



Appeal Decision

Site visit made on 25 February 2025

by **G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/J1535/W/24/3351684

Hastingwood Farm, Hastingwood Road, Hastingwood, Harlow, Essex CM17 9JX

- 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 Kevin Pitt against the decision of Epping Forest District Council.
 - The application Ref is EPF/1065/24.
 - The development proposed is change of use of part of existing building from ancillary residential storage to 1no. self-contained residential dwelling, with associated private amenity areas, landscaping, and car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government released an updated version of the National Planning Policy Framework (the Framework) in December 2024. The main parties were invited to make additional comments on the changes, and any comments received have been considered in the determination of the appeal.
3. There is some discussion in the evidence about the lawfulness of the use of the adjacent building which is outside of the appeal site but attached to the building which is the subject of this appeal. It is not for me under this Section 78 appeal to consider the lawful use of that attached building. However, I shall consider the evidence as far as it is material to this appeal.
4. The effect on the integrity of European sites protected under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) is not stated as a reason for refusal on the Council's decision notice, nevertheless it is raised in the Council's Delegated Report as being recommended as a 'further reason for refusal'. I have a legal duty under the Regulations. Consequently, I have added this matter as a main issue and will consider it further below.

Main Issues

5. The main issues are:
 - The effect of the proposal on the integrity of European sites; and
 - Whether the proposal would constitute inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

Reasons

European sites

6. The appeal site is located within an area where the impacts on the integrity of the Epping Forest Special Area of Conservation (SAC) need to be considered. The SAC qualifies as a European site due to the presence of beech forests on acid soils with ilex and sometimes taxus in the shrub layer, wet heathland with cross-leaved heath and dry heath habitats and due to the presence of stag beetles. The conservation objectives for the site include maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and habitats of qualifying species, supporting the processes on which qualifying natural habitats and the habitats of qualifying species rely, and the populations and distribution of qualifying species.
7. The Habitats Regulations Assessment of Epping Forest District Council Local Plan January 2019 (HRA) sets out concerns about the increasing recreational use of the SAC and the resultant damage to its interest features. Two pathways of impact are identified including disturbance from recreational activities arising from new residents and atmospheric pollution as a result of increased traffic using roads through the SAC. Therefore, the increase in population that would result from the proposal would be likely to result in an adverse effect on the integrity of the SAC, but regard can be had to whether these effects could be suitably mitigated.
8. The appellant suggests that the appeal site is outside of the 6.2km buffer around the SAC and therefore a contribution towards the Strategic Access Management and Monitoring Strategy which relates to recreational disturbance mitigation would not be required, but that a contribution towards the Interim Air Pollution Mitigation Strategy would. The Council however state that the development would impact upon the SAC in terms of both recreational pressure and air quality. There is therefore some dispute between the parties in what mitigation would be required.
9. I note the willingness of the appellant to enter into a legal agreement and that a draft agreement is referenced in the evidence. However, in this case there is no completed legal agreement before me that would secure any mitigation in respect of either mitigation strategies identified. I do not consider that securing a mitigation payment could be appropriately dealt with by way of condition. I acknowledge that other forms of mitigation identified such as the provision of Electric Vehicle Charging Points could be required by condition, however, this alone would not overcome my concerns.
10. Therefore, in the absence of acceptable mitigation, I conclude that the proposed development would be likely to cause harm to the integrity of the European site. The proposal would conflict with the requirements of the Regulations as set out above. It would also conflict with Policy DM2 of the Epping Forest District Local Plan 2011-2033 Part One Adopted March 2023 (LPP1) which is referred to in the Council's Delegated Report and the Framework which aims to conserve and enhance the natural environment.

Inappropriate development

11. The appeal site is located within the Green Belt. Paragraph 142 of the Framework states 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. Policy SP5 of the LPP1 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 LPP1. Policy DM4 sets out the purposes of the Green Belt and exceptions where certain forms of development are not considered to be inappropriate.

12. Criterion D iv) of Policy DM4 of the LPP1 states that the re-use of buildings, provided that the buildings are of a permanent and substantial construction, is not inappropriate in the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. This criterion reflects paragraph 154 h) iv. of the Framework and is consistent with it.
13. The existing part of the building subject to this appeal is currently an outbuilding used in connection with an existing residential property at Hastingwood Farm. It is a single storey building with the part included in the appeal site being rectangular in footprint. Black timber cladding forms the external walls and the roof is tiled. Five sets of double timber garage doors are present on the front elevation and at the time of my site visit a number of vehicles were stored within it. In my view the building appears to be of permanent and substantial construction.
14. No changes to the dimensions of the existing building are proposed, and alterations to the front elevation would be limited to the provision of windows within the confines of the existing garage door openings. The area of land proposed to be utilised as garden space would be within the extent of the existing hardstanding, would be limited in area and very closely associated with the building it would serve. It would be screened and visually contained by the existing car port wing that extends out to the southwest of the appeal building.
15. Part of the existing hardstanding is identified as being landscaped with new planting, with the removal of some of the existing gravelled area. Low level fencing and hedging would be used to create a boundary treatment around the proposed garden area. Nevertheless, given the size of the proposed garden area, the relationship it would have with the building and its current existing use as a domestic parking area, I find that any intensification of domestication would have a minor effect on the spatial and visual qualities of the area, and it would not reduce the openness of the site to any material degree. I therefore find that the openness of the Green Belt would be preserved.
16. The proposal would not represent the unrestricted sprawl of a large built-up area, nor would it result in neighbouring towns merging into one another. There is no evidence before me to suggest that the proposal would have a harmful effect on the setting or special character of an historic town, and I consider that the re-use of the appeal building is unlikely to discourage the recycling of derelict or other urban land. Whilst the appeal site is located within a rural area, it would comprise the re-use of an existing building with the proposed garden area located within an existing area of hardstanding which is already in use for domestic purposes, it would not therefore result in any additional encroachment into the countryside. Consequently, the proposal would not conflict with the purposes of including land in the Green Belt.
17. Consequently, whilst I accept that the proposal would not meet any of the exceptions referred to by the Council in its Delegated Report, in my view it would comply with the exception set out under Criteria D iv) of Policy DM4 of the LPP1

and also paragraph 154 h) iv of the Framework, which are set out above. It would not therefore represent inappropriate development in the Green Belt.

Other Matters

18. I am referred to the planning history at both the appeal site and the wider site with reference to both planning applications and lawful development certificate applications. In 2013 a planning application was refused by the Council for the retention of an existing extension to the garage block and its use as a residential annex. This related to an extension, not the change of use of an existing building. An Enforcement Notice (EN) was served by the Council requiring the removal of the unauthorised extension and concrete base, which was appealed by the appellant. This appeal was dismissed. Nevertheless, both parties have identified that following the dismissal of the appeal against the EN, a legal agreement was signed by the appellant and the Council on the 5 November 2015 which enabled the retention of the extension. I have been provided with a copy of that legal agreement, which alongside covering the retention and use of the adjacent extension, it also includes the use of the building before me under this appeal.
19. Amongst other things the legal agreement sets out that the landowner covenants with the Council not to use the appeal building before me as a residential annex or ancillary dwelling to the main dwelling at Hastingwood Farm without first having obtained planning permission. A general provision of the legal agreement also states that 'nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted after the date of this Deed'. The legal agreement therefore does not preclude the appellant from submitting a planning application for development within the site.
20. In 2023 a full planning application was refused by the Council for the conversion of the appeal building, part of the attached building and a further detached building to the southwest for the change of use from ancillary residential storage to 3no. self-contained residential dwellings. The application that is subject to this appeal is identified as the resubmission of that previous application, but it has been amended to only include the existing garage block within a reduced red line site boundary and refers to change of use of part of the existing building to 1 no. self-contained residential dwelling. I must therefore consider the appeal scheme before me on its individual merits.

Conclusion

21. Whilst I have found that the proposal would not be inappropriate development in the Green Belt, I have found that in the absence of acceptable mitigation being secured, the proposed development would be likely to cause harm to the integrity of the European site. Consequently, the proposal would be contrary to the development plan as a whole and the Regulations in this respect. Therefore, the appeal is dismissed.

G Dring
INSPECTOR