



Appeal Decision

Site visit made on 11 July 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/J1535/W/22/3313016

Land at the rear of Avenue House, London Road, Latton Common, Harlow CM17 9NJ

- 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 Edit Residential against the decision of Epping Forest District Council.
 - The application Ref EPF/0863/22, dated 12 April 2022, was refused by notice dated 28 September 2022.
 - The development proposed is outline planning permission for the erection of 6 no. dwellings with access, parking and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made on behalf of Edit Residential against Epping Forest District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application was submitted in outline form and included details of access, layout and scale. Appearance and landscaping were reserved and therefore any details relating these matters on the submitted drawings have been treated as being indicative only.
4. The Epping Forest District Local Plan 2011-2033 Part One (the local plan) was adopted on 6 March 2023. I have determined the appeal, as required, based upon the policies in place at the time of reaching my decision. The appellant has had an opportunity to comment on these policies.
5. The Council is satisfied that the submitted drainage report and planning obligation would address reasons 2 and 3 of its decision. Consequently, I have not considered these matters further.

Main Issues

6. The main issues relevant to this appeal are:
 - Whether the proposal would be inappropriate in the Green Belt having regard to relevant development plan policies and the National Planning Policy

Framework (the Framework);

- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area; and
- 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

7. Policy DM4 of the local plan confirms that planning permission will not be granted for inappropriate development in the Green Belt, except in very special circumstances. It goes on to state that the construction of new buildings is inappropriate development in the Green Belt and lists a limited number of exceptions to this. These exceptions include, amongst other things, limited infilling in rural communities and limited affordable homes in locations that are in accordance with Policy H3, and 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 than the existing development. This approach is consistent with the Framework.
8. The appeal site is located within a settlement. It is bound by Avenue House to the north and there are further houses on the opposite side of the road to the east. However, the land to the south and west is undeveloped. Given the large gap between the site and the Miller and Carter restaurant, the proposal could not realistically be described as infilling. This is even though it would be limited in terms of the small number of dwellings proposed.
9. Policy H3 of the local plan is supportive of small-scale schemes for affordable homes on sites where planning permission would not normally be granted. This is subject to, amongst other requirements, an identified local need being demonstrated and suitable measures being in place to ensure such homes remain affordable for local people. The proposal has not been put forward as a rural exception site and would not provide any on-site affordable housing to meet an identified local need. As such, it would not fall within the exceptions at Policy DM4(C)(v) of the local plan or paragraph 149(e or f) of the Framework.
10. As the site has been removed from the domestic curtilage of Avenue House, which forms part of a built-up area, it would not fall within the definition of previously developed land, as set out in Annex 2 of the Framework. Even if the site did fall within this definition, due to the absence of any existing built development within it, the proposal for 6 dwellings with access, parking and associated works would have a greater impact on openness, which I will explain in further detail elsewhere in this decision. As such, the proposal would not fall within the exception under Policy DM4(C)(vi) of the local plan or paragraph 149(g) of the Framework.
11. The proposal would therefore constitute inappropriate development in the Green Belt as defined by Policy DM4 of the local plan and the Framework.

Openness

12. The fundamental aim of the Green Belt is to prevent urban sprawl and encroachment into the countryside by keeping land permanently open and free from development. Openness is an essential characteristic of the Green Belt that has a spatial as well as a visual aspect.
13. The site comprises an area of grassland, which is free from any buildings or structures other than the boundary fence that segregates the site from the garden of Avenue House. The construction of the proposed dwellings together with the associated access, parking and boundary treatments between dwellings, would therefore result in a spatial loss of openness.
14. I acknowledge that the site is currently well screened from public views by dense mature landscaping, which could assist in reducing the visual effects of the proposal on the openness of the Green Belt. However, part of this landscaping would need to be removed to facilitate the new access and the future of any remaining or new landscaping cannot be guaranteed for the life of the development. As such the proposal would also erode the visual openness of the Green Belt.
15. The proposal would therefore result in harm to the openness of the Green Belt and the purposes of including land within it, contrary to Policy DM4 of the local plan and the Framework.

Character and appearance

16. There is very little built development on this western side of London Road, which currently comprises two detached dwellings in large spacious plots to the north of the site and the Miller and Carter restaurant and car park, a short distance to the south. Whilst I am advised that the area of land situated between the appeal site and the restaurant is used for commercial purposes, I was unable to see any built development upon it and I am unaware of its planning status. The land between the site and the A414 to the west is also undeveloped.
17. The opposite side of London Road is characterised by detached and semi-detached, primarily two-storey dwellings, albeit of varying heights, set back from the road in generous plots. The sense of space between these dwellings is enhanced by the presence of lower-level extensions and outbuildings between the properties.
18. There is also a substantial motor vehicle dealership and a petrol filling station to the south of the residential area. However, the site would not be viewed in context with these larger commercial developments, or the restaurant, given the distance and break in development between them.
19. There are trees and hedges along both sides of London Road, which reflect the scale and nature of the settlement and its rural surroundings. These make a positive contribution to the verdant character and appearance of the area.
20. The application included details of access, layout and scale. A single point of access is proposed from London Road, leading to a new internal access road. The proposed houses would be set back from London Road, in a linear form and would have reasonably sized gardens to the rear. This general access and layout arrangement would reflect that of the surrounding area.

21. Although the height and scale of the dwellings would not be dissimilar to others in the area, and the varied roof heights would assist in breaking up the roofline, their close siting to each other and to the site boundaries, would result in a cramped sub-urban layout that would not reflect the spacious character of the immediate surrounding area.
22. Whilst I acknowledge the potential to retain and protect some of the existing landscaping, which would soften the appearance of the development, it is conceivable that these could be removed, damaged or die during the construction or the life of the development. Moreover, the close proximity of the proposed houses and parking areas to the site boundaries would somewhat limit the space for effective landscaping retention or for the planting of any meaningful new landscaping, within the red line application site boundary. Based upon the submitted layout, I am not persuaded that adequate landscaping could be secured at the reserved matters stage or by conditions. The loss of mature landscaping, particularly along the site frontage, would harmfully detract from the character and appearance of the area.
23. The proposal would therefore result in moderate harm to the character and appearance of the area, contrary to Policies DM5 and DM9 of the local plan, and paragraph 130 of the Framework. These seek amongst other things to retain and protect trees and landscape features, integrating them into development proposals, and to ensure development relates positively to its context, drawing on local character and the natural and historic environment.
24. As Policy SP3 relates to the delivery of Garden Communities, which I have not been advised this site would form part of, it is not relevant to this appeal. There is also no evidence before me of any conflict with Policy T1, which relates to sustainable transport choices.

Other considerations

25. The site previously formed part of a larger parcel of land that was a proposed housing allocation in the local plan. The allocation of the land, without removing it from the Green Belt, was found to be unsound by the examining Local Plan Inspector. At the time of submitting the appeal, I understand that the site allocation had been deleted, but was subject to ongoing objections.
26. The larger parcel of land that formed the previously proposed allocation is in multiple ownerships and the Council had advised from pre-application stage onwards that it was only willing to support it if it was delivered as a whole. I acknowledge that sites in multiple ownerships can come forward in stages and that the development of the appeal site would not prevent or prejudice the future development of the adjoining land. However, given that the now adopted local plan does not allocate any of the site for housing or remove any of it from the Green Belt, the deleted former proposal carries very limited weight.
27. The appellant accepts that the Council can now demonstrate a 5 year housing land supply. I acknowledge that this was not the case at the time the application was determined, but I must make my decision based upon the most up to date information. However, the 5 year supply is not a cap on development. I afford moderate weight to the fact that the proposal would add 6 further houses to the current supply.

28. A planning obligation has been submitted with the appeal, which would secure financial contributions towards the provision of two off-site affordable houses. Limited affordable housing for local community needs set out in the development plan is one of the exceptions to inappropriate development in the Green Belt. However, in this case it is not proposed to provide any affordable housing on the appeal site to meet a local need. As such, this would not change the fact that the proposal is inappropriate development in the Green Belt.
29. Whilst I do not doubt there is a need for affordable housing within the district, as there is no policy requirement for the provision of off-site affordable housing, for a development of the scale proposed, the planning obligation would not meet the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Accordingly, I have afforded this limited weight.
30. The proposal would make effective use of a vacant and underutilised windfall site in an area that is reasonably close to services and facilities. I afford this moderate weight.

Other Matters

31. My attention has been drawn to various appeal decisions relating to limited infilling in villages, and to larger proposals that were either not in the Green Belt, not inappropriate development, or included affordable and self-build housing in areas with an acute housing land supply shortfall. The proposal is not comparable to these other cases and has been determined on its own merits.
32. The absence of harm in terms of matters such as design, highway safety, parking and living conditions of occupiers of nearby properties, is a requirement of all development proposals. Such matters are neutral and do not weigh in favour or against the proposal. Likewise, measures to mitigate any potential harm to the Epping Forest Special Area of Conservation as a result of the proposed development and the provision of general requirements such as electric vehicle charging points and cycle storage are neutral matters and do not weigh in favour of the development.

Balance and Conclusion

33. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special 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.
34. The other considerations that weigh in favour of the development, do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness, including harm to openness, or the moderate harm that I give to the effect of the development on the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do not exist.
35. I am advised that the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years. Relevant policies, which are most important for determining the

application are therefore out-of-date. However, there are no very special circumstances and the application of policies in the Framework that protect areas of particular importance, including the Green Belt, provide a clear reason for refusing the development proposed.

36. For the reasons given above, the proposal would conflict with the development plan and the Framework, when taken as a whole. Having considered all other matters raised, I conclude that the appeal should be dismissed.

R Bartlett

INSPECTOR