate development and makes no impact on openness.
27. Paragraph 203 of the Framework requires a balanced judgement setting the loss of a non designated heritage asset against the merits of the proposed development. The addition of just four dwellings is not to my mind sufficient to outweigh the loss of the existing dwelling given its contribution to the character and appearance of the area despite the under supply in housing land.
28. Furthermore, the appeal does not include planning obligations required to address the recreational impacts on the Epping Forest SAC which would arise from the development of four additional dwellings.
29. For these reasons, the appeal is dismissed.

Stephen Wilkinson

INSPECTOR