



Appeal Decisions

Site visit made on 24 September 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2024

Appeal A Ref: APP/J1535/W/23/3332524

Colemans Farm, Toot Hill Road, Stanford Rivers, Ongar, Essex CM5 9QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Lucie Cleminson against the decision of Epping Forest District Council.
 - The application Ref is EPF/1211/22.
 - The development proposed is retention of tree house.
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Appeal B Ref: APP/J1535/W/23/3332525

Colemans Farm, Toot Hill Road, Stanford Rivers, Ongar, CM5 9QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mrs Cleminson against the decision of Epping Forest District Council.
 - The application Ref is EPF/2472/21.
 - The development proposed is retrospective permission for erection of 3 holiday huts.
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Decision

1. Appeal A and Appeal B are dismissed.

Procedural Matters

2. As set out above there are two appeals on this site. They differ only in that Appeal A is for the retention of a tree house and Appeal B is for retrospective permission for the erection of 3 holiday huts. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. The description of development as set out in the above banner heading has been taken from the original application forms. The Councils decision notice in both appeals refers to the change of use of the land for tourist accommodation. However, the appellant contests this and I have no evidence before me relating to an agreement for the change in description. On this basis, I have determined the appeals based on what was originally applied for.
4. The works as described above have already taken place at the site. I have therefore determined the appeal accordingly. To this end, I noted that what has been built onsite is different to the plans submitted particularly in relation to the tree house elevations forming part of Appeal A. I have therefore

determined the appeal based on the plans the Council based its decision on. An additional plan marked Location Plan for the tree house has been submitted with Appeal A showing parking provision. However, my acceptance of this plan could be prejudicial to interested parties and thus I have determined the appeal based on the plans the Council based its decision on.

5. An update to the National Planning Policy Framework (the Framework) has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.
6. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulation 14 (1) and 7 (5) of the EIA Regulations, the Secretary of State directed that the developments are not EIA development.
7. A Unilateral Undertaking has been submitted with both appeals covering matters relating to the mitigation of any adverse effect on the integrity of the Epping Forest Special Area of Conservation (EFSAC) as a result of the development. I will return to this matter later.

Main Issues

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

Reasons

Whether inappropriate development

9. The appeal site relates to land located within the Green Belt within the area of Ongar. It is a large open field within a rural/agricultural context and has numerous trees/landscaping onsite and to its boundaries, as well as ponds and hedges. The site is accessed from Colemans Lane to the north.
10. Policy DM4 of the Epping Forest District Local Plan 2011-2033 Part 1, 2023 (LP) relates to Green Belt and explains that within the Green Belt, planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national planning policy.
11. Paragraph 154 of the Framework relating to proposals affecting the Green Belt explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are, amongst others, b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. In respect of the development, the parties identify 154 b) as the relevant criteria in this case and I have no substantive basis to consider otherwise.

12. The development relates to the retention of a tree house and erection of 3 holiday huts. In considering such schemes, paragraph 154 b) of the Framework establishes two tests. Firstly, the proposed development must be demonstrably for the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments. Secondly, the facilities must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
13. The development relates to glamping facilities which is undertaken by individuals for short stays in rural locations. I am aware of the site context including natural features, ponds, open fields, woodlands etc and that guests are actively encouraged to make use of the land and wider countryside. However, the development merely provides accommodation for persons utilising the countryside for various activities but does not directly facilitate it. To this end, it allows individuals to stay within the countryside before or after undertaking outdoor activities such as walking, fishing, hunting, outdoor sport and other activities. I appreciate claims that outdoor recreation is not defined in the Framework or Planning Practice Guidance although this would not alter my findings that the accommodation is not an essential element that directly facilitates outdoor recreation and sport. I am also not convinced that walking from the car park area to the accommodation would be recognised as a form of recreation.
14. I have considered if the act of glamping itself could fall into the meaning of outdoor recreation. However, the nature of glamping differs from camping, in that it offers more substantial permanent accommodation more akin to a small dwelling or cabin as well as more amenities, rather than a temporary tent or similar with very few amenities. By its nature, it therefore facilitates outdoor recreation only by its location opposed to the experience that it offers. As a consequence, the proposal cannot reasonably fall into a meaning of outdoor recreation and thus does not relate to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments. It therefore fails the first test of paragraph 154 b) of the Framework.
15. In respect of the second test, paragraph 142 of the Framework explains 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. Openness of the Green Belt has a spatial aspect as well as a visual aspect. 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 and thus both aspects need to be considered.
16. The tree house and holiday huts are relatively modest in size, scale, and massing and not overtly visible from public viewpoints given the numerous trees/landscaping onsite and to its boundaries. However, they are still obvious structures in the context of their open landscape setting, leading to encroachment of development into the countryside. The elevated position of the tree house and extensive and obvious raised decking areas of the holiday huts further exacerbates this whilst bringing about an obvious increase in domestic paraphernalia and residential activity to the site. This is due to their

holiday use which creates a more urbanising effect even taking into account the occupation numbers which may well be low. This has an impact on the site's rural appearance and openness of the Green Belt in visual terms leading to a fundamental and permanent change to the Green Belt. I note claims made regarding the materials used and the tree canopy which can reduce its visual prominence. However, this would not sufficiently mitigate against the harm identified particularly as the tree house would be more prominent when the tree is not in leaf as demonstrated in the Councils' Statement of Case.

17. The creation of numerous structures has introduced buildings into an existing open parcel of land which was understood to have been devoid of any development. In spatial terms, the footprint and mass whilst modest in size and scale still has an impact on the openness of the Green Belt. In coming to these findings, I have taken into account various matters in terms of; site rules, suggestion regarding a condition relating to the restriction of open fires, private nature of the land with no public footpaths running through. Such matters would not however alter my findings nor be sufficient to mitigate against the harm I have identified. This is because the development is inappropriate development in the Green Belt and does not preserve the openness of the Green Belt both visually and spatially.
18. I do not dispute that there is general support for the delivery of facilities to encourage the visitor economy both in local and national policy and I have had due regard to the Councils Visitor Accommodation Needs Assessment. I am also aware of support for the diversification of agricultural land and the demand for tourism at the site whilst acknowledging the benefits of glamping. However, the scheme would still need to comply with the specific requirements relating to Green Belt land.
19. Reference has been made to an appeal decision in Elmbridge which allowed six camping pods in the Green Belt. Whilst I do not have all of the information which would have been before the Inspector in that case, it appears that the sites/schemes are indeed different and thus not directly comparable. In that case, the existing use of the site was as a fishery for the public and members and the Council had already accepted that the land use is an established fishery and is an acceptable sport/recreational use within the Green Belt. The Inspector therefore confirmed that the evidence presented provided a reasonable basis to conclude that the existing use of the site involves outdoor sport and recreation. The exact circumstances are therefore different to the appeal I am considering whereby the existing land use has not been established as an acceptable sport/recreational use.
20. A further appeal decision has been referred to in Solihul for a tree house which was allowed in the Green Belt. Whilst the Inspector concluded that the effect of the Green Belt was very limited, this was on the basis that it is seen within the context of a residential setting and is largely screened from public view. The appeal before me is not seen within the context of a residential setting and thus is not directly comparable. The Inspector did also explain that the tree house was a large structure introduced to part of the site understood to be free from development and inevitably has some effect on openness as well as identifying a fall-back position in that case which was given significant weight.

21. An approved scheme at Norton Field Farm has been referred to with plans provided. Whilst I have had due regard to the plans provided for this scheme and Planning Statement which appears to have been written for the applicant in that case, I otherwise have very limited information relating to this application to be able to give it full consideration. To this end, I am unclear of the specific details of the site context, approved details and how the Council arrived at its decision. The Planning Statement acknowledges that the development is inappropriate development in the Green Belt and refers to a number of very special circumstances. I am therefore unclear on how much weight was attributed to this by the Council as this would ultimately affect any outcome which would need to be considered.
22. Additionally, the Council explain that this scheme differs from the appeal development in that the approved proposal involved minimal interventions into the site, the only permanent building was relatively small and is located on the edge of the site and all other structures both motorised and otherwise are of temporary nature, being situated on grassed areas only. The Council also explain that in light of the site area, the level of site coverage is minimal, such that the open character of the land within the Green Belt is not compromised. The contents in the Planning Statement provided for that case does refer to transient features and not permanent buildings which appear to make up the majority of the scheme and that they would be offsite entirely for five months of the year. Whilst I acknowledge the appellants' claims in the appeal before me, that the buildings are only likely to be rented out for 8 months of the year, the nature of the proposals mean that the structures would still remain in place all year around and the overall impact on the openness of the Green Belt would therefore remain. Based on the evidence provided, I do not find the Norton Field Farm application to be directly comparable to the appeal before me. I would also need more information to be able to provide full comment on this scheme particularly any very special circumstances which has been referred to.
23. The appellant claims that a previous application for the site did not include impact on the Green Belt as a refusal reason and that domestic paraphernalia was not mentioned in the previous case officer's report. I have limited information on this and in any event, I have determined the current appeal based on its own merits.
24. For the above reasons, the development does not preserve the openness of the Green Belt and conflicts with the purposes of including land within it. It therefore fails the second test of paragraph 154 b) of the Framework. I therefore conclude that for the purposes of the Framework, the development is inappropriate development in the Green Belt which would by definition be harmful to the Green Belt. Consequently, the development is also contrary to Policy DM4 of the LP.
25. Paragraph 152 of the Framework explains 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 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 which I cover below.

Other considerations

26. I am aware of the planning history at the site and changes made from previous proposals as well as the submission of additional information. This would not however alter my findings as set out above.
27. The tree house is unique in terms of its positioning and the development may well be environmentally friendly in terms of heating and the materials used. However, its overall design is not so truly unique, innovative and of exceptional quality, as to represent a significant benefit in terms of the character and appearance of the surrounding area. The undeveloped form of the site prior to works taking place already contributes to the open and pleasant character of this rural Green Belt setting. There would be no significant benefit to have the land developed and such matters therefore carry limited weight.
28. It is the appellants intentions to enhance the existing internal footpaths and encourage biodiversity via additional planting/pond clearing. The exact details of such matters are however limited although the relatively small-scale nature of the scheme means that the extent to which these factors would be beneficial is likely limited and therefore carry limited weight.
29. The proposed development would be for short holiday/weekend breaks, promoting rural tourism, economic growth in the rural area by bringing new people to the area and this provides some economic and social contribution. I also note the appellant's intentions for a sustainable travel plan for holiday makers. However, given the relatively small-scale nature of the scheme, the extent to which these factors would be beneficial is also limited and therefore carry limited weight.
30. I am aware of the dispute regarding the current land use and the appellants' claims that much of the land cannot be farmed due to the small size and significant tree planting. This would not weigh in favour of the appeal as the development would still need to comply with Green Belt Policy and thus, I do not attribute any meaningful weight to this.

Other Matters

31. It is understood from the Councils' officers report that, the Habitat Regulations Assessment 2021 advises that without appropriate mitigation measures, new development proposed in the district would cause harm to the integrity of the EFSAC as a result of atmospheric pollution. A key contributor to atmospheric pollution arises from vehicles using roads in close proximity (i.e. within 200m of the EFSAC). The Council undertook further technical work in relation to the atmospheric pollution 'pathway of impact' to provide the evidence base to support the development of the Air Pollution Mitigation Strategy (APMS), which has now been endorsed by the Council as a material consideration of significant weight. The APMS identifies a number of mitigation measures, a number of which are required to be delivered as part of individual planning applications alongside strategic initiatives and monitoring requirements, the implementation of which will require a financial contribution to be secured from individual developments.
32. For development proposals such as this, which have not been allocated in the EFDLP, the APMS can be relied on for mitigation. Subject to the proposal

delivering the required mitigation measures of the APMS, there will not be an adverse effect on the EFSAC.

33. However, notwithstanding the submitted Unilateral Undertaking, there is no need for me to undertake an Appropriate Assessment because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

34. Paragraph 152 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Additionally, the development has an adverse impact upon the openness of the Green Belt.
35. Paragraph 153 of the Framework explains that substantial weight should be given to any harm to the Green Belt and that '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. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt which I have applied.
36. Therefore, those other considerations referred to above would not hold sufficient weight to outweigh the harm that I have found would be caused to the Green Belt by reason of inappropriateness and loss of openness. Furthermore, I have not received substantive evidence of any other considerations which would do so. The very special circumstances needed to justify the development do not therefore arise.
37. Accordingly, I conclude that Appeal A and Appeal B should be dismissed.

N Teasdale

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/J1535/W/23/3332524	Lucie Cleminson
Appeal B	APP/J1535/W/23/3332525	Mrs Cleminson