
Appeal Decision

Site visit made on 11 April 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2024

Appeal Ref: APP/J1535/W/23/3334489

Land at 167 Nine Ashes Road, Nine Ashes, Ingatestone, Essex CM4 0JY

- 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 Messrs Nicolas Fincher & Colin Salmon against the decision of Epping Forest District Council.
 - The application Ref EPF/1171/23, dated 22 May 2023, was refused by notice dated 25 September 2023.
 - The development proposed is the construction of a two-bedroomed detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. Since the date of the Council's decision, a legal undertaking has been entered into, with regard to a contribution to the Council's scheme for mitigating the effects of air pollution on the Epping Forest Special Area of Conservation. The terms of the obligation do not appear to be in dispute. In the absence of any indication to the contrary, this appears to overcome the second of the Council's two refusal reasons, and in the circumstances of this case, it is not necessary for me to consider that matter further.
3. In the light of the above, the remaining issues in the appeal relate to the question of green belt policy.

Reasons for decision

Relevant policies

4. The appeal site falls within an area of green belt as defined in the Epping Forest District Local Plan (the EFDLP), adopted in March 2023. In that plan, Policies SP5 and DM4 require the green belt to be protected from 'inappropriate development', except in very special circumstances. Policy DM4 also states that the construction of new buildings is to be regarded as inappropriate, unless the development falls within one of the limited number of exceptions set out in sub-paragraphs C(i) to C(vi). Paragraph 4.30 of the EFDLP advises that 'very special circumstances' will only exist where the harm to the green belt, and any other harm, is clearly outweighed by other considerations.
5. In the National Planning Policy Framework (the NPPF) paragraphs 152 and 153 require that any harm to green belts must be given substantial weight, and that inappropriate development is to be regarded as harmful by definition.

6. Having regard to the above, the main issues for consideration are:

- whether the proposed development would be 'inappropriate' in terms of green belt policy;
- whether the development would give rise to any other harm to the green belt;
- and if so, whether the harm to the green belt would be clearly outweighed by other considerations, so as to amount to 'very special circumstances'.

Inappropriateness

7. The proposed development would involve the construction of a new building, and so would be inappropriate, in terms of Policy DM4, unless it would fall into any of the specified exceptions.
8. One of those exceptions, at sub-paragraph C(v), permits infilling in rural communities. For this purpose, infilling is defined in paragraph 4.30 as including the development of a small gap in an otherwise continuous built-up frontage. In the present case, the appeal site is located within the loose rural settlement of Nine Ashes. Nos 163, 165 and 169 Nine Ashes Road, and Rushwood House, form a distinct group, and although they all have quite wide side-garden areas, these are either paved or cultivated, and are thus visibly part of their respective residential curtilages. This section of Nine Ashes Road therefore has some of the characteristics of a built-up frontage. The appeal site represents a small gap within this frontage.
9. However, this built-up part of the frontage is only short. To the south of No 163 there is no further development of any kind. To the north of Rushwood House, there is only occasional development, consisting of larger-style properties set in extensive grounds, with open land or woodland between. In neither direction is there any semblance of a built-up frontage beyond the short section that I have identified, which includes the appeal site. That section comprises no more than four, well-spaced dwellings. I appreciate that the EFDLP definition contains no minimum requirement as to the length of built-up frontage that is needed, to qualify as 'continuous'. But nevertheless, having regard to the aims of green belt policy, it is clear that an element of judgement on this point will sometimes be needed. In the present case, it seems to me that the small group of properties in question, on the western side of Nine Ashes Road, cannot properly be regarded as being a continuous built-up frontage. It follows that the appeal proposal does not fall within the scope of the exception for infilling, under sub-paragraph C(v) of Policy DM4.
10. Sub-paragraph C(vi) contains a further exception relating to previously developed land (PDL). However, that exception is subject to the proviso that the proposed development should not have any greater impact on the green belt's openness, compared to the existing development. In the case of the appeal site, the existing development comprises two derelict, single-storey sheds, located towards the rear of the site, and now largely submerged beneath overgrown vegetation. The new 2-storey dwelling which is now proposed, located across the front of the site, would clearly reduce the impression of openness compared to this existing situation. And in any event, it is questionable whether the site would qualify as PDL, firstly because the existing structures could be said to have blended into the landscape, and

secondly because there is no evidence that they were not agricultural. The proposed scheme therefore does not benefit from the exception in C(vi).

11. None of the other exceptions in Policy DM4 C(i)-(iv) are applicable. It follows that, in terms of green belt policy, the appeal proposal would be inappropriate development, which should only be permitted in 'very special circumstances'.

Any other harm to the green belt

12. For the reasons already stated, the development would cause a loss of openness to this part of the green belt. Openness is identified in NPPF paragraph 142 as one of the essential characteristics which green belt policies are intended to protect.
13. In addition, the development would urbanise a site which currently appears as part of the countryside. As such, the development would conflict with the aim of safeguarding the countryside from encroachment, which is identified in NPPF paragraph 143 as one of the five purposes of including land in a green belt.

Very special circumstances

14. Harm to the green belt would therefore arise in three ways: due to inappropriateness, loss of openness, and conflict with the green belt's purposes. As set out above, substantial weight must be given to each of these harms to the green belt, and in order for 'very special circumstances' to exist, it would be necessary for these to be clearly outweighed by other considerations.
15. In the present case, the proposed development would increase the District's housing stock by one dwelling. However, there is no evidence as to the scale of any local undersupply or under-delivery, and hence the benefit of this small gain carries only modest weight. In addition the development would tidy the site up, albeit at the expense of its current contribution to the area's rural character. And the scheme would also remove any risk of attracting litter or antisocial behaviour, although there is no evidence of these issues being a significant problem in this location. But overall, these limited benefits do not outweigh the substantial weight that attaches to the harm to the green belt.
16. The very special circumstances that would be necessary, to justify inappropriate development contrary to green belt policy, have therefore not been demonstrated.

Other matters

17. I have taken account of the fact that the front boundary of the site benefits from a certain amount of screening, due to the existing hedge. It appears that at least some of this could be retained, or indeed reinforced if required, albeit with the need for a gap for access. But the development would remain inappropriate in policy terms, and none of the harms identified would be overcome merely by reducing the development's visibility.
18. I also note that a 2-storey extension is said to have been permitted at a neighbouring property. But extensions to existing buildings are provided for separately, under Policy DM4's sub-paragraph C(iii), whereas the appeal proposal is for a new building.

Conclusion

19. For the reasons set out above, the proposed scheme would constitute inappropriate development in the green belt, contrary to EFDLP Policies SP5 and DM4. Very special circumstances have not been demonstrated. None of the other matters raised alters or outweighs this conclusion.
20. For these reasons, I conclude that the appeal should be dismissed.

J Felgate

INSPECTOR