



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: 2nd May 2025

Appeal Ref: APP/J1535/W/24/3352879

Land & Garage adjacent to Travellers Friend Car Park, Epping Green, Epping CM16 6PU

- 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 Agustin Maci against the decision of Epping Forest District Council.
 - The application Ref is EPF/0982/24.
 - The development proposed is construction of 1no. dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 1no. dwelling and associated works at Land & Garage adjacent to Travellers Friend Car Park, Epping Green, Epping, CM16 6PU in accordance with the terms of the application, Ref EPF/0982/24, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been submitted by Mr Agustin Maci against Epping Forest District Council. This is subject to a separate decision.

Preliminary Matter

3. A revised National Planning Policy Framework (the Framework) was published in December 2024. Both main parties have had the opportunity to comment on any implications of the revised Framework on the appeal during the appeal process. I have taken any comments received into account in my consideration of the appeal.

Main Issues

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

Reasons

Inappropriate development

5. The appeal site is located within the Green Belt. The Framework identifies 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. Paragraph 154 of the Framework sets out that development in the Green Belt should be regarded as inappropriate, other than in the case of the stated exceptions.

6. Criteria C. (v) of Policy DM4 of the Epping District Local Plan 2011-2033 Part One Adopted March 2023 (LPP1) states one exception is limited infilling in rural communities and limited affordable homes, in locations that are in accordance with Policy H3. The first part of this exception is largely reflective of paragraph 154 e) of the Framework, which identifies an exception as limited infilling in villages. Both parties have referred me to this exception as being the relevant consideration in this case.
7. There is no dispute between the parties that the settlement of Epping Upland would be considered as a rural community in line with the requirements of Criteria C. (v) of Policy DM4 of the LPP1 and that as a result it would also be considered as a village for the purposes of paragraph 154 e) of the Framework. Both parties also agree that the appeal site is located within Epping Upland. The key area of dispute is therefore whether the proposal would represent 'limited infilling'.
8. The Framework does not define the term limited infilling and leaves it to the decision maker to apply planning judgement to reach a conclusion on such matters. Nevertheless, paragraph 4.30 of the LPP1 states that 'limited infilling means the development of a small gap in an otherwise continuous built up frontage, or the small-scale redevelopment of existing properties within such a frontage; It also includes infilling of small gaps within built development; and limited infilling should be appropriate to the scale of the locality and should not have an adverse impact on the character of the countryside or the local environment'.
9. The Council refer to the appeal site as being a 'small infill plot located between the Travellers Friend Car Park to its eastern boundary and a barn/outbuilding forming part of the gardens to Sunset and Fortune Cottages to its western boundary'. Following my site visit, I concur with this assessment. It is also confirmed by both parties that planning permission was granted by the Council on the appeal site for the erection of a single storey dwelling. An extract of the Officer Report relating to that previous scheme has also been submitted which confirms that the Council considered that previous scheme did constitute limited infilling within a village for the purposes of the Framework test.
10. The key difference between that previously approved scheme and the appeal proposal before me now is that a two storey dwelling is now proposed. The height of the proposed dwelling along with the floorspace and resultant volume would be more than approved previously. However, the dimensions and circumstances of the appeal site remain the same as considered under the previous scheme. I have not been made aware of any significant changes to the surrounding area that provides the context to the appeal site. A single dwelling is still proposed on the plot. I therefore find that the appeal site remains a small infill plot and the number of dwellings proposed would be considered limited.
11. The Travellers Friend building located to the east of the appeal site is part two storey and part single storey. The adjacent dwelling beyond the single storey outbuilding that runs along the boundary of the appeal site is two storey as are the dwellings in closest proximity on the opposite side of the road and to the other side

of the car park. As you move along the private road which is also a public right of way, there are a number of other two storey dwellings. I therefore do not consider that the provision of a two storey dwelling on the appeal site would be out of keeping with the scale of other dwellings within the locality, nor would it have an adverse impact on the character of the local environment.

12. As a result, I find that the appeal proposal would represent limited infilling within a rural community in accordance with Policy DM4 of LPP1. I also find that it would represent limited infilling in a village for the purposes of paragraph 154 e) of the Framework. Consequently, it would not be inappropriate development in the Green Belt. There is no need to consider the effects on openness as the scheme would accord with Green Belt policy in any event.
13. The appellant has referred me to paragraph 154 g) of the Framework relating to limited infilling or the partial or complete redevelopment of previously developed land and the new provisions set out under paragraph 155 of the Framework with regard to grey belt land. However, given my findings above, I have not considered these matters further.

European sites

14. The appeal site is located within an area where the impacts on the integrity of the Epping Forest Special Area of Conservation (SAC) are necessary. The SAC qualifies as a European site due to the presence of Atlantic acidophilous beech forests with ilex and sometimes also taxus in the shrub layer, Northern Atlantic wet heaths with Erica tetralix and European dry heaths and due to the number of stag beetle. 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.
15. Two main pathways of impact currently causing adverse effects on the integrity of the SAC are identified as recreational pressure and atmospheric pollution from vehicles travelling on roads in close proximity to the SAC. Both of these factors are identified in the submitted Report to Inform Habitat Regulations Assessment (26/06/2024) as having a likely significant effect. I concur with this assessment, due to the increase in the population living in the area that would result from the appeal proposal and the associated additional vehicular movements. As such, in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), it is necessary for me to conduct an appropriate assessment of the project's implications in view of the relevant sites' conservation objectives.
16. The Epping Forest Strategic Access Management and Monitoring (SAMM) Strategy sets out a strategic approach to either avoid or mitigate the effects of new visitors. The mitigation includes a site wide approach to physically manage the wear and tear on tracks and paths, enhancements in wayfinding and interpretation, monitoring, managing increased use of the three visitor hubs and on-going visitor engagement activities to raise awareness of issues. The SAMM strategy sets out a tariff for new dwellings dependent on location.
17. The Interim Air Pollution Mitigation Strategy (APMS) was prepared by the Council in consultation with Natural England and the City of London Corporation which seeks to secure mitigation measures in relation to the impact of development on

air pollution. With regard to relevant applications, the introduction of a Clean Air Zone, a Veteran Tree Management Plan, initiatives to support walking, cycling and public transport use, trialling city trees and road based pollution extraction system are identified as being funded by mitigation payments. It is also stated that Electric Vehicle Charging Points (EVCP) should be secured by planning condition and that homeworking should be supported.

18. A Unilateral Undertaking (UU) has been submitted by the appellant that would secure mitigation payments in respect of recreational disturbance and air pollution in line with the requirements of the SAMM strategy and the APMS, prior to the commencement of development. The Council has been consulted on the UU and has raised no objections. The Council has also suggested conditions requiring an EVCP to be provided and that connection to superfast broadband or an alternative equivalent service should be ensured, should the appeal be allowed. Natural England have been consulted and have also confirmed that the measures are sufficient to avoid an adverse impact to the integrity of the site in relation to the identified qualifying features. Therefore, based on the evidence before me, I am satisfied that delivery of the mitigation secured by the appellants' financial contributions, along with securing the provision of an EVCP and superfast broadband (or equivalent alternative) would ensure that the appeal proposal would not have an adverse effect on the integrity of the SAC.
19. The proposal would therefore comply with the requirements of Policy DM2 of the LPP1 which seeks, amongst other things, that there is no adverse effect on the site integrity of the SAC as a result of relevant development proposals.

Other Matters

20. Interested parties have raised concerns about the effect on the historic green lane due to the increase in vehicular movements and the amount of parking proposed, particularly given a number of other dwellings have also been granted permission along the lane. However, some off street parking is proposed and there is little evidence before me to suggest that the proposal would be likely to block the use of the public footpath that runs along the lane. Neither the Highway Authority nor the Council have objected to the scheme based on the amount of parking proposed or the resultant increase in vehicular movements. Given the limited scale of the proposal and based on the evidence before me, I can find no compelling evidence to disagree with their views.
21. Whilst not raised as a reason for refusal by the Council, interested parties note that there is a limited bus service serving Epping Green and that future occupiers would be reliant on the private car to access services and facilities. A condition requiring the provision of an electric vehicle charging point along with access to superfast broadband are suggested by the Council to limit the effects on the environment.
22. There is nothing before me to suggest that the proposal would trigger any requirement for affordable housing and the Council has not raised objection to the provision of a 3 bedroom dwelling in terms of contribution to the housing mix. I therefore find no unacceptable harm in relation to the type of dwelling being proposed. I find that the scale of the proposal along with the simple form and design would be in keeping with the locality. The proposed dwelling would be set back from the lane, providing some visual relief to those passing the site.

23. The proposed dwelling has been designed with main windows located in the front and rear elevations which would provide direct views over the lane and the proposed rear garden space rather than the private amenity space of any neighbouring dwelling. One small window is proposed in the side elevation facing southwest that is identified as serving a study. Given the separation from the neighbouring dwelling to the southwest, the presence of boundary vegetation, the limited size of the window and the nature of the space that it would serve, I find that it would not result in unacceptable harmful impacts with regard to overlooking, even if some of the existing vegetation along the boundary were to be removed.
24. An interested party notes that access for the dwelling has not been sought or gained from the owner of the private lane. Nevertheless, this is a private matter that would need to be resolved outside of the planning process.

Conditions

25. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended and reordered in line with the advice provided in the Planning Practice Guidance (PPG). As well as the standard time limit for commencement, a condition requiring adherence to the approved plans and certain documents is necessary for certainty.
26. A condition requiring a Construction Method Statement is necessary prior to commencement to ensure the amenity of neighbouring occupiers and the environment more generally. The submitted Construction Environmental Management Plan does not provide sufficient detail. Pre-commencement conditions relating to archaeological investigation are required in the interests of the historic environment. A condition requiring foul and surface water drainage details prior to preliminary groundworks taking place is necessary in the interests of ensuring proper drainage at the site.
27. Conditions are imposed requiring details of the external materials and boundary treatments in the interests of the character and appearance of the area. The Council suggested a condition requiring hard and soft landscaping details to be provided. Nevertheless, a landscape design layout and planting plan and plant schedule, prepared by a landscape architect, was provided with the application. I find that other than more detailed information being required on boundary treatments, sufficient information is provided with regards to both hard and soft landscaping, appropriate to the scale and type of scheme proposed. I have therefore replaced the Council's suggested condition with one requiring that the scheme is carried out in accordance with the submitted details.
28. Conditions relating to the provision of a superfast broadband connection and electric vehicle charging point prior to occupation are necessary to support homeworking, to limit the effects on air quality and to mitigate effects on the integrity of European sites. A condition is also necessary to ensure water efficiency in the interests of limiting water use.
29. The Council suggested a pre-commencement condition requiring an assessment of the risks posed by contamination. However, a Phase 1 Desk Study Report and Phase 2 Environmental Site Investigation Report were both submitted with the application. The Council's technical consultee on this matter was consulted and found sufficient detail had been provided and that a condition relating to any unexpected contamination should be attached rather than requiring further reports.

I have therefore not imposed the suggested condition but replaced it with a different one relating to unexpected contamination.

30. I have not imposed the suggested condition removing permitted development rights. Paragraph 55 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. The location of the appeal site within the Green Belt is not in itself adequate justification to remove permitted development rights, particularly given the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) does not remove permitted development rights in the Green Belt.
31. I understand that if the dwelling were to be extended in the future or outbuildings constructed, there would be some impact on the openness of the Green Belt. However, any such development would be limited by the requirements and conditions set out in the GPDO and any future planning application would be subject to national and local planning policies. Based on the evidence before me, there are no specific circumstances in this particular case that would justify a stricter approach to permitted development than exists for other dwellings in the Green Belt. I have not been provided with any further explanation as to why the removal of permitted development rights would be necessary to avoid unacceptable harm to the character and appearance of the area or the living conditions of neighbouring occupiers. Based on the information before me, a condition removing permitted development rights has not been justified in this case.

Conclusion

32. For the reasons given above the appeal should be allowed, subject to conditions.

G Dring

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos SK01, LGATF-001 P1, LGATF-002 P1, LGATF-100 P1, LGATF-101 P1, LGATF-102 P1, LGATF-103 P1, LGATF-200 P1, LGATF-300 P1 and LGATF-301 P1 and the following documents: Preliminary Ecological Appraisal (Arbtech 25 June 2024) and Sustainability Statement (James J Studio July 2024).
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The statement shall provide details of the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials, measures to control the emission of dust and dirt during construction, including wheel washing and tree protection measures. The approved statement shall be adhered to throughout the construction period.
- 4) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 5) No development or demolition shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured. Confirmation of compliance with requirements of this condition shall be submitted in writing to the local planning authority prior to occupation of the development hereby approved.
- 6) Prior to preliminary ground works taking place, details of foul and surface water disposal shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be provided on site prior to the first occupation of the dwelling and shall be retained for the lifetime of the development.
- 7) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the occupation of the dwelling hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed in accordance with the approved details before the dwelling is occupied.

- 9) Prior to the occupation of the dwelling or the completion of the development, whichever is sooner, the hard and soft landscaping works shall be carried out in accordance with drawing no. 10900-01 (Concept May 2024) and the Plant Schedule (Concept May 2024).

If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted in the same place.

- 10) Prior to first occupation of the dwelling, the applicant/developer shall ensure that the dwelling has been provided with the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service.
- 11) Prior to first occupation of the dwelling, one electric vehicle charging point shall be installed and retained thereafter for use by the occupants of the site.
- 12) Prior to first occupation of the dwelling, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 13) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.