



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: 2nd February 2023

Appeal Ref: APP/J1535/W/22/3299870

Land between Does Farm and 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 outline planning permission.
 - The appeal is made by Mr & Mrs Vaughan and Tina Bendall against the decision of Epping Forest District Council.
 - The application Ref EPF/3350/17, dated 7 December 2017, was refused by notice dated 23 December 2021.
The development proposed is the erection of two detached dwellings, associated garages and landscaping.
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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 development 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 appeal proposal on the openness of the Green Belt; and
 - Whether the 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. As the appellant points out, case law¹ has established that whether a proposed development constitutes limited infilling in a village is a question of planning judgement on an assessment of the position on the ground. 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 appeal decision² which indicates that peripheral sites can form part of a village. I do not have the full details of that case and as such it is not possible to draw comparisons with the case before me. I do note, however, that the Inspector found that the appeal site, in that case, was situated within a continuous ribbon of housing development. As set out above, I have found that the proposal before me does not lie within a ribbon of development that extends from the core of the Toot Hill. Accordingly, I am not persuaded that this appeal decision supports the proposal before me.
9. I have also had regard to Policy DM4 of the emerging Local Plan which has been modified and states that limited infilling in smaller settlements may not be inappropriate in the Green Belt. However, I have found that the appeal site does not fall within a rural community and therefore Policy DM4 does not support the proposal.

¹ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195

² Appeal ref: APP/J1535/A/13/219859

10. 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

11. I note the appellant considers that it is not necessary to address openness of the Green Belt. However, 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.
12. Therefore, as I have concluded that the proposal would be inappropriate development in the Green Belt it is necessary for me to go on to consider its impact on openness. Openness has both spatial and visual aspects.
13. The proposal is for two large two-storey dwellings on the site with an extensive area for vehicle manoeuvring and parking to the front. In comparison with the existing open field, the large footprint of development would result in a spatial loss of openness.
14. There would also be a significant visual impact as a result of the proposed dwellings, 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.
15. 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 two dwellings are proposed.

Other Considerations

16. I am aware that the Council cannot demonstrate a five-year housing land supply. The proposed development for two dwellings 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.
17. I note that the appeal is supported by a draft planning obligation which the Council consider is acceptable and which could be completed given additional time. Therefore, on the evidence before me, it appears probable that matters relating to the Epping Forest Special Area for Conservation (SAC) could be addressed. Nonetheless, as this would secure a financial contribution to address the impacts of traffic on the SAC arising from the proposal, it would be a neutral factor weighing neither for nor against the proposal, rather than a benefit.
18. The design of the proposed dwellings would positively contribute to the character and appearance of the area. This carries only limited weight in favour of the proposal given that the appearance of the appeal site is not, currently, harmful to the character and appearance of the area.

19. The Council has not objected to the proposal regarding a number of matters including its impact on trees, standard of accommodation, living conditions, highway safety and parking, flood risk and contamination. However, the absence of harm is a neutral factor and not a matter to be weighed in favour of the proposal.
20. The Council does not allege that the development would have an adverse effect on the listed buildings of the former farmhouse and granary building of Doe's farm on the adjoining site. Having considered the development and visited the site, I concur with that view and find that the appeal proposal would preserve the listed buildings, their settings and their significance as designated heritage assets.
21. The appellant is critical of the way the Council handled the planning application. This does not alter my assessment of the planning merits of the scheme.

The SAC

22. The Council's second 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