



Appeal Decision

Site visit made on 12 March 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2024

Appeal Ref: APP/J1535/W/23/3327370

Denver Lodge Cottage, Waltham Road, Nazeing, Waltham Abbey, Essex EN9 2EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Malcolm Travers against the decision of Epping Forest District Council.
 - The application Ref is EPF/2893/22.
 - The development proposed is a single storey four bedroom residential dwelling to replace two existing outbuildings used as a storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework was published on 19 December 2023 and updated on 20 December 2023. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.
3. Since the appeal was submitted, Epping Forest District Council Local Plan 2011-2033 (the LP) was adopted on 6 March 2023. Therefore, the appeal will be considered against the policies from this recently adopted plan.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies; and
 - would the harm by reason of inappropriateness and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether it is inappropriate development

5. The appeal site is currently occupied by two outbuildings used for residential storage, with a historic equestrian use associated with the main dwelling. It is located on a main road within the Green Belt. The proposed development would replace the existing outbuildings with a single storey detached dwelling.
6. Paragraph 154 of the Framework and Policy DM4 of the LP state that the construction of new buildings in the Green Belt are inappropriate subject to a number of exceptions. Under paragraph 154 (g), these exceptions include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continued use which would not have a greater impact on the openness of the Green Belt than the existing development. The appellant has stated that the appeal site is previously developed land and the proposal would therefore fall under this exception.
7. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.
8. The proposed dwelling would be greater in bulk and scale than either of the outbuildings it would replace. Whilst the width of the proposed dwelling would be less than the current outbuildings, the appellant has confirmed that it would be greater in height and located further forward on the site. The proposal would also result in additional hardstanding on the site, when compared to the current level, through the provision of an additional access and driveway. For these reasons, the proposed development would have a significant spatial impact on the openness of the Green Belt.
9. Whilst the existing outbuildings are largely obscured from public view by existing tree lines and a tall fence on the front boundary, the would be replaced by a low level fence. As such, the proposed dwelling would be highly visible from the adjacent road and would visually reduce the openness of the Green Belt. Therefore, there would be both a spatial and visual impact to the openness of the Green Belt from the proposed development.
10. Previously developed land is described in the Framework as land which is or was occupied by a permanent structure including the curtilage of the developed land and an associated fixed surface infrastructure. The appellant contends that the land in between the existing outbuildings was previously used as a manège and therefore constitutes previously developed land, along with the buildings themselves. Nevertheless, even if the site could be considered previously developed land, due to the impacts on the openness of the Green Belt detailed above the proposed development would not fall under the exception in paragraph 154 (g).
11. The exception detailed in paragraph 154 (d) of the Framework includes the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Whilst the appellant contends the building would not result in a change of use, the proposed building would clearly be materially larger than the two buildings it would replace. Therefore, the proposed development would also not fall under this exception.
12. The proposal would therefore be inappropriate development within the Green Belt. This would be harmful to the Green Belt which, in accordance with

paragraph 153 of the Framework, should be given substantial weight. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, which will be considered below.

Other Considerations

13. The proposed development would assist with the supply of local housing by providing a high quality, environmentally conscious family dwelling. However, due to the scale of the development as a single dwelling, this is given limited weight. It is also noted that the appellant considers that the proposal is in keeping with the pattern of surrounding development and has an appropriate design, scale and massing alongside the existing dwelling. However, this lack of harm is a neutral factor which does not weigh in favour of the proposed development.
14. The appellant has highlighted that the site benefits from permitted development rights which could be used as a fallback position. However, no evidence has been provided to indicate what works could be undertaken under permitted development rights or if the appellant intends to carry out such works. A planning application¹ for a guest house has been highlighted, however it is not clear how this relates to the appeal before me. Therefore, this is given limited weight in favour of the proposed development.

Green Belt Balance

15. The proposal would be inappropriate development in the Green Belt in that it would result in a new building within the Green Belt which does not fall under any of the listed exceptions. The Framework establishes that substantial weight should be given to any harm to the Green Belt, and the development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
16. I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt, in terms of a loss to openness and inappropriateness that I have identified. Consequently, the very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the development conflicts with Policy DM4 of the LP which seeks to protect the Green Belt, along with paragraphs 152, 153 and 154 of the Framework.

Other Matters

17. The appeal site is located in close proximity to the Epping Forest Special Area of Conservation (SAC) and a reason for refusal has been included stating that sufficient information has not been provided to satisfy the Council that the proposal would not adversely affect the integrity of the SAC. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my

¹ EPF/0454/19

decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR