



Appeal Decision

Site visit made on 10 February 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Appeal Ref: APP/W1525/W/22/3291609

**Land at Whitewebs Cottage, Main Road, Margaretting, Ingatestone
CM4 9HX**

- 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 Peter Webb against the decision of Chelmsford City Council.
 - The application Ref 21/01787/FUL, dated 26 August 2021, was refused by notice dated 5 November 2021.
 - The development proposed is construction of two stables and associated tack room.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt, taking into account its effect on openness,
 - whether the siting of the proposed development would safeguard existing trees, with particular regard to the preserved ash tree at Whitewebs Cottage, and
 - if the proposal would be inappropriate development in the Green Belt, 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, including effect on openness

3. The appeal site lies just outside the defined settlement boundary of Margaretting. It is a parcel of land adjacent to, but separated from, the rear garden of Whitewebs Cottage. The site has an independent access to the highway and is enclosed by perimeter trees on three sides and a close boarded fence along most of the boundary with Whitewebs Cottage.
4. The site currently contains a storage container and mobile home. At the time of my site visit, there were also various building materials and other items stored on the site. Both parties allude to ongoing enforcement action in relation to unauthorised use of the land for storage, although full details have not been provided. The appellant also refers to a history of dumping on the site by others. There are no existing buildings on the site.

5. Although there is disagreement between the parties as to the exact alignment of the Green Belt/settlement boundary, there is no dispute that the proposed stable building would be on land within the Green Belt.
6. Paragraph 149 of the National Planning Policy Framework July 2021 (the Framework) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. It goes on to set out a number of exceptions, which include *'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation ...; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it'*. (Framework paragraph 149b)
7. Policies S11 and DM6 of the Chelmsford Local Plan adopted May 2020, similarly protect the openness and permanence of the Green Belt, including by preventing inappropriate development. Policy DM6 part A(ii) allows for new buildings which comprise appropriate facilities for outdoor sport or recreation in the Green Belt, as long as openness is preserved.
8. Since horse riding is an outdoor sporting or recreational pursuit, it follows that stable buildings are capable in principle of falling within the scope of Framework paragraph 149b. In this case, the land associated with the stables is very limited. Due to its condition, it is also not immediately capable of providing grazing. The extent of suitable land is disputed, as is the potential risk to horses associated with the surrounding conifers. However, even if I were to conclude that the whole of the site was capable of being used for equestrian purposes, it remains of very limited extent. It therefore appears clear that horses kept at the site would be ridden or exercised elsewhere.
9. Framework paragraph 149b does not specify that the facilities in question must be located on or adjacent to the land where the associated outdoor sport or recreation would take place. The appellant has explained that grazing land is available elsewhere, although details are not provided, and has further explained how the stables would be used. The proposed building would be a typical timber clad structure, designed for stabling and associated storage. I conclude that the limited extent and condition of the site does not, in principle, exclude it from comprising appropriate facilities for outdoor sport or recreation.
10. Nevertheless, paragraph 149b makes clear that the effect on openness and the purposes of the Green Belt must also be considered. While there are some substantial items currently stored on the site, at least some of these are acknowledged by both parties to be unauthorised. There are no permanent buildings or other structures at present. The proposed development would therefore introduce built development where none currently exists. There would be a material, albeit limited, degree of encroachment of built development, beyond the currently defined limit of the settlement, onto land which is now separate from Whitewebs Cottage and which in planning terms is not previously developed. In spatial terms, this would amount to a loss of openness. It would also conflict with the Green Belt purpose of safeguarding the countryside from encroachment.
11. In visual terms, although the existing trees provide reasonably extensive boundary screening, there are views into the site from the road, notably around the detached garage of Whitewebs Cottage. The existing mobile home is visible and the proposed stables would be similarly visible, being in much the

same location. Furthermore, there is little guarantee that the existing screening, which relies heavily on an existing conifer hedge with an inherently finite lifespan, could be permanently or reliably secured.

12. The Council has indicated that the harm to openness would have been justified, had they been satisfied as to the appropriateness of the proposed building for outdoor sport and recreation. However, the Framework does not propose a threshold for harm to openness. It merely states that openness should be preserved.
13. On the basis that there would be harm to openness and to the purposes of the Green Belt, albeit to a limited extent, I conclude that the proposed development does not fall within the exception defined in paragraph 149b of the Framework. Therefore, the proposal is inappropriate development in the Green Belt which is, by definition, harmful. It would conflict with Policies S11 and DM6 of the Chelmsford Local Plan and with relevant paragraphs of the Framework. These policies, amongst other things, protect the openness of the Green Belt by restricting inappropriate development

Effect on Ash Tree

14. The preserved ash tree is located to the rear of Whitewebs Cottage, in an area of lawn adjacent to a garden path. It is a substantial mature tree which makes a positive contribution to the street scene. Views of the whole tree are available through the gap between Whitewebs Cottage and its detached garage, and the upper part of the canopy is more widely seen within a backdrop of mature trees along Main Road.
15. While the application did not include a full arboricultural assessment, the submitted drawings do identify the position of the ash tree and other perimeter planting. They also show the associated root protection areas. No substantive evidence has been presented that the extent of root protection areas shown on the drawings, or the plotting of individual trees, is inaccurate.
16. The proposed stable building would be located outside the root protection area of the ash tree, as identified in the plans. It would also be outside the extent of the canopy which I observed at the time of my site visit. There is no clear evidence that extensive ground disturbance or particularly deep foundations would be required, given the limited scale of the proposed building and the intended use of relatively lightweight external materials.
17. Based on the above, I am satisfied that the ash tree could be suitably safeguarded through appropriate tree protection measures during construction, supported by submission and approval of an arboricultural method statement. These measures could be secured through suitable planning conditions.
18. I therefore conclude that the siting of the proposed development would safeguard existing trees, including the preserved ash tree at Whitewebs Cottage, subject to compliance with appropriate planning conditions. With that proviso, it would not conflict with Policy DM17 of the Chelmsford Local Plan which, amongst other things, require that development which has potential to affect preserved trees sets out measures to secure their protection.

Other considerations

19. Alternative siting of the proposed stables would not mitigate the effect on openness in spatial terms, since there would still be encroachment of built development onto land where none currently exists. In any event, it is outside the scope of this appeal to consider alternative siting, since that is not the proposal which is before me.
20. Introduction of additional planting could be secured through appropriate planning conditions and would potentially reduce the effect on openness in visual terms. However, it would not address the effect on openness in spatial terms. I therefore give this potential mitigation measure limited weight.
21. A number of previous developments have been brought to my attention, which the appellant argues are larger and more visually intrusive than the appeal proposal. I note from the details provided that the majority involved redevelopment of previously developed land and/or were approved several years ago, in a different national and local policy context. The differences between the other developments and the appeal scheme mean that they have only limited weight.
22. In the case of the only application which has been determined since the current Local Plan was adopted, the Council has confirmed that the approved development involved redevelopment of previously developed land and was not inappropriate development in the Green Belt, as defined in the Framework. It is accepted that some built development may be permitted within the Green Belt, where it benefits from one of the defined exceptions in paragraph 149 of the Framework. Having concluded that the appeal proposal would not benefit from such an exception, I have likewise given the evidence about the approval of this other nearby development limited weight.
23. The site is within the Margaretting Conservation Area, as is Whitewebs Cottage and nearby development along Main Road. The significance of the Conservation Area includes extensive areas of open land and mature tree belts around and between the older village buildings, which provide them with a strong rural setting. Given the proposed use of the building and the degree of screening, the proposal would not prevent the appeal site from continuing to contribute to this rural setting, notwithstanding the effect on openness. On that basis, the Council does not allege that there would be any harm to the Conservation Area. Based on the evidence before me I have no reason to reach a different view and I conclude that the character and appearance of the Conservation Area would be preserved. However, absence of harm in this regard is a neutral factor that weighs neither for nor against the proposal.

Green Belt Balance

24. The proposal would be inappropriate development in the Green Belt as defined in the Framework. There would be harm to openness, in both visual and spatial terms, and to the purposes of the Green Belt, albeit to a limited extent.
25. The Framework indicates that inappropriate development should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

26. The Framework furthermore requires that any harm to the Green Belt should be given substantial weight. While some factors have been highlighted in favour of the proposed development, these focus on mitigation of harmful effects and comparison with other nearby development, rather than any associated benefits. In any case, for the reasons set out above I have given these considerations limited weight. Therefore, the substantial weight I have given to the Green Belt harm is not clearly outweighed by other considerations and the very special circumstances necessary to justify the proposal do not exist.

Conclusion

27. For the reasons set out above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR