



Appeal Decision

Site visit made on 13 December 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/J1535/W/22/3295510

60 Epping Road, Stanford Rivers, Ongar CM5 9SQ

- 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 & Mrs Manning against the decision of Epping Forest District Council.
 - The application Ref EPF/2558/21, dated 20 September 2021, was refused by notice dated 16 December 2021.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies of the emerging Local Plan Submission Version 2017 (the emerging LP) are cited in the reasons for refusal on the Council's decision notice. The Inspector appointed to complete the examination wrote to the Council on 16 June 2022 advising that a new schedule of Main Modifications should be provided and consulted upon. Therefore, at this time, it is unclear what changes will be made to the policies that are relevant to this appeal. Accordingly, although I recognise that it is at an advanced stage of examination, the policies of the emerging LP carry limited weight.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area, having regard to its impact on trees; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. The Framework establishes that new buildings in the Green Belt are inappropriate other than for specified exceptions that are set out in paragraph 149. One such exception, 149(e), is limited infilling in villages.
5. Policy GB2A of the Epping Forest District Local Plan Alterations (LPa) states that planning permission will not be granted for the construction of new buildings in the Green Belt unless it is for certain exceptions, none of which would be met by the proposed development.
6. At paragraph 219, the Framework states that due weight should be given to existing policies according to their degree of consistency with the Framework. In this particular instance I consider that LPa Policy GB2A is not consistent with the Framework as it does not include limited infilling in a village as an exception. Accordingly, I have relied upon the Framework in assessing whether the development would be inappropriate within the Green Belt.
7. The ribbon of houses within which the appeal site is located is separated from the core of Toot Hill by a large field on a significant bend in the road. Given that field and the golf course opposite the site, there is no continuum of development between the settlement core and the appeal site on either side of Epping Road. Consequently, there is a clear and distinct sense of division between the ribbon of houses containing the appeal site and the core of Toot Hill. As such, I do not consider that the appeal site can be regarded as part of Toot Hill either physically or visually. Furthermore, I don't consider that the grouping of buildings within the ribbon of houses is, in itself, a village. Therefore, regardless of whether Toot Hill is a village, or the proposal amounts to limited infilling, the proposal cannot meet the exception at paragraph 149(e) of the Framework.
8. In reaching this conclusion, I have had regard to the Ordnance Survey Plan published in 1972 provided by the appellant but I am not persuaded that this establishes the extent of the settlement. Furthermore, I note the appellants' reference to the assessment by the Council, in the officer report regarding an application on the adjoining site, that the line of trees on the western side of the appeal site defines the settlement boundary placing the appeal site within it. Whilst the line of trees does define, and visually separate, the appeal site from the development that lies to the west it does not overcome my findings that the ribbon of houses that the appeal site is within is separated from the settlement core by the large, undeveloped, field.
9. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. The Framework advises that inappropriate development should not be approved except in very special circumstances.

Openness

10. The Framework, at paragraph 137, sets out 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. Openness has both spatial and visual aspects.

11. The proposal is for a large two-storey dwelling on the site with an extensive area for vehicle manoeuvring and parking to the front. In comparison with the existing garden, the large footprint of development would result in a spatial loss of openness.
12. There would also be a significant visual impact as a result of the proposed dwelling, associated hardstanding and domestic paraphernalia. This would collectively represent a substantial increase in the bulk of development at the site. Consequently, there would be a significant visual impact and a permanent and significant loss of openness of the Green Belt.
13. I therefore conclude that it would result in a loss of openness of the Green Belt in this locality. The harm to the openness of the Green Belt as a whole would be limited, given that only one dwelling is proposed.

Character and appearance

14. There are a number of trees along the side boundary of the appeal site, some of which are protected under a Tree Preservation Order (TPO). The trees are prominent in the street scene along Epping Road. Their height, form and visibility make a highly positive contribution to the appearance of this rural area, and their categorisation broadly suggests that they are in reasonable or good health, with reasonable life expectancy. The most prominent of these trees is a protected oak tree (T5) which has been categorised within the appellants Arboricultural Impact Assessment (AIA) as Category B, a tree of moderate quality. The AIA estimates that it has 40 or more years remaining.
15. The potential incursion into the Root Protection Area of the Oak tree (T5) is up to 19% which is marginally below the 20% incursion recommended in the appellant's own AIA as being the maximum loss of roots healthy trees can withstand. The Council accept that the tree may be able to tolerate this impact on its rooting system, and I have no evidence before me to dispute such findings.
16. The AIA identifies a need to cut back the crown spread of T5 by 1.5 metres to facilitate access to enable the construction of the proposed dwelling. The Additional Arboricultural Comments document, which it states is to be read in conjunction with the AIA, also recognises that as Oak is a species that re-grows well from pruning it would be expected that this crown area would regrow over a period of time. It further states that if it was wanted to ensure in the longer term the tree would not overhang, rub against the roof, damage the gutters or rub the flank walls of the first floor, then it is most likely T5 would need to be pruned back in the quadrant of the crown adjacent to the house. How regularly would depend on the rate of regrowth.
17. Consequently, having regard to the submitted Arboricultural information I agree with the Council's Tree and Landscape Officer that T5 has not been satisfactorily taken into account within the proposed layout and as such it is likely that there will be future pressure to prune the tree or remove it in part or in full. Given the potential for property damage arising from the future growth of the tree, such requests would be very difficult for the Council to resist, even taking account of the TPO on the tree.
18. I have had regard to the appellants' suggestion that the extent of the proposed driveway could be reduced through the imposition of a condition. I have also

given consideration to the use of conditions to secure a Tree Protection Plan and Arboricultural Method Statement. However, the evidence before me indicates that undertaking the proposed development would be likely to harm the tree and this would not be avoided by such conditions. Such harm, combined with the other tree loss arising from the development, would undermine the positive contribution of the trees to the appearance of this rural area.

19. Accordingly, the proposal would harm the character and appearance of the area, having regard to its impact on trees and would be contrary to emerging LP Policy DM5 which, amongst other things, requires development proposals to be designed to retain and protect trees. The proposal also fails to comply with the Framework which recognises the intrinsic character and beauty of the countryside and trees.

Other Considerations

20. I am aware that the Council cannot demonstrate a five-year housing land supply. The proposed dwelling would, therefore, assist in boosting the housing supply in circumstances where there is an identified shortfall in a location which has some access to services and facilities by means other than the private vehicle. The occupants would contribute to the vibrancy of Toot Hill and nearby towns and villages by using existing services and facilities. In addition, there would be economic and social benefits resulting from the construction of such dwellings. Such matters carry moderate weight.
21. I note that the appeal is supported by a completed planning obligation. However, as this would secure a financial contribution to address the impacts of traffic on the Epping Forest Special Area for Conservation (SAC) arising from the proposal, it would be a neutral factor weighing neither for nor against the proposal, rather than a benefit.

The SAC

22. The Council's third reason for refusal refers to the failure to mitigate against the adverse impact that the proposal will have on the SAC. However, there is no need for me to consider the implications of the proposal upon it because the scheme is unacceptable for other reasons.

Green Belt balance and conclusions

23. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
24. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. I have also found harm to the openness of the Green Belt. I attach substantial weight to that harm. In addition, I have identified harm to the character and appearance of the area, having regard to its impact on trees. Balanced against this are the other considerations I have referred to. However, given the weight that I have attributed to them, and even in combination, they do not clearly outweigh the harm to the Green Belt that I have identified. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, the proposal conflicts with the Green Belt protection aims of the Framework

and with LPA Policy GB2A. Furthermore, as the proposal would harm openness of the Green Belt it would conflict with LPA Policy GB7A. Notwithstanding that LPA Policy GB2A has limited weight in the decision due to the conflict with the Framework, there are no other considerations to indicate a decision other than in accordance with the Development Plan, particularly given the conflict with the Framework that I have identified.

25. I have had regard to the presumption in favour of sustainable development set out at paragraph 11 of the Framework, but in this case the application of Green Belt Policy provides a clear reason for refusing the development proposed.

26. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR