



Appeal Decision

Site visit made on 25 April 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/J1535/W/23/3330643

Ashlyns Organic Farm Shop, Epping Road, North Weald Bassett, Epping, Essex CM16 6RZ

- 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 T Mason against the decision of Epping Forest District Council.
 - The application Ref is EPF/0171/23.
 - The development proposed is retention of garden centre as part of farm shop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a development that has already taken place. At the time of my visit the garden centre was operational on the land identified by the submitted plans. I have determined the appeal on this basis.
3. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. Other than changes to paragraph numbering, there are no material changes relevant to the substance of the appeal.

Main Issues

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

Reasons

Whether inappropriate development

5. The appeal site forms part of the landholding of Ashlyns Farm, which is understood to comprise several operations including a restaurant, farm shop, petting zoo/wildlife park, children's activity centre, health and beauty salon and fishing lake which operate alongside a functioning farm. The site lies to the north of the A414 Epping Road. The car park of Ashlyns Farm lies to the west, beyond which sit the main buildings of its various amenities. The open areas of

the petting zoo/wildlife park lie to the north, with farmland beyond. To the east are the buildings and car park of a former hotel and restaurant.

6. The appeal site lies in the Green Belt, to which the Government attaches great importance. 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. Paragraph 154 of the Framework makes clear that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless certain exceptional criteria are met.
7. There is disagreement between the main parties as to whether the appeal site comprises previously developed land. The appellant's statement of case notes that overflow car parking has been in place for some time on the appeal site, with the car park being fully fenced and gated and formed of a mix of hard surfaces. However, limited substantive evidence is provided to support this.
8. The Council's statement of case contradicts the appellant's claims. A plan has been provided illustrating land granted planning permission for temporary car parking, which appears to relate to the existing car parking to the west of the appeal site that I observed at my site visit. Recent aerial images have also been provided which appear to show the appeal site as undeveloped land.
9. Based on the evidence of both parties, I am not persuaded that the appeal site is previously developed land. As such, the development would not meet the exception criteria outlined at paragraph 154 e) of the Framework, which provides that the limited infilling or the partial or complete redevelopment of previously developed land may not be inappropriate development.
10. Paragraph 155 of the Framework notes that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes criterion e), for material changes in the use of land.
11. The garden centre is enclosed by black mesh fencing and the ground is largely covered by what the appellant describes as weed control fabric. Most of the garden centre is formed of an outdoor area which is formally arranged in rows, with goods for sale being displayed at ground level and on raised counters formed by various means including trestle tables and timber pallets. Tall vertical timber posts fixed to the ground are also present throughout the area, some featuring hooks which appeared to be for hanging plants. The area also includes a large polytunnel used as a checkout area and for the storage and sale of indoor goods.
12. The southern boundary of the site is defined by dense hedgerow which largely screens the site from the A414. Nevertheless, the structures of the development are partially visible to eastbound traffic approaching the site entrance, and the top of the polytunnel is partially visible along much of this route, as well as from the land around the entrance to the golf club on the opposite side of the A414. The development is largely screened by vegetation from the former hotel site to the east, although it is prominently visible from within the Ashlyns Farm car park and from the open areas to the north.
13. The Planning Practice Guidance (the PPG) establishes that openness has both a visual and spatial aspect. Given the development is already operational, I must

assess its effect on openness based on the evidence before me regarding its pre-existing state. As noted above, I find the Council's evidence in this regard to be most persuasive, which indicates the site was undeveloped open land.

14. Although much of the built development is screened by vegetation to the south and east, and the buildings and structures occupying the site have varying degrees of permanence, it is nevertheless the case that the operational form of the development is clearly perceptible. The proposal covers a significant area of land that was not previously developed, and its operational form is clearly visible from several surrounding vantage points. Accordingly, I find the proposal reduces the openness of the Green Belt in both visual and spatial terms.
15. The Framework sets out that Green Belt serves five purposes, among which is to assist in safeguarding the countryside from encroachment. Based on the submitted evidence, the appeal site forms part of the countryside. The development has resulted in physical encroachment of development into and onto parts of the site which, prior to the development taking place, were free from development. Accordingly, the development fails to accord with one of the five purposes of including land in the Green Belt.
16. For the reasons given above, because the development is for a material change of use that fails to preserve the openness of the Green Belt and conflicts with one of the five purposes of including land within it, it comprises inappropriate development in the Green Belt.

Other considerations

17. The appellant considers the Council's description of the site as "predominantly open countryside" to be too simple and not reflective of the actual position. Nevertheless, the site is in the Green Belt, and this designation alone directs that proposals must be assessed against a very specific set of criteria, as set out in the Framework and the development plan. Whilst the nature of the surrounding area; which includes the former hotel and restaurant, golf course and the various amenities of Ashlyns Farm; is relevant to the consideration of the effects of the development, it does not alter the site's Green Belt status. My assessment has been undertaken on this basis and is not altered by the nature of the site's surroundings.
18. The appellant submits that the nature of the development is semi-seasonal, with the level of activity and scale of outdoor plant sales physically and naturally reducing from autumn to spring by reason of the weather, natural trade patterns and seasonality of plants. Whilst this may be true, I am provided with limited substantive evidence to indicate how a reduced scale of development would differ from what I observed at my visit. In any event, it is highly likely that the scale of development I observed at my visit would be operational for a significant portion of the year. My previous findings are therefore not altered.
19. The appellant notes that a fallback position exists, whereby the site would be reverted to a hard surfaced and fenced car park. However, given the aforementioned conflicting evidence regarding this matter, this offers limited weight in favour of the development.

20. The development supports the wider business of Ashlyns Farm and provides jobs. The appellant also submits that the development continues to support the recovery of the business post-covid, and these factors cumulatively support the economic objectives set out in the Framework. Such considerations provide moderate weight in favour of the development.

Green Belt balance

21. Paragraph 152 of the Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 goes on to explain that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
22. I have identified that harm would occur to the Green Belt through inappropriateness, and I must give substantial weight to this harm. Although the other considerations noted above carry weight in favour of the development, they do not clearly outweigh the substantial weight I must give to the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
23. For the reasons given above, the development conflicts with Policy DM 4 of the Epping Forest District Local Plan 2011-2033 Part One – Adopted March 2023, which sets out, among other objectives, that planning permission will not be granted for inappropriate development within the Green Belt except in very special circumstances. The development also conflicts with the provisions of the Framework, the aims of which have previously been set out.

Other Matters

24. The second reason for refusal on the Council's decision notice refers to the effect of the development on the integrity of the Epping Forest Special Area for Conservation. If I was minded to allow the appeal, it would have been necessary to consider this matter within an Appropriate Assessment. However, because I am dismissing the appeal for other reasons, I have not done so.

Conclusion

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

P Storey

INSPECTOR