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## Appeal Decision

Site visit made on 12 March 2024

**by J Whitfield BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> May 2024**

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**Appeal Ref: APP/J1535/W/23/3314208**

**Little Acre Farm, Norton Mandeville, Norton Lane, High Ongar, Ongar  
CM4 0LN**

- 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 and Mrs Steven Mann against the decision of Epping Forest District Council.
  - The application Ref EPF/1343/22, dated 10 June 2022, was refused by notice dated 9 November 2022.
  - The development proposed is demolition of all building and erection of two detached bungalows, associated hard and soft landscaping.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The LPA adopted the Epping Forest District Local Plan 2011 to 2033 (the LP) on 6 March 2023. It supersedes the policies in the Epping Forest District Local Plan 1998 and the Epping Forest District Local Plan Alterations July 2006.
3. The LPA's decision notice cites Policies GB2A, GB7A, CP1, CP2, CP6, DBE1, DBE2, DBE4, DBE5, DBE9, LL2, NC1 and ST1 from the previous plan which have now been superseded.
4. I am required by statute to consider the development plan as exists at the time of my decision. I have therefore determined the appeal on the basis of the relevant policies of the LP. Since the adoption of the LP pre-dated Final Comments stage of this appeal, the parties have had opportunity to comment on the new policies and are not therefore prejudiced.
5. The revised National Planning Policy Framework (the Framework) came into force on 19 December 2023. I am satisfied that the changes within the revised Framework are such that further submissions from the parties on the changes were not necessary. I have determined the appeal on the basis of the policies contained in the revised Framework.

### Main Issues

6. The main issues are:
  - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;

- the effect of the development on the openness of the Green Belt;
- whether the appeal site is a suitable location for new housing with particular regard to reliance on private car; and,
- the effect of the development on the character and appearance of the area;
- whether the development provides suitable mitigation for impacts on the integrity of the Epping Forest Special Area for Conservation (SAC) with particular regard to air pollution; and,
- if the development is inappropriate development in the Green Belt, whether 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 required to justify the proposal.

## Reasons

### *Inappropriate Development*

7. Paragraph 154 of the Framework sets out that the construction of new buildings in the Green Belt is inappropriate development. Paragraph 152 makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Policy DM4 of the LP states that the construction of new buildings is inappropriate development in the Green Belt.
9. Paragraph 154(g) of the Framework exempts from the definition of inappropriate development the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
10. Part C (vi) of LP Policy DM4 exempts the same from the definition of inappropriate development. However, it also requires development on previously developed land to not have a great impact on the purpose of including land within it than the existing development.
11. Annex 2 of the Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. It excludes nonetheless land that is or was last occupied by agricultural or forestry buildings.
12. The appeal site comprises a stable block, a barn and a smaller stable in between the two, along with containers. In addition, there is an area of hardstanding which covers part of the site. Planning permission was granted in 2022 for the construction of a bungalow to replace the stable block<sup>1</sup>. The development in that instance covered only that part of the site which contains the stable block and thus was on previously developed land.
13. In contrast, the proposal here seeks to construct two dwellings, including upon that part of the site containing the barn. The appellant argues that the barn

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<sup>1</sup> LPA Ref: EPF/1225/19

represents previously developed land and thus, the development as a whole would sit on previously developed land.

14. However, the appellant indicates that the barn is used for a cattle shed. I was able to see from my site visit that it contained various pieces of agricultural plant, machinery and equipment, as well as bails of hay. The LPA also indicates that the barn has previously been used for the keeping of cattle. The appellant does not argue that the barn has been in agricultural use.
15. To that end, that part of the site occupied by the barn is not previously developed land in the context of the Framework definition contained in Annex 2.
16. On that basis, whilst the site contains buildings and hardstanding that would meet the definition of previously developed land, it does not mean that the whole site should be considered as such since there are elements such as the agricultural barn which do not meet the definition. As a result, the appeal site cannot be considered to be previously developed land.
17. Consequently, the proposal would not amount to the partial or complete redevelopment of previously developed land and would not as such fall within the exemption of paragraph 154(g) of the Framework.
18. I conclude, therefore, that the proposal would amount to inappropriate development, in conflict with LP Policy DM4 and paragraph 152 of the Framework.

#### *Openness*

19. Paragraph 142 of the Framework indicates 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. The concept of Green Belt openness has a spatial aspect as well as a visual aspect.
20. The proposed development would involve the demolition and removal of the two stables, the barn and the containers from the site. The appellant indicates that the existing buildings and containers on the site cover an area of 400m<sup>2</sup>. There is also hardstanding on the land, however, the appellant does not indicate the extent of the area it covers.
21. The proposal would involve the erection of two dwellings. The proposed footprint of the two dwellings is said to be 260m<sup>2</sup>. There would be a single access road comprising a hard surface down the centre of the site, with two parking spaces contained therein. Each dwelling would have a driveway for two vehicles with paved access paths and patios. However, again, the appellant has not provided figures for the area of the proposed hard surfacing. Nonetheless, the proposal would result in a decrease in terms of the spatial extent of the land covered by buildings.
22. In visual terms, the existing barn measures around 3.8m in ridge height whilst the stables are around 3.9m and 3.1m in height. In contrast, the proposed dwellings would be single storey with a ridge height of around 5.2m. As such, the dwellings would be significantly higher than the existing buildings.

23. Nonetheless, the current barn measures 23m in length and 12m in width. In contrast, the proposed dwellings would be only 14.3m in length and 7m in width. The largest stable measures 14.48m by 4.8m. Thus, the scale of the individual buildings on the site would be reduced.
24. Moreover, volumetrically, the existing buildings are said to comprise around 1,131m<sup>3</sup>. In contrast, the proposed dwellings would have a volume of around 980m<sup>3</sup>. Thus, whilst there would be an increase in the height of the buildings, there would be a significant reduction in the volume and massing of built form on the site.
25. Furthermore, the dwellings and the road would extend further eastwards into the site than the current envelope of built form. Nonetheless, the proposed dwellings would be more tightly contained towards the southern part of the site than the existing buildings, with the dwelling on plot 2 being sited further to the south than the existing barn. As a result, there would on balance be a limited reduction in the visual effect of the built form on the site.
26. However, the impact of a development on openness is not solely confined to its size but also its purpose. In this instance, a considerable proportion of the existing built form is comprised in the barn. There is no dispute that the barn has been in agricultural use. Buildings for agricultural use in the Green Belt are not inappropriate development. Thus, in my view, whilst of considerable scale, the barn in its present form and use preserves the openness of the Green Belt.
27. Moreover, the stables facilitate the use of the land for equestrian use. The Framework sets out that facilities for outdoor sport are not inappropriate provided they preserve openness and do not conflict with the Green Belt purposes. Thus, any harm which may arise to openness from the stable buildings is reduced by their purpose.
28. In contrast, the proposal would be for residential development. Dwellinghouses in the Green Belt are inappropriate development. Whilst there may be a limited reduction in the extent of built form on the site, the fact is that the proposed built form would facilitate a use in the Green Belt which is inappropriate and thus more harmful to openness than that which it replaces.
29. Moreover, the dwellings would likely give rise to residential paraphernalia such as outdoor seating and play equipment. Consequently, it would further erode the sense of openness.
30. I conclude, therefore, that the development would result in harm to the openness of the Green Belt, in that it would be reduced. The development thus conflicts with paragraph 142 of the Framework.

#### *Location*

31. Policy T1 of the LP states that development should minimise the need to travel, promote opportunities for sustainable transport modes, improve accessibility to services and support the transition to a low carbon future.
32. Paragraph 110 of the Framework states that in assessing development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.

33. The LPA's case is that the appeal site is remote from local services and that there is insufficient public transport to meet the objectives to deliver development in sustainable locations and to reduce reliance on journeys by car.
34. The appellant points to an appeal decision from June 2022 in respect of land to the north of the appeal site in which planning permission was granted for the change of use of the land for the creation of 9 gypsy/traveller pitches<sup>2</sup>. In that decision, the Inspector noted that the appellants had children who had been offered school places that involved trips by bus. The appellant had also demonstrated they had been registered with local health practices. There is no such evidence before me regarding future occupants of the proposed dwellings here.
35. Moreover, the Inspector indicated that there are no shops in Norton Heath. That appeared to be the case at the time of my site visit. Nonetheless, I did, as the previous Inspector did, note the presence of a petrol filling station on the A414 which sells some goods for everyday living. The petrol filling station is within reasonable walking distance of the appeal site.
36. Nevertheless, as the Inspector pointed out in that decision, the settled community in the area use cars to travel further afield for shops and community facilities. On the evidence before me, that is likely to be the case here. Norton Heath does not provide a suitable range of services and facilities within walking distance of the appeal site to satisfy the everyday needs of future residents. As a consequence, future residents are likely to be substantially reliant on private car.
37. The appellant points towards the fallback position of the extant permission for the construction of one dwelling on that part of the site where the stables are currently located. However, the proposed increase to two dwellings would in my view result in a material increase in the number of residents and thus number of trips reliant on private car to access everyday facilities and services.
38. I conclude, therefore, that the appeal site is not a suitable location for the level of proposed new housing with particular regard to reliance on private car. As such, there would be conflict with LP Policy T1, as well as LP policies SP2 which seeks to provide for sustainable movement and DM4 which seeks to maximise connectivity.
39. The LPA cites LP Policy SP1 in its decision notice. However, the policy relates to the broad spatial strategy for development and is not relevant to the matter of whether the development is unsuitable in terms of its reliance on private car. The decision notice also cites LP Policy DM10 which relates to the design and quality of new houses and is not relevant to the matter of reliance on private car.

#### *Character and Appearance*

40. The appeal site is located in an area which is largely characterised by wide expanses of undulating countryside with a patchwork of fields bound by trees and hedgerows. The immediate landscape is formed around the hamlet of Norton Heath. The pattern of Norton Heath is one of dispersed dwellings with occasional commercial uses. The scale of the settlement is limited, in keeping with the wider character of the landscape.

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<sup>2</sup> APP/J1535/W/21/3270395 & APP/J1535/C/21/3270539

41. The appeal site lies on the north side of Norton Lane. Immediately to the south of North Lane is a ribbon of semi-detached, two-storey houses set back from the road with large rear gardens. A short distance further, is the large group of buildings known as Norton Manor set within substantial grounds. There is a small terrace of two-storey housing to the east on the corner of Norton Lane and Willingale Road. Further afield, there are larger dwellings on generous plots. As such, there is little consistent pattern to the built form in the area.
42. The proposal would replace existing buildings on the site. The two dwellings would be smaller in scale than the existing buildings on the site and would not project as far north into the countryside as the present built form. Moreover, the proposed dwellings would be single storey and sit within generous plots, with considerable spacing between. As a result, they would not be unduly out of scale or contrary to the prevailing pattern or form of development in the area.
43. Furthermore, the site is closely located to existing housing, such that the development would not appear unduly isolated or detached from the existing settlement. The appearance of residential paraphernalia within the gardens would not appear at odds to the immediate vicinity where gardens with such paraphernalia are common.
44. I conclude, therefore, that the development will not have a harmful effect on the character and appearance of the area. As such, there would be no conflict with LP Policies DM3 and DM9 insofar as they state that developments will need to demonstrate they do not cause significant harm to landscape character and that all new development must achieve a high quality of design.
45. Again, the LPA cites LP Policies SP1 and DM10. However, as the policies relate to the wider spatial strategy for development and space standards, provision of garden space and green infrastructure, they are not relevant to the assessment of the effect on character and appearance.

#### *Natural Environment*

46. Given the Epping Forest Special Area for Conservation (SAC) lies within the LPA area, I must have regard to The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). These regulations require that, where a project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives.
47. The Epping Forest District Local Plan Habitats Regulations Assessment (HRA) identifies in combination impacts on the SAC through both air quality and recreational pressure. Development which is anticipated to contribute to those impacts must be considered to have a likely significant effect.
48. The LPA indicates that the appeal site is situated significant distance from the Epping Forest Special Area for Conservation (SAC) to ensure that there would be no increase in recreational pressure as a result of the development. The submitted EFSAC Trip Generation Assessment August 2022 indicates the site is around 15.5km from the SAC.
49. Nonetheless, the LPA indicates there is the potential for adverse impacts on the SAC from air pollution generated by vehicular trips associated with the

- development. The Trip Generation Assessment indicates that, of the 11 annual average daily trips associated with the proposed development, there would be 2 trips routing through or within 200m of the SAC.
50. However, the figures indicate this would be a net reduction of 1 trip routing through or within 200m of the SAC compared to the existing use of the site. The LPA has not provided evidence to the contrary.
51. The LPA refers to the Air Pollution Mitigation Strategy 2020 (IAPMS) which demonstrates that if no mitigation measures are introduced, air pollution arising from vehicles will have further harmful effects on the health of the qualifying features within the SAC compared to a situation with no growth. This would adversely affect its integrity.
52. On that basis, the LPA states that a contribution of £335 per dwelling is necessary towards the implementation of the strategic mitigation measures set out in the IAPMS. One of the LPA's reasons for refusal was the failure of the appellant to provide an appropriate planning obligation securing the relevant contribution.
53. The appellant indicates that they have no objection to making the necessary payment or indeed entering into a S106 agreement to do so. A draft planning obligation for the financial contribution to air pollution has been provided, however, it is not signed and dated and thus, I cannot take it into account.
54. Nonetheless, as I intend to dismiss the appeal for other reasons, there is no reason for me to conclude on whether or not an obligation is necessary since, even if I was satisfied that an obligation was necessary to make the development acceptable and a suitable obligation had been provided, the obligation would weigh neutrally in the balance.

#### *Other Considerations*

55. The proposal would assist in boosting the supply of housing in the area, in accordance with the objective laid out in paragraph 60 of the Framework. However, at just two dwellings, and a material increase of one above the extant permission, the benefit of the proposal towards the housing supply would be limited.
56. The appeal site lies to the west of the Grade II Listed Garwood Cottages, the significance of which derives from early 16<sup>th</sup> century design. Given the distance of the appeal site from the heritage assets, and the form, massing and design of the proposed development, I am satisfied that the proposal will preserve the setting of the listed buildings. That nevertheless falls to be considered neutrally in the balance.
57. I note that there would be no harm in respect of highway safety, the living conditions of neighbouring residents. However, the lack of harm in those respects falls neutrally in the balance.

#### *Very Special Circumstances*

58. I afford limited weight to the benefits of the proposal in terms of its contribution towards boosting the supply of housing. On the other hand, I afford substantial weight to the Green Belt harm which arises by reason of inappropriateness in accordance with paragraph 148 of the Framework. I also

attach substantial weight to the harm which arises to the openness of the Green Belt. In terms of any other harm, I attach moderate weight to the harm arising from reliance on private car.

59. I find therefore that the weight afforded to other considerations in support of the appeal does not, either individually or collectively, clearly outweigh the cumulative harm arising to the Green Belt by reason of inappropriateness and harm to openness and any other harm, including to the character and appearance of the area. There are no planning conditions that could be imposed which would overcome the identified harm.

60. As a consequence, the very special circumstances necessary to justify the proposal do not exist. I conclude, therefore, that the development would conflict with the development plan taken as a whole, as well as the relevant policies of the Framework.

### **Conclusions**

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

*J Whitfield*

**INSPECTOR**