



Appeal Decision

Site visit made on 11 April 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/J1535/W/22/3300074

Land to the East of Picks Farm, Sewardstone Road, Waltham Abbey E4 7RA

- 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 Jit Bhuller against the decision of Epping Forest District Council.
 - The application Ref EPF/2443/21, dated 7 September 2021, was refused by notice dated 7 December 2021.
 - The development proposed is the erection of 1 no. residential dwelling utilising existing vehicular access off Sewardstone Road, alongside additional landscaping across the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Epping Forest District Council adopted a new Local Plan on 6 March 2023. The new Local Plan is known as the Epping Forest District Local Plan 2011-2033. The previous Local Plan (1998 and Alterations 2006) has now been revoked and all policies contained within that document have been superseded.
3. At the appeal stage, amended plans were submitted. These show a revised parking and turning area. Whilst these plans did not form part of the original planning application, and an appeal should not be used to evolve a scheme, the changes are minor and do not fundamentally change the development proposed. There has been the opportunity for comment on the plans at appeal, and I have therefore taken them into account.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt and the effect of the proposed development on the openness of the Green Belt;
 - whether the site is a suitable location for housing with particular regard to the accessibility of services and facilities;
 - the effect of the proposed development on landscape character;
 - the effect of the proposed development on trees; 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

Whether inappropriate development

5. The appeal site comprises a parcel of land formed of an area of hardstanding and rugged grassland, accessed by an informal track from the main complex of buildings known as Picks Farm. The site is within the Green Belt.
6. Green Belt policy in the National Planning Policy Framework (the Framework) sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 149, is the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt. In a similar manner, Policy DM4 of the Epping Forest District Local Plan 2011-2033 (LP, adopted 2023) in summary and amongst other things, supports the partial or complete redevelopment of previously developed land where the proposal would not have a greater impact on the openness of the Green Belt.
7. Given the nature of the site, specifically the permanence of the existing areas of hardstanding, I acknowledge that the site may be characterised as previously developed land in line with the definition in the Framework. Nevertheless, it remains a requirement of the national and local policy referenced above that the proposed development would not have a greater impact on the openness of the Green Belt.
8. This openness has a spatial as well as a visual aspect. Although I note the site cannot be readily viewed from Sewardstone Road by reason of the intervening buildings and topography of the site, the proposed development would be readily visible from the footpath which runs near the appeal site. In any case, 'open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
9. I accept that the proposed dwelling has been designed to a very high standard, with sensitivity to the surrounding landscape, and would be set well away from Sewardstone Road. I also acknowledge the appellant's argument that the existing built area of hardstanding measures approximately 1270sqm whereas that of the proposed development would measure a reduced 1205sqm. Nevertheless, the combination of the bulk of the dwelling, the siting of the formalised site access and the likely accompanying domestic paraphernalia around the development, including parking areas, amenity space and boundary treatments, would all inevitably lead to a loss of openness beyond a simplistic reliance on amount of ground covered by built form. At present, the site retains an essentially open character, albeit partly comprising of hardstanding. That the overall site area has been purposely limited by the appellant as part of the design of the scheme does not change my conclusion in this respect.
10. A dismissed appeal at Green End Business Centre, Sarratt has been brought to my attention. This relates to the development of a car park in the Green Belt which was considered to harm openness. The appellant sets out in their

statement that the same is relevant of the appeal site, which has previously been used for the parking of cars related to the use of the nearby fishing lakes.

11. However, for the reasons set out above and notwithstanding the lawful use of the site, I do not agree that the proposed development would be demonstrably less harmful in respect of openness than the use of the site as a car park. Moreover, there is no substantive evidence before me that demonstrates that the site has in recent times been genuinely used for parking to the levels set out and, even if it were, the frequency of that use.
12. For the foregoing reasons, as the development would fail to preserve openness, it would be inappropriate development in the Green Belt, rather than an exception permissible under Framework paragraph 149. Harmful development in the Green Belt should not be approved except in very special circumstances. Substantial weight should be given to this harm. The proposed development would be contrary to the relevant provisions of LP Policy DM4, which in summary seeks to protect the Green Belt from inappropriate development.

Appropriateness of location

13. The appeal site lies to the east of established properties connected with Picks Farm, with further properties positioned along Sewardstone Road (A112). In that context the site cannot reasonably be described as 'isolated' within the terms of the Framework. Nevertheless, the appeal site undisputedly falls outside of any settlement boundary and therefore within the open countryside.
14. The nearest settlement to the site is Sewardstone, which contains some limited services and facilities, including a shop and public house. I accept that the distance between the appeal site and Sewardstone is similar to that of existing properties at Picks Farm and some nearby properties, at approximately 480 metres to the village edge. However, those limited services within Sewardstone are set further into the village than this. To reach Sewardstone by foot, individuals would have to proceed alongside Sewardstone Road. This is a busy road with narrow, partially broken lengths of footway, requiring the need to cross the road or use uneven narrow verges. This route would be particularly undesirable in winter months, after dusk or during inclement weather conditions. The same conditions exist to the nearby alternative public footpath, set away from Sewardstone Road. In my view, neither route is sufficient to rely on and the nearest bus stops are accessed along those same unsatisfactory routes. Moreover, there are no direct satisfactory routes to Gilwell Hill, the next nearest settlement in the opposite direction to Sewardstone.
15. Whilst there are no dedicated cycle routes to and from the nearby settlements, this is not unusual for small settlements in semi-rural locations. Sewardstone Road is not of a design or character that, in my opinion, would deter proficient cyclists from using it for a relatively short journey to those limited nearby services and facilities. However, this would, in all likelihood, be a weather-dependant mode of transport.
16. Although I note that paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations, the occupants of the proposed dwelling would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of suitable walking routes and public transport facilities within a reasonable distance of the site.

17. The appellant sets out that the vehicle movements resulting from the proposed development would be less than that compared with the full capacity of the site's hardstanding as car parking. However, as discussed above, at the time of my visit the site was not in use for parking, accessed via a privately controlled electronic gate. I have no substantive evidence before me to demonstrate the typical extent to which the site is used for the level of parking suggested. In respect of the use of low and ultra-low emission vehicles and the provision of electric charging points, there is no guarantee that future occupants would own such vehicles.
18. Consequently, I conclude that the appeal site would form an inappropriate location for the proposed development, contrary to the relevant provisions of LP Policies SP1, SP2, T1 and DM21, which, when taken as a whole, seek to ensure that development is sustainably located. This is in a similar vein to paragraph 104(c) of the Framework insofar as the promotion of sustainable transport is concerned.

Effect on landscape character

19. The appeal site and surrounding area is predominantly formed of open grassland with some dominant areas of woodland. This, together with the nearby lakes, contribute to a tranquil and rural character. The site lies within the Rammey Marsh (A4) landscape character area within the Epping Forest Landscape Studies: Landscape Character Assessment (Blandford 2010) and adjacent to the Lippitts and Daws Hills Ridges and Valleys (F4) character area. These areas are identified as having moderate and moderate to high sensitivity to change respectively.
20. Established built form and the topography of the site are such that clear views into the site are limited. Glimpsed views are possible from within the site and from various surrounding vantage points. A Landscape and Visual Appraisal Report has been provided in support of the appeal. This demonstrates that views of the site, where possible, would be regarded as 'Not Significant' in respect of the wider landscape character. I concur with the findings of that report based on the evidence before me and my observations on site. The proposed development, where seen, would sit within the context of established built form at Picks Farm. Nevertheless, the lack of harm in this respect does not overcome or outweigh the identified harm to the openness of the Green Belt.
21. Overall, the proposed development would maintain the landscape character of the area, in accordance with the relevant provisions of LP Policies DM3 and DM5, which in summary and amongst other objectives, seek to avoid harm to landscape character.

Trees

22. A number of trees exist within the site, some of which are the subject of a Tree Preservation Order. Within the appellant's arboricultural assessment, it is set out that it is possible to retain and protect the majority of trees on the site. Nevertheless, it is proposed to remove two trees, labelled T3 and T4, and a group of scrub Willow trees, labelled G2. The Council does not object to the removal of those trees and based on the evidence before me I have no reason to disagree.

23. There is no dispute between the Council and appellant that the mature Oak tree on the site, labelled T1, is a veteran tree. Paragraph 180(c) of the Framework sets out that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
24. Having regard to paragraph 180(c) of the Framework, notwithstanding the existing presence of an access track within the root protection area (RPA) of the tree, the proposals would include the construction of a new access to the proposed dwelling, with parking area, close to this veteran tree. Government Guidance sets out that for ancient or veteran trees, a proposal should have a buffer zone of at least 15 times larger than the diameter of the tree. In addition, the buffer zone should be 5 metres from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter.
25. The appellant has submitted an alternative parking layout plan, involving the repositioning of part of the development further away from the tree than was originally proposed. It is stated that this would pull the parking area 15 metres back from the tree. However, the revised layout plan provides insufficient certainty, and does not explicitly demonstrate, that a buffer zone of at least 15 times larger than the diameter of the tree would be achieved. Any consequent root damage caused by the construction of the proposed access road has the potential to cause deterioration to the veteran tree through its loss or reduced health.
26. Overall, I conclude that based on the evidence before me the proposed development would risk the loss or deterioration of the veteran tree, contrary to the relevant provision of LP Policy DM5. This policy, in summary, seeks the retention and protection of trees, including veteran trees. The proposed development would also conflict with Paragraph 180(c) of the Framework which advises that development resulting in the loss or deterioration of irreplaceable habitats (including veteran trees) should be refused, unless there are wholly exceptional reasons. Footnote 63 of the Framework indicates types of exceptional examples, which the proposal does not fall into.

Other considerations

27. There were no objections to the proposed scheme from notified residents or Waltham Abbey Town Council. I also accept that the proposed scheme would meet other planning policy objectives, including in respect of the impact on residential amenity, drainage and highways, and that it would make use of previously developed land. Nevertheless, the lack of objection and policy compliance of the scheme in some respects, is essentially neutral in my determination of the appeal. I therefore give these matters no weight.
28. I acknowledge the appellant's ambition to achieve an energy and environmentally efficient development, noting the Framework's objective of promoting high levels of sustainability and Epping Forest's Climate Emergency declaration. This is a clear benefit. However, I do not consider that this benefit would sufficiently outweigh the harm identified. I give this matter moderate weight.
29. I note the appellant's commitment to ecological and landscaping improvements, which are clear benefits. However, the enhancement of the site

for the benefit of biodiversity and landscape is not inherently dependant on the wider redevelopment of the site. I therefore give this matter moderate weight.

30. I have addressed the design of the proposed dwelling above. However, its high quality and innovative design, together with high-quality standard of accommodation, is not so remarkable as to outweigh the harm identified in respect of the Green Belt, which is a high bar. I give this matter moderate weight.
31. The Council is currently unable to demonstrate the necessary forward supply of housing sites as required by the Framework. The proposal has the potential to generate one additional home which would make a positive, albeit very limited, contribution to the current undersupply. That is a matter I address subsequently.

Other Matters

32. With respect to the Epping Forest Special Area of Conservation, Regulation 63 of the Conservation of Habitats and Species Regulations 2017 states that a competent authority, before giving permission, must make an appropriate assessment. I acknowledge the financial contributions set out in the submitted Unilateral Undertaking in respect of mitigation measures. However, given my reasoning in respect of the main issues and that the appeal is dismissed, there is no requirement upon me to consider such matters any further.

Green Belt Balance and Conclusion

33. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on openness here. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
34. For the reasons given above, the cumulative weight attached to the other considerations does not clearly outweigh the substantial harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development do not exist. The proposed development would not therefore accord with the Green Belt protection aims of the Framework.
35. The lack of a five-year housing supply means that the policies which are most important for determining the proposal are out of date in accordance with paragraph 11(d) of the Framework. However, bullet (i) of paragraph 11(d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As there would be harm to the Green Belt that would not be clearly outweighed, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.
36. I conclude that the appeal is dismissed.

A Price

INSPECTOR