



Appeal Decision

Site visit made on 23 October 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2023

Appeal Ref: APP/J1535/W/23/3314945

Morgans Farm, Chelmsford Road, High Ongar, Ongar, Essex CM4 0LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Morgan's Farm Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/1011/22, dated 28 April 2022, was refused by notice dated 12 December 2022.
 - The development proposed is demolition of the existing buildings and erection of 3 no. 4-bed, single storey dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It has been brought to my attention that the Epping Forest District Local Plan 2011-2033 (the LP) was adopted in March 2023, such that its policies now attract full weight in decision-making. I shall consider the appeal on this basis, noting that the parties have had opportunities to provide observations with respect to any relevance of this adoption to the outcome of the appeal.
3. In considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I shall have regard to this statutory duty in my consideration of this appeal.
4. A Deed of Unilateral Undertaking (the UU) under Section 106 of the Act is before me, dated 7 September 2023. It secures an Air Pollution Contribution in the interests of mitigating the impact of the proposal on air pollution at the Epping Forest Special Area of Conservation (the SAC) and a Monitoring Contribution. Given that the Council has confirmed its acceptance to the UU, I shall consider the appeal on the basis that its fourth reason for refusing planning permission no longer applies. Nevertheless, I shall return to the SAC and the UU later under Other Matters.

Main Issues

5. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;

- Whether or not the site represents a suitable location for housing development, having particular regard to the accessibility of facilities and services;
- The effect of the proposal upon the character and appearance of the rural area, including consideration of its effects upon the settings and thereby the significance of the Grade II Listed Spurriers and the Locally Listed The Maltings; and
- If the proposal is found to be inappropriate development in the Green Belt, whether or not 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 necessary to justify it.

Reasons

Whether inappropriate development

6. The site falls within the Green Belt. The National Planning Policy Framework (the Framework) specifies that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. Such exceptions include 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.
7. The Framework's definition of previously developed land is land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes, amongst other exceptions, land that is or was last occupied by agricultural or forestry buildings.
8. It is my understanding that the site, when last in active use, operated as a plant nursery that incorporated a horticultural retail outlet. As was apparent upon inspection, the timber building that once accommodated the retail outlet remains on site offering a storage function (the storage building). I also observed areas of compacted ground along the site's southern edge, which would have formerly provided parking and turning opportunities for visitors. To the northern side of the site is located a former agricultural barn (the agricultural barn), which I observed to be vacant for the most part, as well as a separate single fishing hut (the fishing hut) at the north-western tip of the site. I witnessed the remainder of the site to be predominantly grassed, devoid of built form, and free from fixed surface infrastructure.
9. The appellant has submitted a plan¹ (the PDL plan), which indicates the areas of the site they consider to constitute previously developed land. These areas do not, I note, include a portion of the site where two of the proposed dwellings are intended to be sited. Indeed, this area is where glasshouses/polytunnels once stood for horticultural purposes and has rightfully been omitted from any categorisation of previously developed land. Nevertheless, in lieu of a part-implemented 2013 permission², various other

¹ Existing Site Layout Plan with PDL Areas, Ref 09

² Ref EPF/0434/13

areas of the site that exhibit no obvious symptoms of previous development, have been erroneously hatched on the PDL plan.

10. The 2013 permission grants consent for a mixed use comprising a horticultural nursery and outdoor recreation including fishing and tennis with ancillary camping, retail, café and club activity. I do not dispute that this permission has been lawfully implemented, nor that the fishing hut has been erected and initial works of conversion to the agricultural barn have taken place. However, the 2013 permission's implementation on the ground remains at a very early stage. As such, the extent of land rightfully classified as previously developed has, to my mind, been much exaggerated in the appellant's assessments.
11. Moreover, based on the evidence before me and my on-site inspections, I find that only a relatively small proportion of the part of the site to be developed for residential purposes can be fairly considered to constitute previously developed land. I cannot, therefore, find that a partial or complete redevelopment of previously developed land is before me for determination.
12. It should also be noted that, even had I come to an alternative view on the previously developed status of the site, the proposed development would need not to have a greater impact on the openness of the Green Belt when compared to existing development in order not to be classified as inappropriate development. I shall now turn to openness considerations.
13. The buildings intended to be removed, which tend to be of simple, utilitarian design, have a low-key presence on the site and each is experienced in the context of verdant immediate surroundings. It is also relevant that the agricultural barn and fishing hut occupy discreet locations to the rear of the site stepped away from Chelmsford Road. Any suggestion that these buildings are experienced as prominent from the public right of way network has not been substantiated and was not obviously apparent upon my own inspection of the area, which included exploration of said network.
14. In comparison, the proposed dwellings would be of increased cumulative footprint and volume when compared to the buildings intended to be removed. Further, each would be served by its own individually defined curtilage and parking court (which would promote the introduction of domestic paraphernalia) and be situated close to the site's access and upon a part of the site that is visible from different points along or adjacent to Chelmsford Road. Indeed, notwithstanding the modest single-storey heights proposed and the additional planting that is intended, the scheme would result in noticeable built development and a distinct domestication of open rural land. A material loss of Green Belt openness, over and above existing site circumstances, would thus materialise.
15. For the above reasons, the proposal would be inappropriate development in the Green Belt and conflicts with Policy DM4 of the LP and the Framework in so far as these policies set out that inappropriate development is, by definition, harmful to the Green Belt, and that the essential characteristics of Green Belts are their openness and their permanence.

Whether a suitable location – accessibility of facilities and services

16. The site, whilst situated outside of any defined settlement boundary, is located on the fringes of Norton Heath, a small hamlet that contains a limited range of

facilities and services. These include a café as well as a petrol station that incorporates convenience shopping opportunities. There are also various established offices/businesses located at the hamlet. Even so, the range of facilities and services realistically required to meet the full day-to-day needs of future occupiers are not available at Norton Heath. Furthermore, with the exception of the petrol station, there are walkability constraints that apply to the facilities and services that are on offer. Indeed, the route from the site to the heart of the hamlet is unlit, not served by footpaths, and of not insignificant distance. In the context just described, it is inevitable that the proposal would increase travel by private modes of transportation.

17. I acknowledge that Policy T1 of the LP does not prevent development in rural areas as a matter of principle, but it does set out, in no uncertain terms, that development should minimise the need to travel and promote opportunities for sustainable transport modes to be utilised. The proposal, owing to the specific site circumstances to hand, does not embrace these objectives. This is irrespective of whether or not a site situated elsewhere at Norton Heath has been separately allocated for housing development.
18. I accept that the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and states that this should be taken into account in decision-making. Even so, the increase in travel by private modes of transportation that would be fairly anticipated sits uncomfortably alongside the Government's objectives of delivering sustainable development in a planned and coordinated manner.
19. For the above reasons, notwithstanding the absence of an objection to the scheme from the Highway Authority, the proposal would cause some moderate harm by virtue of the site not representing a suitable location for housing having particular regard to the accessibility of surrounding facilities and services. The proposal conflicts with Policies SP1 and T1 of the LP in so far as these policies set out how new homes will be delivered and promote sustainable transport choices.

Character and appearance, including settings of heritage assets

20. The site has rural and verdant characteristics and is bordered, to a considerable extent, by open agricultural land. It is also relevant that incidences of built development upon the site are sporadic and tend to be of non-complicated utilitarian design. Nevertheless, there are also various buildings of differing ages and forms sited adjacent to Chelmsford Road which share a close relationship with the site's eastern edge. This enclave of neighbouring development reduces, to some extent, the quality and sensitivity of available views of the site from Chelmsford Road. Furthermore, in more general terms, the influences of topography and established vegetation mean that the site has a somewhat limited and constrained visual envelope.
21. One building with a close relationship to the site is the Grade II Listed Spurriers, a house of 17th-century origin. The significance and special interest of this designated heritage asset is drawn, in part, from its age, traditional form and materials, and featureful elevations. Sandwiched between Spurriers and the appeal site is The Maltings, a Locally Listed and much altered former malthouse that I understand to be of 19th-century origin. The significance and special interest of this non-designated asset is drawn, in-part, from its relevance to the rural history and evolution of the area. The site forms part of

the setting of each of these assets, although, with respect to Spurriers, this is a peripheral part owing to the presence of intervening built form.

22. In broad terms, and without prejudice to my findings in a Green Belt openness sense, I see merit in the general design approach taken by the appellant. Indeed, new development would cover a fairly modest proportion of the site and each dwelling has been limited to a single storey in height and would incorporate a shallow-pitched roof form so as to promote subservience to The Maltings. I also accept that the narrow rectangular plan form of the proposed dwellings would be reminiscent of rural and agricultural buildings found within the wider rural area, and I take no issue with the planned perpendicular orientation of the dwellings or the consistency of their front building line, nor with the intended palette of external facing materials led by timber cladding to elevations and sheet metal at roof level. Furthermore, it is the case that full details of boundary treatment could be secured via planning condition in the interests of ensuring non-solid and low-level installations.
23. However, whilst some contemporary detailing and roof form variations would hold the potential to offer visual interest, it is my view that, at a site exhibitivite of rural and verdant qualities and defined by the simplicity of its existing buildings, this concept has been advanced too far. For example, sizeable brick pillars would feature at roof level and rise above ridge height, and Unit 3 would incorporate a mix of roof forms including a considerable flat-roofed element. As such, when viewed as a whole, a development of excessively busy appearance displaying evident domestic characteristics would ensue at odds with the appellant's commendable vision of each new dwelling taking the appearance of a converted barn.
24. I have noted the intention to introduce new planting in the interests of shielding or softening available views. However, such planting would take time to properly establish and could not be relied upon to provide strong buffers to views. This is not least because new planting would be dependent upon continual maintenance to retain a consistent form. I also acknowledge the intention to clear the northern portion of the site of built form, which would advance rurality. Nevertheless, the current agricultural barn and fishing hut are not experienced as dominant or obviously discordant features. Indeed, as observable at distance from the public right of way network to the north, the simple low-level roof form of the agricultural barn has a discreet and non-obtrusive presence in the landscape. Moreover, the planned removal of buildings does not justify the introduction of unsympathetic design to the front of the site.
25. For the above reasons, whilst I do not consider that the proposal would cause material harm to the heritage significance of either Spurriers or The Maltings as a result of low-level development within their settings, I do find that, by virtue of the over-intricate nature of the dwelling's detailed designs, some harm, albeit limited, would be caused to the character and appearance of the rural area. Indeed, the development would not blend seamlessly with its predominantly agricultural and verdant surroundings. The scheme thus conflicts with the Framework in so far as it promotes the achievement of well-designed places. For the avoidance of doubt, I do not identify conflict with Policy DM7 (Historic Environment) of the LP.

Other Matters

26. The site lies in proximity to the SAC. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have found the development to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. For the avoidance of doubt, even if I had done so and identified compliance with Policy DM22 of the LP due to the relevant mitigation payment secured through the UU, it would not have affected my overall conclusions on this appeal.

Whether very special circumstances apply

27. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also indicates that substantial weight should be given to any harm identified to the Green Belt.

28. A fallback position has been advanced in the sense that the already part-implemented 2013 permission could be built out in full should this appeal be unsuccessful. I do not dispute this to be the case. Such works would include the construction of a security lodge towards the site's frontage, conversions of the storage building and agricultural barn to a farm shop and clubhouse/café respectively, the installation of four further fishing huts and associated jetties along the site's western edge, the provision of a tennis court, and the laying of new hardstanding for the purposes of access and parking. Whilst not buildings, I also note here the past consented erection of polytunnels to the front of the site.

29. The appellant has provided calculations to demonstrate that both the total footprint and total volume of the buildings that could be retained and erected would exceed the respective footprint and volume of the three proposed dwellings considered cumulatively. However, the measure of Green Belt openness is not confined to the consideration of spatial dimensions and has a visual element that is influenced by such factors as site layout and the relationship between buildings. The appeal proposal would result in an agglomeration of permanent buildings and associated domestic paraphernalia in a prominent visible location adjacent to the site's access, which would not be the case in the event the 2013 permission be fully implemented.

30. I also see merit in suggestions made that the 2013 permission was granted in recognition that the scheme then under consideration, which maintained a horticultural nursery and involved small-scale construction/refurbishment works, was designed to ensure that there would be limited impact upon the visual openness of the Green Belt. This is reflected upon the plans that were approved at that time. In my judgement, a more distinct loss of openness would be associated to the appeal scheme before me when compared to the fallback position that has been mooted.

31. Also, the existence of the 2013 permission does not alter my findings that the appeal scheme would cause some harm to the character and appearance of the rural area and by virtue of the site not representing a suitable location for new

housing. In this context I attach limited weight to the fallback position, which, for the avoidance of doubt, does not demonstrate very special circumstances.

32. The proposal would deliver three additional dwellings and utilise some elements of previously developed land, and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. The scheme would also generate jobs and investment during the construction phase, as well as expenditure in the local economy and support for local community facilities in the area once occupied. Furthermore, some limited biodiversity benefit would likely be brought about by new planting.
33. However, the scheme's benefits, considered cumulatively, would be relatively modest and would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness), and the additional identified harms derived from the site not representing a suitable location for housing development having particular regard to the accessibility of facilities and services and the effect of the proposal upon the character and appearance of the rural area, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

34. For the above reasons, the proposal conflicts with the development plan when read as a whole and material considerations do not lead me to a decision otherwise. Therefore, the appeal is dismissed.

Andrew Smith

INSPECTOR