



Appeal Decision

Site visit made on 26 November 2024

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2025

Appeal Ref: APP/J1535/W/24/3344806

Nether Hall, Church Road, Moreton, Ongar, Essex CM5 0JA

- 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 Schwier Farms Ltd against the decision of Epping Forest District Council.
 - The application Ref is EPF/0980/23.
 - The development proposed is the change of use of land and siting of one lodge for short-term tourist accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land and siting of one lodge for short-term tourist accommodation at Nether Hall, Church Road, Moreton, Ongar, Essex, CM5 0JA, in accordance with the terms of the application, Ref EPF/0980/23, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. On my site visit I observed that the lodge has already been constructed and appears to accord with the plans before me. I have therefore assessed this appeal on a retrospective basis.
3. The National Planning Policy Framework (the 'Framework') was updated on the 12 December 2024. Both parties have been given the opportunity to comment on the new amendments and how they are relevant to the appeal.
4. Concerns were raised regarding the accuracy of the Location Plan (drawing no 223138 PL001). There does appear to be a slight discrepancy between the red line area and the outline of the access path. However, I find that it is sufficiently accurate for the purposes of this appeal. At appeal stage, the appellant submitted a new plan with the red line overlayed over an aerial image of the site (drawing no PLN1). It is not considered that any parties have been prejudiced by the submission of this plan. I have therefore decided to accept it.

Main Issues

5. The second reason for refusal as outlined in the Council's Decision Notice stated that the development had failed to mitigate against potential adverse effects on the Epping Forest Special Area for Conservation (EFSAC) in terms of air pollution. As part of the appeal process, the Appellant has submitted a Unilateral Undertaking (UU) to mitigate atmospheric pollution. In their appeal statement, the Council set out that a financial contribution was secured to mitigate atmospheric pollution in

accordance with the Air Pollution Mitigation Strategy (APMS). As such, the Council have stated that the second reason for refusal has been removed.

6. Given this, the main issue is whether the development is inappropriate development in the Green Belt for the purposes of the Framework and development plan policy.

Reasons

7. The appeal building is a tourist lodge located in an isolated location within the Green Belt, amongst agricultural fields associated with the appellant's farm at Nether Hall which is located approximately 370m to the west of the appeal site. The lodge is accessed via a gravelled road off Fyfield Road. It sits next to a small lake which was formerly used as a fishing lake and rented out to a fishing club until January 2022.
8. Paragraph 154 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Buildings for agriculture are permitted under exception (a). Furthermore, under exception (b), the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor recreation are permitted as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
9. Although the tourist lodge is located amongst farmland owned by the appellant and is a source of revenue which contributes to the financial security of the farm, the building is not in agricultural use and therefore does not meet exception (a).
10. The building allows visitors to take part in outdoor recreation such as fishing, outdoor sport or walking and cycling in the surrounding countryside. However, the building is not specifically built solely for outdoor recreation. I concur with the Council that merely providing accommodation for persons undertaking outdoor activities is not an essential element that directly facilitates these pursuits. Visitors could engage in outdoor recreation in the area without having to need accommodation. Similarly, guests staying within the lodge do not necessarily pursue outdoor activities. As such, the building does not constitute an appropriate facility for outdoor recreation and therefore does not meet exception (b).
11. Whilst the land on which the lodge is sited did not feature a building or structure, it is located on the former parking area for the fishing lake. The car park consisted of permeable hardstanding and can therefore be considered as previously developed land. Under exception (g) the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt is permitted.
12. Openness is one of the essential characteristics of the Green Belt. It has been identified as being formed of both spatial and visual aspects. The Council states that the development represents an encroachment of development into the countryside. The building has introduced additional built form within an area that only consisted of hardstanding. As such, it has materially impacted openness in a spatial sense. However, the building is single storey and has a small footprint. It is therefore modest in scale, is not overly bulky and only has a minimal spatial impact.

13. The appeal site features mature vegetation along its boundaries and around the lake. It sits within a natural depression in the landscape and is therefore mostly visually contained. The lodge is partially visible through gaps in the vegetation, particularly during the wintertime when viewed from the north and west. However, the undulated forms of the structure, its modest scale, and the use of sympathetic materials such as timber cladding means the lodge has a discreet profile and attractive appearance. It blends in well with the surrounding landscape such that occasional glimpses of the building are not harmful and do not undermine the open qualities of the Green Belt. The visual effect on the wider openness of the Green Belt would be minimal.
14. For these reasons, the development has a minimal impact on both the spatial and visual openness of the Green Belt resulting in limited harm to the Green Belt. On this basis, the proposal is not inappropriate development in the Green Belt and would not conflict with the exemption outlined at Paragraph 154(g) of the Framework. It would also not conflict with Policy DM4 of the Epping Forest District Local Plan 2011-2033 insofar as it seeks to preserve the openness of the Green Belt and protect it from inappropriate development.

Other Matters

15. Both parties expressed views on whether the economic benefits of the tourist lodge and its contribution to farm diversification and rural vitality outweighs any Green Belt harm. The lodge undoubtedly makes a small contribution to the local economy. However, as I have found that the building is not inappropriate development, it is not necessary for me to explore this matter any further.
16. The Council opine that soft landscaping is not an acceptable solution to inappropriate development and that the retention of the lodge would result in a gradual erosion of the Green Belt. The development is not inappropriate development and therefore it would not give precedence to unacceptable proposals that would fail to preserve the openness of the Green Belt.
17. The Council states that the site is at risk of surface water flooding and that the building is within eight metres of an open or piped watercourse meaning Land Drainage Consent is required from the relevant bodies. Further information regarding foul drainage is also requested. I am satisfied this matter can be addressed with appropriate conditions.

Conditions

18. The approved plans should be specified in the interests of certainty. Also, in order to ensure that the lodge is not used as a permanent residence, I have attached a condition stipulating that the building should only be occupied for short-term holiday accommodation.
19. The Council also recommend a condition requiring the submission of a "lighting design strategy for biodiversity" prior to the installation of external lighting. In order to protect wildlife and biodiversity, as well as to safeguard dark skies, I have imposed a condition which reflects the recommendations of the Council.
20. Furthermore, I have imposed a condition requiring the submission of details relating to foul drainage as well as a sustainable drainage strategy scheme. This

will ensure the adequate provision and disposal of surface water and foul drainage.

21. Condition 4 is imposed to ensure that the required drainage details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the drainage scheme before the development takes place. The condition will ensure that the development can be enforced against if the drainage details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

22. The proposal does not conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
23. For the reasons given above the appeal should be allowed.

Thomas Courtney

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos 223138 PL 001, 223138 PL 002 Rev B, Elevations, Floor Plans, PLN1.
- 2) The development shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence or by any persons exceeding a period of 28 days in any calendar year. An up-to-date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.
- 3) Prior to the installation of external lighting, full details including height, design, location, intensity and shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 4) Unless within 3 months of the date of this decision details relating to foul drainage as well as a detailed surface water drainage scheme, are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning

authority's approval, the use of the site and occupation for tourism shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site and occupation for tourism shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

- 5) The foul drainage details and the detailed surface water drainage scheme for the site referred to in condition 4, shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, and shall be submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.