
Appeal Decision

Site visit made on 7 January 2025

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2025

Appeal Ref: APP/J1535/W/24/3345568

The Cuckoos, 34 Curtis Mill Lane, Stapleford Abbots, Romford, Essex RM4 1HS

- 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 Ms P Stone against the decision of Epping Forest District Council.
 - The application Ref is EPF/2377/23.
 - The development proposed is a single storey dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) was published in December 2024. The revised Framework is a material consideration which should be taken into account from the day of publication. Having considered the revisions and in light of the principles of natural justice, the parties have been provided with an opportunity to comment on the revised Framework.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the Framework;
 - the effect of the proposed development on the integrity of the Epping Forest Special Area of Conservation; and
 - if it is inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and 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

4. 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.
5. The appeal site fronts a narrow lane, which provides access to sporadically spaced dwellings on either side of the lane. Development on either side of the road typically fronts the lane and is primarily enclosed to the rear by a hedgerow

interspersed with mature trees. To one side of the site is a row of single-storey dwellings fronting the lane with the land to the other side and rear largely undeveloped. The proposal is for the erection of a single storey dwelling.

6. Policy SP5 of the Epping Forest District Local Plan 2011-2031 2023 (LP) states that the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy and Policy DM4 of the LP. Policy DM4 sets out the approach to assessing development proposals in the Green Belt and is broadly consistent with that of the Framework. However, the
7. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless one of the exceptions applies. This includes, at Paragraph 154 g), limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
8. Previously developed land is defined in Annex 2 of the Framework as 'land which is or was occupied by a permanent structure and any associated fixed surface infrastructure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed)'. The site would not fall within the exclusions set out within the definition and there are foundations of a former recreational chalet building towards the rear of the site. Accordingly, the site would be previously developed land and the proposal for a detached dwelling would comprise a complete redevelopment of previously developed land.
9. The site is largely devoid of any buildings or structures, but includes an area of hardstanding comprising the foundations of the former building and is enclosed by timber fences. Consequently, any new buildings would have a significantly greater impact on the spatial openness of the Green Belt than the existing development. Nevertheless, the single-storey dwelling would have a modest footprint and would have a low ridge height. Whilst the dwelling be more visible than the existing development at the site, the presence of the neighbouring properties and the established hedgerow to the rear of the site would limit the visual effect on the openness of the Green Belt.
10. The dwelling would be located within the context of the surrounding development, which is enclosed from the surrounding open fields by a hedgerow and mature trees. While the development would be visible from outside the site, the proposal would be largely visually contained and would not unacceptably impact the function and purpose of the Green Belt. Accordingly, although the proposal would harm the openness of the Green Belt, the adverse effects would be moderate. The proposal would therefore accord with Paragraph 154 g) of the Framework.
11. Where a proposed development is not inappropriate development, as per Paragraph 154 g) of the Framework, very special circumstances do not need to be demonstrated in order for the proposals to be considered acceptable in Green Belt terms. Consequently, the proposal would accord with Policies SP5 and DM4 of the LP as set out above and the Framework, which seeks to protect the Green Belt from harm.

Epping Forest Special Area of Conservation

12. The Epping Forest Special Area for Conservation (EFSAC) is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the European site's integrity.
13. The pathways of impact are disturbance from recreational activities from new residents, and atmospheric pollution including ammonia and oxides of nitrogen resulting from increased nearby traffic and the age and mix of those vehicle types. The site is within the 3-6.2 km Zone of Influence as identified in the Epping Forest Strategic Access Management and Monitoring Strategy and consequently a financial contribution in respect of disturbance from recreational activities is applicable.
14. The appellant states that an Appropriate Assessment is to be carried out prior to the development of the site and that this would consider any necessary mitigation measures to prevent any further harm to the EFSAC. In my role as competent authority, an Appropriate Assessment would be required at decision making stage if I am minded to grant planning permission in order to consider whether there are any credible likely significant effects from the proposal, either alone or in combination with other plans or projects, on the integrity of the site. Without the necessary evidence and details of any mitigation to be secured at the decision stage, I am unable to undertake an Appropriate Assessment. To ensure the certainty required by the Habitats Regulations this could not be secured by condition.
15. Given my duties under the Regulations, I conclude that the proposal would have a harmful effect on the EFSAC and would not accord with Policies DM2 and DM22 of the LP, which collectively seek to ensure no adverse effect on the site integrity of the EFSAC and that the District is protected from the impacts of air pollution.

Planning Balance

16. The Council has not disputed that it is failing to deliver its housing requirement for the purposes of the Housing Delivery Test. The results of the most recent Housing Delivery Test indicating that the delivery of housing within the District was 66% of the housing requirement over the previous 3 years.
17. Paragraph 11 d) of the Framework indicates that permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 of the Framework details that this includes policies relating to habitats sites.
18. The proposal would make a positive contribution to housing delivery in the District with associated social and economic benefits during the period of construction and once the dwelling is occupied. Moreover, 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 additional dwelling through a more efficient use of land and the associated benefits are nevertheless limited by the scale of development proposed.

19. In any case, given that the proposal would have a harmful effect on the EFSAC, the application of the policies in the Framework provide a strong reason for refusing planning permission for the development proposed. When considered as a whole, the proposal does not conform with the presumption in favour of sustainable development outlined in paragraph 11 of the Framework.

Conclusion

20. The proposal conflicts with the development plan as a whole. The material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR