



Appeal Decision

Site visit made on 13 November 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

Appeal Ref: APP/J1535/W/24/3340713

Howards Nursery, Epping Road, Nazeing EN9 2DH

- 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 Alex Piggott on behalf of Regenta Developments against the decision of Epping Forest District Council.
 - The application Ref is EPF/1754/23.
 - The development proposed is the removal of existing green houses and storage buildings and construction of two detached dwellings with associated car ports and garden areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - the effect of the proposal on the integrity of protected European sites, with particular regard to the Epping Forest Special Area of Conservation; and
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

Epping Forest SAC

3. The appeal site is located near the Epping Forest Special Area of Conservation (SAC), but outside of the 3.2km buffer zone. The qualifying features of this SAC include the Beech Forest, heathland and populations of stag beetles.
4. Policy DM2 of Epping Forest District Local Plan, adopted March 2023 (the EFDLP) expects all relevant development proposals to ensure that there is no adverse effect on the site integrity of the SAC. The Council states that development proposals (regardless of their type, size, and location within the District) which would result in even an increase in just one additional vehicle has the potential to contribute to increases in atmospheric pollution within the Epping Forest.
5. The appeal is supported by an Epping Forest SAC Trip Generation Report, which concludes that it is therefore expected that a contribution to mitigate the impact of a net increase in Annual Average Daily Trips of 2 trips routing

through or within 200m of the SAC would be required. It further states that it is expected this mitigation would comprise electric vehicle charging provision, as well as a financial contribution.

6. It is not disputed that the proposed development is required to provide a financial contribution to the Council's Epping Forest Interim Air Pollution Mitigation Strategy and the appellant has offered to enter into a legal agreement in relation to this matter. However, in the absence of a completed planning obligation, I have no mechanism for securing the required contribution.
7. Therefore, in the absence of mechanism being in place to secure the necessary financial contribution, it has not been demonstrated that the proposed development would not result in an adverse effect on the integrity of the SAC. Thus, the proposed development would conflict with Policy DM2 of the EFDLP as it is not possible to conclude that the proposed development would not result in an adverse effect on the site integrity of the SAC.

Inappropriate Development in the Green Belt

8. The appeal site is triangular in shape and lies between existing residential properties, which front onto Epping Road. It currently comprises a range of disused buildings and structures, mostly glasshouses, but some other buildings as well. The footprint of these existing buildings and structures occupies the majority of the site area. There is a public right away located between the appeal site and the adjacent residential properties. To the rear of the site are open fields.
9. The surrounding area is predominantly residential, with a linear row of residential properties situated along both sides of Epping Road. There is a high degree of architectural variety in the area, indicating that the area has evolved over time. Most of the properties adjacent to the appeal site are detached properties, which sit within generous plots. The site is located wholly within the Metropolitan Green Belt.
10. Paragraph 142 of the National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
11. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions set out in Paragraph 154 of the Framework, with one such exception being limited infilling in villages.
12. Policy DM4 of the EFDLP relates to the Green Belt and reiterates parts of the Framework. It similarly sets out exceptions to inappropriate development in the Green Belt. The policy is broadly consistent with the Framework. However, the wording differs from the Framework in that it specifies rural communities, rather than villages as locations for limited infilling. Neither the Council nor the appellant has provided a definition or further guidance what constitutes a rural community for the purposes of this policy.
13. The Council's officer report refers to Broadley Common as being very rural in character, with sporadic development interspersed with glasshouses. However,

it does not confirm where it sits within any settlement hierarchy or indeed whether it would be considered a rural community for the purpose of applying Policy DM4 of the EFDLP. Nevertheless, case law indicates it is for the decision maker, as matter of judgement, to decide whether the site forms part of a village, or in this case a rural community based on the site's physical characteristics, on the ground.

14. Whilst I acknowledge that there are very few services within Broadley Common, and that future occupants would be likely to need to travel to the larger settlement of Harlow to access services and facilities, this is just one relevant factor in determining whether or not the appeal site is within a village or rural community. There is a strong linear pattern of development present on both sides of Epping Road, as well as close to the junction with Common Road, where there is a public house and car garage. On this basis, I find that there is no evidence to suggest that Broadley Common is not a rural community, for the purposes of Policy DM4 of the Local Plan and it therefore falls to consider whether the proposal would be limited infilling.
15. The supporting text to Policy DM4 of the EFDLP defines 'limited infilling' as the development of a small gap in an otherwise continuous built-up frontage. It also states that limited infilling should be appropriate to the scale of the locality and not have an adverse impact on the character of the countryside or the local environment. Notwithstanding this, whether or not a proposed development constitutes limited infilling is a matter of planning judgement.
16. At my site visit, I observed that the appeal site sits between two existing residential properties and within a linear development pattern that has a strong presence along the road frontage. Residential development following a similar pattern is also found on the opposite side of Epping Road. This part of the area has a distinctly residential character, which although within a more rural setting, it does not take the form of sporadic development. Whilst I accept that there are examples of glasshouse buildings within the wider area, with the exception of the appeal site, the types of buildings do not form part of the immediate character of the area. For these reasons, I therefore find that the appeal site is within a built-up frontage.
17. The development would involve the construction of two dwellings and although, the frontage of the appeal site is the widest part of the appeal site, it would nevertheless comprise a relatively small gap within in an otherwise built-up frontage. Furthermore, I find that the proposed development would be of an appropriate scale to the locality and would not cause adverse harm to the character and appearance of the area.
18. For these reasons, I conclude that the proposed development would therefore comply with the criteria for limited infilling within a rural community, as set out at Policy DM4 of the EFDLP. The proposal would therefore satisfy the exception provided by Paragraph 154(e) of the Framework, and therefore would not be inappropriate development in the Green Belt.
19. Given my findings that the proposal would not be inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it. Additionally, as the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances.

Other Matters

20. The appeal site is partly within the Nazeing and South Roydon Conservation Area (CA). Therefore, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
21. The significance of the CA is derived from the open landscape and historic pattern of development. The Council's Conservation Officer confirmed that the proposed development would preserve the special character and appearance of the setting of the conservation area. Based on the evidence before me and my own observations, I see no reason to disagree.

Conclusion

22. For the reasons set out above, whilst I have found that the proposed development would not be inappropriate development in the Green belt, the proposal would conflict with Policy DM2 of the EFDLP and that leads to conflict with the development plan as a whole. There are no material considerations, including the Framework, which indicate a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR