



Appeal Decision

Site visit made on 25 July 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/J1535/W/22/3304650

Copper Beech, Harlow Common, Hastingwood, Harlow CM17 9ND

- 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 S. Allan (Stallan Group Ltd) against the decision of Epping Forest District Council.
 - The application Ref EPF/0396/22, dated 16 February 2022, was refused by notice dated 17 June 2022.
 - The development proposed is the demolition of existing dwelling and erection of two detached dwellings with garaging.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council, subsequent to the determination of the planning application, adopted the Epping Forest Local Plan (2023). However, as the appellant has been able to comment upon these new policies, I do not believe it would cause prejudice to any party to proceed with reference to the new policies.
3. The site visit was originally scheduled to be an 'access required' site visit. However, I was unable to gain access to the site. I was able to view the site sufficiently from several different vantage points on an unaccompanied basis. I therefore do not believe that it would cause prejudice to any party to proceed on this basis.

Main Issues

4. The main issues relevant to this appeal are:
 - whether the development would be inappropriate in the Green Belt;
 - the effect of the development upon the openness of the Green Belt
 - the effect of the development upon the Special Area of Conservation;
 - the effect of the development upon the character and appearance of the surrounding area;
 - whether an appropriate housing mix would be provided; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

5. The appeal site is located within the Metropolitan Green Belt. The Framework regards the erection of new buildings within the Green Belt as generally being inappropriate. There are some exceptions to this which are listed in paragraph 149 of the Framework. Policy DM4 of the Epping Forest Local Plan (2023) (the Local Plan) is consistent with this requirement.
6. Amongst other matters, the provision of a development that is a limited infill within a village may not be inappropriate for the purposes of the Framework. The appeal site is located near to a number of existing dwellings. In addition, there are several other facilities within the wider area, such as community facilities and also public transport routes.
7. Given these factors, and also the existing residential use of the appeal site, it is likely that the appeal site can be accurately described as being within a village. In addition, the surrounding area features a number of dwellings arranged in a broadly linear form. There are also dwellings adjacent to both side boundaries of the appeal site.
8. Although there are some differences in terms of the distance that dwellings are set back from the highway, any such variations are relatively small. In addition, the proposed development would be located near to the side elevations of the existing dwellings on the two neighbouring sites.
9. However, it is necessary to consider the entire development in its entirety. The proposed development would include the provision of a large detached garage that would feature parking for both dwellings. This would be located towards the front of the appeal site.
10. At this juncture, there are no buildings located on the neighbouring properties that might be situated in line with the proposed garaged. In consequence, this part of the development cannot be considered to be a limited infill. Therefore, taking the development as a whole, it would not meet any of the exceptions as listed in the Framework for it would not be solely an infill.
11. In reaching this view, I have also had regard to the fact that the appeal site currently features a dwelling and a detached garage. However, the appeal proposal would result in a notable increase in the overall level of built form given that the development would create an additional dwelling, which would be supplemented by the previously described garage. In consequence, the existing use of the site does not allow me to disregard my previous findings.
12. I therefore conclude that the proposal would be an inappropriate development in the Green Belt. The development, in this regard, would conflict with the requirements of Local Plan Policy DM4, and the Framework.

Effect on openness

13. The appeal site consists of a dwelling surrounded by a relatively large garden. In addition, the appeal site features a driveway to the front of the site. The surrounding area features several dwellings, in addition to open areas.
14. The proposed development would result in the provision of two dwellings and a large outbuilding. Taken cumulatively, these buildings would result in a notable

increase in the overall level of built form at the appeal site. These matters, in unison, would result in an erosion of the SAC's sense of openness that is an intrinsic feature of the Green Belt.

15. By reason of the siting of the two new dwellings and the outbuilding, the proposed development would be readily perceptible from the surrounding area. In particular, the proposed development would be noticeable from the highway to the front of the appeal site, in addition to an access road that runs to the side of the appeal site.
16. Therefore, the overall increase in built form would be readily perceptible from outside of the appeal site. This means that the visual sense of openness that is a key feature of the Green Belt would also be eroded.
17. In result, the proposed development would result in a greater urbanising effect within the Green Belt. In consequence, the proposed development would conflict with the general purposes of including land within the Green Belt.
18. I therefore conclude that the proposed development would have an adverse effect upon the sense of openness within the Green Belt. The development, in this regard, would conflict with Local Plan Policy DM4, and the Framework. Amongst other matters, these seek to ensure that new developments do not conflict with the purposes of including land in the Green Belt; and maintain its sense of openness.

Effect on the Special Area of Conservation

19. The proposed development is in close proximity to the Epping Forest Special Area of Conservation (the SAC). The proposal contains the provision of two dwellings, which is an increase over the existing development. Therefore, it is likely that the proposed development would result in a greater number of people being resident at the appeal site.
20. By reason of the type of proposed development, it is likely that, from time to time, residents would look to undertake outdoor recreation activity. Due to the proximity of the development to the Special Area of Conservation, it is likely that the SAC would be a preferred location for such outdoors recreation.
21. In result, it is likely that the development would result in more people travelling to and from the SAC. Therefore, it is likely that the proposed development would affect the natural significance of the SAC and also, owing to the fact that journeys are likely to be made by cars, there would be an erosion of the SAC's air quality. This means that the development is likely to have an adverse effect upon the quality of the SAC.
22. It is possible that these adverse effects could be mitigated through the payment of a financial contribution to the council. This could potentially be used to secure the provision of alternative areas of green space within the surrounding area. This would mean that residents of the proposed development would have alternative locations to undertake outdoors recreation which would not give rise to the adverse effects upon the SAC.
23. However, whilst I note that a draft unilateral undertaking has been submitted as part of the appeal documentation, I note that this document has not been signed. In addition, the undertaking also lacks key details such as the amount

of money that is to be provided to the council as mitigation for the proposed development.

24. This means that I cannot have certainty that this agreement is capable of taking effect. Therefore, the interaction taking would not provide sufficient certainty that the adverse effects could be mitigated. In consequence I cannot give this matter weight in my assessments.
25. I have given consideration as to whether a condition could be imposed in order to secure such a payment. However, as it would require the payments of some money between the developer and the council, any such condition would not meet the legal test of reasonableness and in consequence, cannot be imposed. therefore, this suggestion does not overcome my previous concerns.
26. I therefore conclude that the proposed development would have an adverse effect upon the SAC. The development would, in this regard, conflict with the requirements of Local Plan Policy DN22. Amongst other matters, this seeks to ensure that the district is protected from the impacts of air pollution.

Character and appearance

27. The appeal site is located within a small village. A notable feature of the surrounding area is that dwellings are typically constructed to more modest proportions and feature open areas around them. This means that the dwellings harmonise with the more rural surroundings of the wider area.
28. The proposed development would result in an increase in the overall level of built form at the appeal site. In addition, the proposal would include several architectural features such as new porches on the front elevation, in addition to front dormer windows within the roof slope of the dwellings.
29. The effect of this is that the proposed development would therefore have a substantially more bulky and urbanised appearance when compared to the less developed form of the surrounding dwellings. Therefore, the proposed development would be an incongruous addition to the locality as it would conflict with the prevailing open character that is a feature of the wider surrounding area.
30. The proposed development includes a large garage that would be sited towards the front of the site. Owing to the scale of this element of the proposal, and its siting, it would be a prominent addition to the locality. Generally, garages and outbuildings are located in line with the associated dwelling and are of more subordinate proportions. The proposed development would conflict with this character, which would render the proposed development an incongruous addition.
31. I am conscious that the appeal site already features a garage near to the front boundary. However, this is notably smaller than the proposed garage. Furthermore, the proposed garage would be in a more prominent location. Therefore, the presence of a garage does not allow me to disregard my previous concerns.
32. These factors pose a concern given the general prominence of the appeal site. In addition to views from neighbouring properties, the development would also be perceptible from several different vantage points in the surrounding area. This would include the nearby highway and an access road that runs to the side

of the appeal site. In result, the proposal has the potential to be experienced by a great number of people, which would render it a strident addition to their locality.

33. These adverse effects would occur irrespective of the materials from which the proposed development would be constructed. This is because the adverse effects arise from the bulk and massing of the development rather than the actual palette of materials that could be used. In addition, owing to the height of the proposed development, any landscaping that could be provided within the appeal site would also not offer mitigation.
34. I therefore conclude that the proposed development would have an adverse effect on the character appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policy DM9 of the Local Plan. Amongst other matters, this seeks to ensure that developments achieve a high quality of design and contribute to the distinctive character of the locality.

Housing mix

35. The appeal proposal consists of the demolition of an existing bungalow and the replacement of it with two houses. These would be relatively large given the number of bedrooms that would be contained within each building, and the fact that rooms would be sited within the roof. This would be in addition to the two storeys below eaves height.
36. In considering this appeal, I have been directed towards Policy H1 of the Local Plan which, amongst other matters, seeks to ensure that there is an adequate provision of bungalows within the surrounding area. This chimes with the requirements of the National Planning Policy Framework, which amongst other matters, seeks to ensure that there is a mixture of housing provided in order to meet the varying needs of all members of the community.
37. Given that the evidence before me indicates that there is a need for bungalows in the surrounding area, the replacement of such a bungalow with two houses would amount to some harm. This is because it would mean that the development does not respond to the need to provide varying types of homes.
38. In consequence, the placement would result in some harm owing to the breach of the aforementioned development plan policy. This is something to which I must describe weight too.
39. I therefore conclude that the proposed development would not have an appropriate housing mixture. The development, in this regard, would conflict with the requirements of Local Plan Policy H1. Amongst other matters, this seeks to ensure that development resulting in the loss of bungalows will be resisted.

Other considerations

40. The proposed development would result in an overall increase in the local housing supply. However, given that the increase would be a single home and that a bungalow would be lost in the process, the overall benefit from this would be relatively small. Accordingly, this can only be given a limited amount of weight even though the development would result in an improvement in the condition of the accommodation on site.

41. There is some debate as to whether the Council can demonstrate a five-year housing land supply. However, even if I were to agree with the appellant, I would observe that the provision of Paragraph 11(d) of the Framework does not apply in instances where there would be harm to the Green Belt.
42. The proposed development would generate some economic benefits arising from the construction process, in addition to support to local businesses and facilities arising from the occupation of the proposed development. However, by reason of the number of dwellings that are proposed, these benefits are likely to be relatively small-scale in impact. Furthermore, some of these are also likely to be of a time-limited duration. In consequence, this matter can also only be given a limited amount of weight.

Other Matters

43. The appeal site is unlikely to lead to an adverse effect upon flood risk or a conservation area. Whilst these are matters of note, they do not outweigh my findings in respect of the main issues.
44. Concerns regarding the manner in which the planning application was considered by the Council fall outside the scope of this decision.

Planning Balance

45. The development plan and Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
46. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
47. The other considerations I have identified individually and collectively carry a limited amount of weight in favour of the proposal. As such the harm to the Green Belt, in addition to the harm to the character and appearance of the surrounding area, the SAC and the loss of bungalow, is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.

Conclusion

48. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR