



Appeal Decision

Site visit made on 20 March 2023

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Appeal Ref: APP/J1535/W/22/3300116

Bottles Barn, Stondon Road, Ongar, CM5 9BU

- 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 James Padfield against the decision of Epping Forest District Council.
 - The application Ref EPF/3262/21, dated 19 December 2021, was refused by notice dated 7 March 2022.
 - The development proposed is described as a 'Twin Bedroom Bungalow Age-restricted'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice refers to policies within the Epping Forest District Local Plan (1998) and Alterations (2006) (the "LPAA") together with policies within an emerging local plan. Since the determination of the application, the Council has subsequently adopted the Epping Forest District Local Plan 2011-2033 (the "LP") on the 6 March 2023. Consequently, the LPAA has now been revoked and all policies that were contained therein have been superseded. I have therefore determined this appeal in accordance with the policies of the LP.
3. In addition, the Ongar Neighbourhood Plan (NP) was adopted by the Council on the 11 October 2022. The NP now forms part of the development plan and where relevant, I have had regard to the NP in my determination of the appeal.
4. As part of the appeal, the appellant has submitted two planning obligations in the form of unilateral undertakings (UU). The first of these is signed and dated 26/10/2022 and makes provision for the payment of financial contributions in the form of an air pollution contribution and monitoring fee. The second UU makes provision for the proposed occupants of the dwelling to be restricted to a person who is at least 55 years old. This UU is not signed or dated. I shall return to these matters further below.

Main Issues

5. The main issues are:
 - i) whether the proposed development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the "Framework") and any relevant development plan policies;
 - ii) the effect on the openness of the Green Belt;

- iii) the effect of the proposed development on the character and appearance of the surrounding area; and
- iv) If it is inappropriate development, 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

Inappropriate development

6. The Framework states 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. It goes on to state that the construction of new buildings should be regarded as inappropriate for the Green Belt, although there are some exceptions, which are listed in paragraphs 149 and 150 of the Framework.
7. Exceptions to this include, at paragraph 149(e) the limited infilling in villages, and at paragraph 149(g), limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. However, the Framework does not define 'limited', 'infilling' or 'villages'. Therefore, interpretation is made according to local circumstances and development plan definitions.
8. Policy DM4 of the LP has similar provisions to the Framework, setting out that within the Green Belt, planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national policy. For the purposes of this policy, the construction of new buildings is regarded as inappropriate development in the Green Belt subject to a defined list of exceptions which broadly accord with the exceptions set out within the Framework. Of relevance to this appeal at (v) is '*limited infilling in smaller settlements and limited affordable housing related to smaller settlements in accordance with Policy H3*' and (vi) '*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 and the purposes of including land within it than the existing development*'.
9. The supporting text to LP Policy DM4 states that limited infilling '*means the development of a small gap in an otherwise continuous frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. Limited infilling should be appropriate to the scale of the locality and should not have an adverse impact on the character of the countryside or the local environment*'. Although it is not policy in itself, it provides useful guidance as to how the Council will apply this policy. Nevertheless, the question of infilling is a matter of planning judgement, taking into account the size and location of the development and its relationship to existing built form.
10. Similarly, case law has established that whilst a settlement boundary as defined within a local plan would be a relevant consideration, it would not

necessarily be determinative. This would also be a question of planning judgment based on assessment of the position on the ground.

11. Although the appeal site is not located within the defined settlement boundary, given the adjacent properties, a number of which form a row of properties along Stondon Road which adjoins the defined urban area. For this reason, I consider the appeal site can be considered to fall within a village for the purposes of paragraph 149(e), albeit at the edge of its rural fringe.
12. Turning to the issue of 'limited infilling', notwithstanding that neighbouring dwellings are positioned to one side and rear of the appeal site and additional built form is located on the opposite side of the highway, by reason of the absence of built form to the eastern side of the appeal site this would result in an extension of the existing linear pattern of development and cannot be considered to fill a space or gap between two other buildings or structures within a continuous frontage.
13. The presence of the existing entrance as defined by pillars and a gate is noted. However, whilst the gated access may be considered to be a structure, it is of limited size and depth in comparison to the proposed development which would extend into the site by a considerable extent such that a gap suitable for limited infilling does not result. Although the access road extends along the edge of the appeal site, it does not create a gap as a structure or building would do so. Thus, whilst I have had regard to the submitted legal judgment and Counsel's opinion, and albeit I accept that a single dwelling could amount to limited development, to my mind, the appeal scheme would not be an infill development within a continuous built-up frontage and thus it does not meet the exception set out by paragraph 149(e) of the Framework, nor paragraph (v) of LP Policy DM4.
14. Turning to paragraph 149(g) of the Framework, by reason of my findings above, the appeal scheme would not consist of limited infilling. There is dispute between the parties as to whether the appeal site should be considered as previously developed land (PDL), which I am unable to resolve on the evidence before me. However, even if I were minded to accept that the appeal site was PDL, in order to satisfy the remaining provisions of paragraph 149(g), the development must not have a greater impact on the openness of the Green Belt than the existing development or, not cause substantial harm to the openness of the Green Belt, where the development would contribute to meeting an identified affordable housing need. However, for the reasons I go into below, the proposed development would have a far greater impact on the openness of the Green Belt and therefore it would fail to satisfy the exception at 149(g) and similarly, paragraph (vi) of LP Policy DM4.
15. In terms of meeting an identified affordable housing need, the proposed development is intended for occupation by a person who is at least 55 years old. A unilateral undertaking to that effect has been submitted as part of the appeal, however, it is stated to be in draft format and is unsigned and undated. As such, I attach little weight to this document. Nevertheless, the development is described as being age restricted and an appropriately worded planning condition could be used to secure this in perpetuity. It is put to me by the appellant that '*an age restricted bungalow would guarantee an ongoing discount of circa 20% to the market without age restrictions*'. There is little evidence before me to substantiate this point, nor is it put to me that the

dwelling would be sold, or let for a rent, at a value that is less than an open market sale or rental value. As such, I attach little weight to the appellant's assertion that the scheme is affordable. The appeal scheme fails to demonstrate that it meets the exception for affordable housing as set out within paragraphs 149 (f) and (g).

16. It has been put to me that the appeal site was deemed to be an infill development as part of the scheme for which planning permission was granted by the Council for three dwellings. However, having had regard to the history of development at Bottles Farm, I note that a scheme was originally approved as permitted development. The Council explain that the dwellings subsequently came into being as a replacement for the original Dutch barns on the basis that very special circumstances were considered to exist at the time due to the removal of the buildings and improvement in the condition of the site. In any event, that development did not include a building within the area of the appeal site and therefore, in my view, any further development needs to be considered in relation to the circumstances that are relevant on the ground at that time of any future application.
17. Reference has been made to a number of developments within the Green Belt in support of the appeal scheme. Firstly, a two-storey dwelling at New House Farm Cottages¹. However, the submitted photographs and officer's report set out that the site in that instance was positioned between a pair of semi-detached dwellings and an agricultural barn. It was therefore considered to be limited infill development for the purposes of the Framework. Given my findings above, the circumstances of this approved development as compared to the appeal scheme are not directly analogous with each other and it does not lead me to the view that the Council has been inconsistent in their approach to applications for development within the Green Belt, nor does it provide justification for the appeal scheme.
18. A further three development sites at Toot Hill are also referenced. Firstly, for the scheme adjacent to Covars Mead² the officer's report details the site as being located within the village envelope and residential properties were noted to be to both sides of the site. Secondly, for a scheme to the north of Long Acre Cottage³, the submitted officer's report concludes it is an infill plot within a village envelope and thus was deemed to be 'appropriate' development for the purposes of the Framework in existence at that time. Whilst there is limited detail regarding the site-specific circumstances at that time, I note from the 'summary of representations' an interested party describes the appeal site as '*lies between my house and Long Acre Cottage*'. Thirdly, a scheme for the development of an orchard⁴ is noted to be sited between stable barns and a farmhouse to one side and a dwellinghouse to the other side and was deemed to be not inappropriate development in accordance with Framework paragraph 149(e).
19. To my mind, taking account of the submitted information including the annotated 'before and after' photograph, it demonstrates that the submitted examples concerned developments which filled a gap within a continuous frontage of built form and were justifiably considered to meet the exception for

¹ Planning Reference - EPF/0315/15 – New House Farm Cottages

² Planning Reference - EPF/0841/17 – Land adjacent to Covars Mead

³ Planning Reference - EPF/2936/14 – Land to the north of Long Acre Cottage

⁴ Planning Reference - EPF/1780/16 – Land to the south side of Steers Farm

infill development set down within the Framework. As such, these schemes are not comparable to the appeal proposal and therefore a comparison is of limited relevance in this instance. I have determined the appeal scheme before me on its individual planning merits.

20. Overall, I find that the proposed development would be inappropriate development within the Green Belt. The proposal would not comply with paragraph 149 of the Framework which seeks to protect the Green Belt from inappropriate development. Similarly, the appeal scheme would conflict with LP Policy DM4, the requirements of which are set out above.

Effect on openness

21. The Framework advises that openness is an essential characteristic of the Green Belt⁵. By reason of introducing a sizeable dwelling together with a detached garage, the proposed development would substantially increase the level of built development on site. It would introduce buildings in an area that is presently open and undeveloped. Taken together with the inclusion of hardstanding for the parking and manoeuvring of vehicles and the likely inclusion of domestic accoutrements such as washing lines, refuse bins and garden furniture, given the appeal site's position adjacent to the highway, the site would be dominated by the proposed built form and it would be readily visible in views from the road, neighbouring properties and adjacent agricultural land and countryside, even once additional planting were to become established.
22. The proposed development would undoubtedly have a visual and spatial impact upon the Green Belt thus leading to a significant reduction in openness and an appreciable degree of harm to the openness of the Green Belt. Thus, even when viewed in combination with other nearby built form, the proposal would have a harmful effect on the openness of the Green Belt.

Character and appearance

23. Stondon Road is located both within and outside of the defined settlement boundary (SB). Outside of the SB, the settlement pattern is dispersed with large swathes of agricultural land and countryside. Whilst within the SB, Stondon Road is predominantly characterised by large residential properties set within spacious plots where dwellings follow a strong linear pattern of development and are arranged with a frontage to the highway. Detached garage buildings are mainly positioned to the side of their dwelling with large front garden areas being typically comprised of a mix of lawns with some mature planting together with hardstanding for the parking of vehicles.
24. Adjacent to the appeal site is a short private cul-de-sac where the arrangement of dwellings is mostly to face the private access. Notwithstanding the slightly angled arrangement of the first properties, Tan-y-Coed and Greenacres, they are sited with a frontage to the junction of the private access with Stondon Road where, despite the presence of mature vegetation and fencing along their front boundaries, glimpsed views of those properties can be made through their driveway openings, where those dwellings continue to be read as part of the strong linear pattern of development. Overall, this part of Stondon Road

⁵ National Planning Policy Framework paragraph 137

situated within the SB displays an attractive, verdant, well-ordered and spacious residential character and appearance.

25. In contrast, the residential development at Bottles Farm which is positioned outside of the SB, has a courtyard type arrangement and a position that is well set back from the road. It forms a looser pattern of clustered development and displays a distinct semi-rural character that provides a more gradual transition between the built form and the rural environment.
26. The appeal site shares a common boundary with Greenacres and is positioned between the highway and the Bottles Farm development. Being formed of a parcel of open land that is currently laid to grass with a front boundary that is delineated by low level post and rail fencing, it has an attractive and verdant rural character. Notwithstanding the presence of the shared driveway providing access to dwellings to the rear of the site, together with the gated access point, there are clear views across the site towards agricultural lands that lay beyond. Thus, I find that the appeal site makes a positive contribution to the spacious and verdant rural character and appearance of the area.
27. Given the presence of close boarded fencing and mature hedge around the edge of the garden of Greenacres, the appeal site appears separate and distinct from the residential properties of Stondon Road. The site's open and verdant qualities together with its largely open boundary to the agricultural lands to the east creates the visual impression of the site being within the countryside. As a consequence, the proposed development would intrude into an area of land that has a strong rural character and which to my mind, appears to be beyond the natural edge of the village.
28. The proposed development would lack a clearly defined frontage or have a street presence given the siting of a large, detached garage building adjacent to the highway. The garage building would appear prominent by reason of its position and considerable height and width, which would not be offset by the inclusion of a catslide roof. Although additional planting would be incorporated in the scheme in the form of a native boundary hedge, this would take some time to become established and it would have little effect in screening the proposed garage building in the meantime. Whilst I observed during the site visit that some buildings are situated at the back edge of the footway on the opposite side of Stondon Road, these are not typical of the prevailing grain of development in the vicinity of the site.
29. In support of the garage building being positioned adjacent to the highway, the appellant has submitted photographic examples to show the traditional siting of farm buildings within 3 miles (approximately) of the appeal site. However, the appeal scheme before me proposes a residential dwelling and garage rather than an agricultural building and moreover, there is limited information to demonstrate that those examples are analogous to the appeal scheme. A comparison is therefore of limited relevance in this instance.
30. In addition, by reason of the orientation of the new dwelling, the main entrance door would face towards Greenacres rather than the highway. Whilst my attention has been drawn to an external door facing the shared access from the kitchen, whilst access into the property could be gained, I do not consider that it would be read as the front of the property given that the majority of the proposed parking area and garage building are more conveniently positioned to gain access into the external door leading into the hallway. Whilst the proposed

dwelling would have an angled position within the appeal site, it would fail to respond to the positioning of Greenacres nor would it be read as forming part of the Bottles Farm development. In my view, the appeal scheme would be at complete odds with the strong linear pattern of development fronting Stondon Road and thus fail to assimilate successfully into the streetscene. The scheme would also fail to reflect the courtyard arrangement of dwellings at Bottles Farm and thus it would also fail to be read as part of that development.

31. Whilst I am mindful of the desire to provide an entrance capable of being used by disabled persons away from public view, the inclusion of considerable areas of hardstanding to three sides of the proposed property would result in the site being dominated by the proposed built form and turning and parking provision to the detriment of the verdant and semi-rural character of the area. Although the appeal scheme proposes additional planting along the sites boundaries, this would take some time to become established and would be less effective at screening the proposed development during the winter months when foliage is less dense. The presence of extensive areas of hardstanding at other properties within the locality, as shown within the submitted table, does not provide adequate justification for the scheme.
32. Although the topography of the land would result in the proposed building being set at a lower level, it would nonetheless include a building with a ridge line of significant height and a number of projecting gable and hipped gable elements together with full height feature window to the sitting room. Even taking account of the single storey nature of the proposed building, it would nonetheless appear as a strident and inharmonious addition that removes an existing open space and results in the encroachment of built form into the open countryside to the detriment of the spacious and rural character of the area.
33. Whilst the appeal scheme has been designed to incorporate some principles of The Dwell Report and the Essex Design Guide in terms of light and space and it proposes the use of matching materials that would complement those used within the dwellings at Bottles Farm and common to the Essex vernacular, these matters would not overcome the harm I have described above.
34. For the reasons given above, I conclude that the proposed development would be harmful to the established character and appearance of the surrounding area. Thus it would conflict with LP Policies DM9 and DM10 insofar as these policies require a development of high quality design that, among other things, contributes to the distinctive character of the local amenity and seek to include enhanced provision of green infrastructure, including the quantity and quality of landscaped areas, trees and open space. Similarly, the scheme would not accord with the Framework insofar as it aims to ensure developments will add to the overall quality of an area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character including the surrounding built environment and landscape setting.

Other Matters

35. The appeal scheme would contribute an additional dwelling towards housing supply within the district and as a small site it would be capable of being built out quickly. Economic benefits would be generated during construction and through future occupiers of the proposed dwelling spending within the local economy. In addition, the appeal proposal would make use of under-utilised

- land and it would incorporate energy efficient measures such as mechanical ventilation heat recovery. However, the economic, social and environmental benefits of the scheme would be limited given the small scale of the proposal.
36. No adverse effect on the living conditions of neighbouring occupiers in terms of outlook, privacy or loss of light has been identified by the Council. The proposed dwelling would provide adequate living conditions for the future occupiers of the new dwelling. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
37. Reference has been made to self-build dwellings which I note the Framework is supportive of. However, I have no mechanism before me, such as a planning obligation that would ensure that the new dwelling would not be made available for sale or rent on the open market and I cannot be certain that it would ultimately be delivered as such.
38. I note there was some support for the proposed development including from the Ongar Town Council and interested parties including a potential occupier of the appeal scheme. I have had regard to their desire to downsize to a bungalow for health and mobility issues and to ensure independent living can continue in close proximity to other family members. However, whilst I note this individual is keen to reside at the property, there is no evidence before me to demonstrate that the appellant would be compelled to sell or let the property to this individual and therefore their personal circumstances carry little weight as a benefit of the appeal scheme.
39. Nevertheless, as noted above, an appropriately worded planning condition could be utilised to restrict the occupation of the new dwelling to an individual of at least 55 years of age. The Framework recognises that it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. Reference is made to an ageing population, the increasing cost of care, and the need for older residents to be able to downsize. NP Policy ONG-RR3 sets out the desired housing mix and standards within Ongar and whilst the proposal would provide 'smaller accommodation' suitable for those wishing to downsize or for older people and people of limited mobility, there is little substantive evidence before me to substantiate the view that the Council are failing to deliver an adequate mix of housing including smaller accommodation.
40. My attention has been drawn to a scheme of redevelopment at Tilegate Farm⁶. The submitted photographs show that the development in that instance was far greater in size, height and footprint than that proposed in the appeal scheme. However, I also note that the Tilegate Farm scheme involved the removal of farm buildings that were in existence at that time, which is different to the appeal scheme before me. Whilst some building(s) may have been present on the appeal site in the past, these do not presently exist and as the scheme does not involve the replacement of buildings, the Tilegate Farm scheme is not comparable to the proposal before me.

Planning Balance and Conclusion

41. I have concluded that the proposed development would be inappropriate development within the Green Belt and it would harm Green Belt openness.

⁶ Planning Reference – EPF/1052/17 – Tilegate Farm, Magdalen Laver

The Government attaches great importance to Green Belts and as such, the harm to the Green Belt carries substantial weight. In addition, there would be harm caused to the character and appearance of the area.

42. Paragraph 148 of the Framework explains that very special circumstances to justify development in the Green Belt will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
43. In this instance, the other considerations weighing in favour of the proposal, both individually and cumulatively, are limited and they do not clearly outweigh the harm to the Green Belt. Accordingly, the very special circumstances necessary to justify the development do not exist.
44. The proposed development is contrary to the development plan and the material considerations identified do not outweigh the conflict with it. I have not therefore considered the effect of the proposed development on the Epping Forest Special Area of Conservation as this matter would not have any bearing on my decision with regards to the effect on the Green Belt and character and appearance of the area.
45. For the reasons given above I conclude that the appeal should be dismissed.

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INSPECTOR