



Appeal Decision

Site visit made on 19 May 2025

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2025

Appeal Ref: APP/J1535/W/24/3354909

Disused Chicken Sheds and surrounding land at the rear of Paynes Farmhouse, Paynes Lane, Nazeing, Lower Nazeing, Epping Forest EN9 2EU

- 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 Luke Brown against the decision of Epping Forest District Council.
 - The application Ref is EPF/2816/23.
 - The development proposed is conversion of two derelict, former and chicken sheds into a pair of 2no., four-bedroom, semi-detached houses with garages, cycle shed, refuse storage and outdoor amenity area on a one-acre site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am also the Inspector appointed to determine an appeal for a prior approval application¹ at the same site. However, the appeal type and procedures are different therefore I have considered them independently with a separate decision for each.

Main Issues

3. The main issues are;
 - whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy;
 - 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, including considering the effect of the proposal on the openness of the Green Belt and its purposes;
 - the effect of the proposal on protected species;
 - the effect of the proposal on the character and appearance of the site and surrounding area and;
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

¹ Ref: APP/J1535/W/24/3356461

Reasons

Suitable location

4. Epping Forrest District Local Plan (LP) Policy SP1 sets out the spatial strategy for the area and indicates that new homes will be delivered by permitting development proposals within the defined settlement boundaries. As the proposal is located outside of such defined settlement boundaries, it fails to accord with the requirements of the policy.
5. The application site is located a considerable distance from Nazeing Road, which provides access to the nearest bus stops and routes. The route along Paynes Lane serves various commercial and residential properties. It is unlit for much of the route, narrow in places, and lacks a footway, although speed restriction signs are present. As a result, it is unlikely that the occupants of the proposal would walk or cycle to the facilities, services and employment opportunities that nearby settlements provide, particularly during times of darkness and inclement weather.
6. The types and sizes of vehicles along the route are also likely to be off-putting for pedestrians and cyclists, notwithstanding the road's speed limit. Furthermore, I have not been provided with any substantive evidence that the bus services available to the occupants of the proposal would be at times that they would offer a realistic alternative mode of transport.
7. The proposed development would be occupied initially by the appellant who works nearby and has some social connection to the area. However, other future occupants of the new dwellings would be highly dependent on the use of private cars for most of their day-to-day needs. Therefore, even if I were to accept that the proposal would result in fewer vehicle movements for the appellant, I do not consider that the proposal represents a sustainable location.
8. For the above reasons, the development would not be in a suitable location for future users having regard to accessibility for job opportunities, recreation, facilities, and services, contrary to LP Policies SP1 and SP2 and the Framework. It is also contrary to Local Plan Policy T1, which requires that development minimises the need to travel.

Whether inappropriate development

9. The appeal site is situated in the Green Belt. The Framework attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
10. The Framework indicates development in the Green Belt is inappropriate unless it complies with a small number of limited exceptions. The appellant and Council's evidence refers to the exceptions listed in Paragraph 154 at g) and h) iv. I find these to be the most relevant for the purposes of this appeal.
11. Exception g) allows for limited infilling or 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. Exception h) iv allows for the re-use of buildings provided that the buildings are of permanent and substantial construction provided they preserve its openness and do not conflict with the purposes of including land within it.

12. Policy SP5 of the LP states that the openness of the Green Belt will be protected from inappropriate development in accordance with national policy and LP Policy DM4. Policy DM4 is broadly consistent with the purposes of the Green Belt as set out in the Framework.
13. Annex 2 of the Framework explains that the definition of previously developed land excludes: land that is or was last occupied by agricultural buildings. The appellant confirms that both buildings subject to the appeal were last in use as battery chicken houses. As such, the proposed development falls outside the scope of previously developed land as defined in the Framework. This means that the proposal constitutes inappropriate development as it does not involve previously developed land.
14. Moving to exception h) iv. At the time of my visit, both buildings were in a severely dilapidated state, with sections of the buildings having collapsed or rotted. The appellant's Inspection Report² identifies that the visual inspection was limited to ground level only, and the existing foundations were not exposed at the time of the inspection. The report also confirms that areas obscured or inaccessible cannot be considered free from defects. It goes on to advise that a full scope of proposed repair works should be determined following a more detailed inspection as part of the development of the project specification.
15. Based on the inspection report and my observations, both the appeal buildings had been built to be permanent buildings. However, a lack of maintenance has resulted in both appeal buildings becoming derelict and in need of significant upgrading and rebuilding, with potentially work being required on the foundations. Therefore, based on the evidence presented and my observations on site, the appeal buildings are no longer of a substantial construction and would not comply with exception h) iv.
16. The above exceptions also require development to preserve the openness of the Green Belt and to not conflict with the purposes of including land within it. Openness is not defined in the Framework but in determining the nature and extent of any impact on Green Belt openness, it is necessary to assess both spatial and visual impacts.
17. The appeal buildings are partially sunk into the ground in comparison to the surrounding site. The appeal site and buildings are also largely hidden from long and medium range views due to the site surrounds which includes buildings and substantial areas of planting and trees. The appeal scheme would involve the conversion of the existing buildings and the creation of a gap to accommodate two garages within one of the buildings. However, the proposal would introduce domestic paraphernalia such as bin stores and garden furniture.
18. Additionally, given the appeal site area, further associated domestic trappings linked with the dwellings are likely to spill over to the wider site, which could be used as gardens. As the effect of the domestication of the site would only be perceived from limited vantage points, the adverse impact on the visual openness would be moderate. In addition, the proposed paraphernalia would likely be of modest scale and therefore have a moderate spatial impact on the Green Belt. Nonetheless, the development would give rise to a greater impact on openness than the existing development on site. The development would therefore be

² Inspection Report for Existing Agricultural Sheds, Paines Lane, Nazeing, dated Nov 2023 and prepared by Turn 2 Ltd

considered to comprise inappropriate development, when considered against Paragraph 154.

19. The appellant has also indicated that the appeal site should be considered Grey Belt for the purposes of the Framework. Grey belt land is defined within the Framework as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of the purposes (a), (b) or (d) in paragraph 143.
20. Paragraph 155 of the Framework explains that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where it would accord with all criteria a.-d. I have found that the development would not be in a sustainable location. As such, even if I were to conclude that the appeal site should be considered Grey Belt land, it would conflict with criterion c. Paragraph 155, and therefore be inappropriate development in the Green Belt.
21. For the above reasons, the proposed development would not preserve the openness of the Green Belt or comply with exception g) or h) iv or paragraph 155. It would therefore comprise inappropriate development in the Green Belt. The proposed development would therefore be contrary to the aims of the Framework and Policies SP5 and DM4 of the LP.

Protected species

22. The appeal site is located within an area where protected species may be present, including bats. The appellant's Preliminary Ecological Appraisal identifies that the two appeal buildings could provide suitable roosting habitats for bats. For safety reasons, an internal inspection of the buildings was not undertaken. Without full surveys given the potential for roosting bats, it is impossible to know whether protected species or habitats are affected by the proposal.
23. Circular 06/2005: Biodiversity and Geological Conservation states that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by development, is established before planning permission is granted.
24. The appellant has stated that the matter could be dealt with by adding a condition to provide a survey, especially given the financial implications for the appellant and the Council. However, as the Circular states, this should be carried out before any determination is made. It would therefore not be appropriate to apply a condition requiring ecological survey work to be carried out.
25. Therefore, without a full survey to substantiate evidence to demonstrate protected species will not be adversely affected, the proposed development could harm protected species. It would conflict with LP Policies SP6 and DM1, which amongst other matters, seek development to avoid harm to protected species and the natural environment.

Character and appearance

26. The appeal site is largely restricted from public views, including at medium and longer range. When viewed from within the site, the existing appeal buildings are seen against the backdrop of the substantially sized greenhouses to the south and a higher-level derelict building to the east. The wider site is made up of planting,

scrub land, with fields and woodland beyond. These agricultural buildings and greenery lend the area a rural character, despite the appearance and scale of the nearby greenhouse building.

27. The proposal would see substantial works including new openings and partial demolition of existing buildings on the site as part of the conversion works. Given the simplistic agricultural appearance of the existing buildings, the substantial number of openings and levels of glazing would have an urbanising effect on the immediate area. This level of urbanisation would be further increased through the introduction of parking areas, landscaping, boundary treatments and associated domestic paraphernalia.
28. Given the same gable orientations, building positions, and limited height increases, the conversion of the buildings would not appear unduly harmful as a result of their scale, bulk or massing, particularly, as they are set at a lower level than the surrounding built form. As a result, when converted, the appeal buildings would not be unduly out of scale or contrary to the prevailing pattern or form of development in the area. Nonetheless, I have found harm in the detailed design of the proposed dwellings.
29. For the above reason, the proposed development would harm the character and appearance of the immediate area. It would fail to accord with LP Policies SP5, DM4 and DM9. These seek, amongst other things, to protect landscape character through sensitively designed high quality schemes. It would also be contrary to the Framework, where it states developments should be sympathetic to local character.

Other considerations

30. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to explain that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.
31. In addition to harm to the Green Belt, the proposal would be harmful to the character and appearance of the area and potentially protected species. It would also result in a dwelling in an unsuitable location.
32. Against those substantial harms, the proposal would provide two additional dwellings to the Council's housing supply in the form of self-build dwellings. Two additional properties would be in line with the Government's aim to boost the supply of housing, including for those wishing to commission or build their own homes. Additionally, the proposal would also not result in isolated dwellings in the countryside for the purposes of the Framework as there are other nearby dwellings and buildings.
33. The appellant's evidence³ indicates the Council have a 1.43 year housing land supply and suggests the delivery of housing has been substantially below that required by the Housing Delivery Test. In the absence of any evidence to the contrary, I therefore afford this great weight although I recognise that two dwellings

³ Document 2: Relevant Case Law

even if self-build offer only a limited benefit. As such, only moderate weight can be given to these matters.

34. I recognise that there would be some economic benefits from the proposal, both during the construction phase and as a consequence of future occupier spending, to which I afford moderate weight. Given the size of the site, I also attach limited weight to the environmental benefits of two Passive House standard-built dwellings on site.
35. Secured funding by the appellant and their business partner, and being close to a place of work, are primarily private benefits and at most attract limited weight in favour of the proposal.
36. Notwithstanding matters already addressed above, I have also had regard to the appellant's Green or Grey Belt Statement. However, this does not overcome that the development would be inappropriate development in the Green Belt or lead me to a different conclusion on the main issues.
37. Accordingly, having considered all the matters raised as other considerations in support of the development, I conclude that they do not clearly outweigh the substantial harm that I have identified by reason of inappropriateness in the Green Belt and other harms. Consequently, the very special circumstances necessary to justify the development do not exist.

Other Matters

38. The appeal site falls within the zone of influence for the Epping Forest Special Area for Conservation. Subject to the financial contributions agreed to by the appellant, the Council no longer has any objection. It is not seeking to defend the fifth reason for refusal of the application. As the competent decision making authority, if I had been minded to allow the appeal, it would still have been necessary for me to complete an Appropriate Assessment for this scheme. However, as the appeal is being dismissed for other reasons, I have not taken the matter further. In any event, this would not have amounted to a benefit.

Planning Balance

39. Section 38(6) of the Planning and Compulsory Purchase Act provides that the appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
40. The Council is unable to demonstrate a five-year supply of deliverable housing sites. Consequently, paragraph 11 d) of the Framework is engaged. However, paragraph 11 d) i) states that there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provides a clear reason for refusing the proposal. Footnote 7 identifies the Green Belt as such an area and therefore the presumption in favour of sustainable development does not apply in this case.

Conclusion

41. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.

42. Therefore, for the reasons given above, the appeal is dismissed.

A Hickey

INSPECTOR