

Appeal Decision

Site visit made on 16 September 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/P3610/W/24/3341641

Substation at Land off Pine Lodge Way, Horton Lane, Epsom KT19 8PQ

- 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 Murray Laird against the decision of Epsom and Ewell Borough Council.
 - The application Ref is 23/00730/FUL.
 - The development proposed is the demolition of redundant substation and erection of single dwellinghouse and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that the appeal site address is 'Substation at Land of Pine Lodge Way', whereas the decision notice refers to the site as 'Electricity Sub Station, Pine Lodge Way'. I have taken the address from the application form as this is sufficiently precise. I do not consider that this has prejudiced any of the parties and I have proceeded on this basis.
3. The description of development in the heading above has been taken from the application form. In Part E of the appeal form it is stated that the description of development has changed. However, the appellant has stated that the change in description was not agreed. Accordingly, I have used the description given on the original application form.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposed development on highway safety, with regard to the provision of parking;
 - the effect of the proposal on surface water flooding; and

- if it is inappropriate, whether the harm to the Green Belt by reason of inappropriateness, or any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development

5. The National Planning Policy Framework (the Framework) explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. Paragraph 154 of the Framework regards the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include limited infilling in villages. The Framework and the Planning Practice Guidance do not define, collectively or individually, 'limited infilling in villages', but to meet this exception development must be limited, must represent infilling and must be in a village. The parties agree that the proposal would represent "infilling", while the proposal for a single dwelling would be "limited".
7. The site is within a largely residential area that was part of the former London County Asylum. While the area is partly enclosed by woodland, it has a close association with the town of Epsom, to which the area is linked by open spaces. There are few facilities and services that would support the area as a standalone settlement, including for example a public house, school or convenience store. Moreover, although part of a large built-up area, there is little substantive evidence before me identifying the specific features that identify it as a separate settlement to the town of Epsom. On this basis, it has not been demonstrated that the site is within a village. Accordingly, the proposed development would not meet the requirements of Paragraph 154 e) of the Framework.
8. Another exception includes the limited infilling or 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.
9. Previously developed land is defined in Annex 2 of the Framework as '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'.
10. The site is bounded by a wall and includes a single-storey building, with the remainder of the site being undeveloped and overgrown by vegetation. Given the presence of the building, and due to its former use not falling within the exclusions listed within the definition of previously developed land in Annex 2 of the Framework, the site is previously developed land. However, the existing building is in a discreet position to the rear of an outbuilding fronting Pine Lodge Way and, given its small scale, has a minimal effect on the openness of the Green Belt.

11. The proposed dwelling would be considerably larger than the existing building. The removal of the fence would open the frontage of the site, however the increase in footprint and the substantial scale of the dwelling would have a significantly greater impact on the openness of the Green Belt than the existing development.
12. The dwelling would be clearly visible from the front of the site. The site is visually constrained by development and mature trees beyond the side and rear boundaries. Consequently, the proposal would result in a moderate level of harm to the visual level of openness of the Green Belt. The effects would not be of such a magnitude that the proposal would conflict with any of the five purposes of including land in the Green Belt, as set out in Paragraph 143 of the Framework. Nonetheless, the presence of a considerably larger building in a more prominent position would result in a harmful reduction in the spatial openness of the Green Belt.
13. For these reasons, I find that the proposal would fail to meet the requirements of Paragraph 154 e) and g) of the Framework. The development would also conflict with Policies CS1 and CS 2 of the Core Strategy 2007 (CS) and Policies DM3 of the Development Management Policies Document 2015 (DMPD), which collectively seek to achieve high quality sustainable environments and exercise strict control over inappropriate development. Therefore, the proposal would be inappropriate development which is, by definition, harmful to the Green Belt.

Character and appearance

14. The site has a narrow frontage between a two-storey dwelling and a single-storey garage. Development in Pine Lodge Way is distinct and includes detached and semi-detached buildings. The buildings are typically wide and incorporate similar materials and features, including sash windows, porches to the front doors and capped roofs behind parapet walls.
15. The proposed dwelling would be set back broadly in line with the neighbouring property and to the rear of the single-storey garage. The dwelling would reflect the height, materials and incorporate design features of the buildings within Pine Lodge Way. Nevertheless, the constrained size and irregular shape of the site would result in the dwelling appearing cramped within its plot.
16. The dwelling would be of a broadly equivalent width to one half of the pair of semi-detached dwellings adjacent to the site. However, the proposal is for a detached dwelling and, as such, the narrowness of the dwelling would be at odds with the prevailing form of development in the area. Consequently, the proposal would appear incongruous within the context of the wider frontages of the buildings within Pine Lodge Way.
17. I conclude that the proposal would harm the character and appearance of the area. The development therefore conflicts with Policy CS5 of the CS and Policies DM9, DM10 and DM16 of the DMPD and the Framework, which collectively support development of high quality design that enhances the townscape.

Parking

18. The front of the site provides two car parking spaces for visitors to the existing properties at Pine Lodge Way. While the parking spaces would be retained and would provide the proposal with a level of parking in accordance with the Council's adopted standards, it would result in the reduction in the number of visitor spaces available for the existing properties at Pine Lodge Way.
19. The site is located a short distance from bus stops, which provide a regular service to Epsom town centre and may provide occupants and visitors with a realistic choice of transport modes. However, there is no substantive evidence before me to demonstrate that the visitor spaces are underused or no longer required. Consequently, I cannot be certain that the reduction in the number of visitor spaces would not result in an increased demand for on-street parking in the area.
20. The appellant has suggested that one of the spaces could be retained as a visitor space and that this could be secured by condition. Nonetheless, it would result in the proposal having an insufficient level of parking below the adopted standards. Moreover, the suggested condition to retain one visitor space would be difficult to enforce, particularly if future occupants of the property have more than one vehicle.
21. I conclude that it has not been satisfactorily demonstrated that the proposal would make adequate provision for parking. The development therefore conflicts with Policies DM10 and DM37 of the DMPD, which collectively require proposals to incorporate an appropriate layout and access arrangements and demonstrate that they would not have a harmful impact on the surrounding area in terms of the availability of on-street parking. The proposal would also fail to accord with the Framework, which requires that safe and suitable access can be achieved for all users.

Surface water flooding

22. The site is within Flood Zone 1, indicating a low probability of flooding. However, the Council indicate that the site is in a Critical Drainage Area. This has not been disputed by the appellant. Policy DM19 of the DMPD and the Framework require the submission of a site-specific flood risk assessment (FRA) and for Sustainable Drainage Systems to be installed to mitigate any risk identified.
23. The proposal would increase the amount of built form at the site, including areas of hardstanding, which may lead to an increase in run-off. In the absence of the FRA, I am unable to make an informed judgement on flood risk and mitigation. Consequently, it would not be appropriate to secure the FRA through condition.
24. I conclude that it has not been satisfactorily demonstrated that the proposal would not increase the risk of surface water flooding. The development therefore conflicts with Policy CS6 of the CS, Policy DM19 of the DMPD and the Framework, which collectively seek to ensure that new development avoids increasing the risk of flooding elsewhere.

Other considerations

25. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
26. The scheme would provide one dwelling, making a positive contribution to housing supply and delivery within the Borough, where the Council acknowledges that it is unable to demonstrate a five year supply of deliverable housing land. There would also be associated social and economic benefits during the period of construction and once the dwelling is occupied.
27. The Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. However, the contribution of one dwelling to meeting housing need in the Borough and the associated benefits would be restricted by the scale of the development proposed. I therefore attribute limited weight to this.
28. The appellant has referred to a policy within the Council's emerging Local Plan that may support limited infill in developed areas. The Council has not yet adopted the Local Plan. In the absence of any further information as to the stage of preparation of the emerging plan, whether there are any unresolved objections and the degree of consistency with the Framework, the weight I can attribute to the emerging Local Plan is limited.
29. The dwelling would provide suitable internal and external space for future occupants of the dwelling. In addition, the position and layout of the proposal would ensure that the living conditions of the occupants of neighbouring properties would not be harmed. Nonetheless, the provision of adequate space and the absence of harm are neutral factors and therefore do not weigh in favour of the proposal.
30. For these reasons, I find that the other considerations in this case, as set out above, do not clearly outweigh the totality of the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Other Matter

31. I have had regard to concerns raised by the appellant about the availability of the Council's Officer Report and engagement with the Council's pre-application advice service. The Officer Report was submitted by the Council as part of the appeal process and while the appellant did not have access to this prior to submitting the appeal, the appellant has had an opportunity to comment on its content during the appeal process. In any event, these issues are procedural points, which are not relevant to my consideration of the case before me.

Planning Balance and Conclusion

32. The Council concedes that it is unable to demonstrate a five year supply of deliverable housing land. Paragraph 11 d) i) of the Framework states that in these circumstances permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. Footnote 7 clarifies that this applies, amongst other things, to policies in the Framework relating to land designated as Green Belt.
33. The proposal would be inappropriate development, which is by definition harmful to the Green Belt. The Framework requires that substantial weight is given to any harm to the Green Belt and in this instance would not be clearly outweighed by other considerations. Therefore, the application of the policies in the Framework provide a clear reason for refusing planning permission.
34. The proposal conflicts with the policies of the development plan. The other considerations in this case do not indicate that the appeal should be decided other than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR