
Appeal Decision

Site visit made on 10 June 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th July 2025

Appeal Ref: APP/J1535/W/24/3356720

Brooklyn Nursery, Mott Street, Waltham Abbey, Essex E4 7RW

- 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 J Haigh of Mott Street Close Ltd against the decision of Epping Forest District Council.
 - The application Ref is EPF/0829/24.
 - The development proposed is demolition of existing glasshouses and erection of 2no. 4 bedroom chalet bungalows and 1no. 4 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. I have sought further views from the main parties on this and have taken those comments into account in reaching my decision. I will refer to the updated paragraph numbers in this decision.
3. The representation from the Council's Environmental Protection and Drainage Team raised concerns with respect to flood risk. As a result, I have considered this as a main issue and have sought further views from the main parties.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the proposed development having regard to the risk of flooding; and
 - whether the proposal would be inappropriate development in the Green Belt;

Reasons

Flood Risk

5. A large part of the site is shown in the submitted Flood Risk Assessment and Sustainable Drainage Options Appraisal (FRA) as being at high risk of surface water flooding as shown on Environment Agency mapping. Paragraph 173 of the Framework confirms that a sequential, risk based approach to the location of development should be taken which takes into account all sources of flood risk. Consequently, on the basis of the evidence before me, it is necessary for the proposed development to be subject to the sequential test. This has not been

carried out. It has therefore not been demonstrated that the development has been steered to an area with the lowest risk of flooding from any source.

6. There is no requirement in the Framework or PPG to apply the exceptions test to development at risk of surface water flooding. Notwithstanding, paragraph 181 of the Framework requires residual risk be safely managed and that development be appropriately flood resistant and resilient.
7. The FRA considers that there should be a finished floor level 300mm above surrounding ground levels. The Council's environmental protection and drainage officer confirms standing advice is that this level should be 600mm unless there is a high degree of certainty about the estimated flood level. The FRA indicates flood levels could be between 0.15m and 1.2m on the site but does not relate these levels to the position of the proposed dwellings. The FRA therefore does not provide sufficient evidence to show that the finished floor level of 300mm indicated in the drainage strategy for two of the dwellings would be sufficient to avoid the risk of surface water flooding.
8. Concern has been expressed by surrounding occupiers with respect to the potential for overlooking. In light of this, and the uncertainty around what would be an appropriate finished floor level for the proposed dwellings, I am not satisfied this could be addressed through the imposition of a condition without impinging on the principles of natural justice to the neighbouring occupiers.
9. It is proposed that the drainage scheme would be designed to reduce surface water run-off, which in turn would reduce flood risk off-site. While this would be a benefit of the proposal, it would not outweigh the harm I have identified above. I also note the findings of the Inspector in the previous appeal decision¹ at the site. However the Planning Practice Guidance with respect to flood risk has been substantially revised since that decision was taken, and there is an unresolved objection from the Council's technical consultee on this matter. These factors distinguish this decision from that taken previously.
10. I therefore cannot be certain that the site is a suitable location for the proposed development having regard to the risk of flooding. It would fail to comply with Epping Forest District Local Plan 2011-2033 Part One (2023) (LP) Policy DM15 which requires development proposals to demonstrate they avoid and reduce the risk of all forms of flooding.

Green Belt

11. The site lies in the Metropolitan Green Belt. The Framework identifies at paragraph 142 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework confirms that development is inappropriate in the Green Belt unless it is one of the exceptions listed. LP Policy DM4 is consistent with the Framework in these respects.
12. LP Policy DM4C(v) and paragraph 149 e) of the Framework as they relate to this appeal provide an exception for limited infilling. While the Framework applies this

¹ APP/J1535/W/20/3261896 dismissed 18 January 2022

to villages, the policy refers to rural communities. Neither document defines these terms. The Council has directed me to a previous appeal decision² on the site and relies on that appeal finding that the site did not lie within a village. However, that decision indicates it was not put before that Inspector that the site was within a village. That is not the case before me, where the appellant has set out why they consider the site lies within a village. Furthermore, this decision pre-dates the adoption of the LP and so was taken in a different policy context.

13. The Council in its report, sets out that Sewardstone does not constitute a village, but no detailed explanation is provided. I have not been directed to any guidance as to how a rural community or village would be defined or if there is a settlement limit for Sewardstone. However, I am mindful that it is a matter for the decision maker to ascertain whether the site forms part of a village or (in the case of this appeal) rural community as a matter of planning judgement having regard to the situation 'on the ground'³.
14. The appeal proposal lies a very short distance from a public house. There is a hotel and another public house further along Sewardstone Road. There are residential properties, and some employment uses a short walk from the site. From my observations, I am satisfied that the site could reasonably be considered to be a rural community. Paragraph 4.30 of the LP advises that limited infilling should be appropriate to the scale of the locality. In the context of the scale of development along and off Sewardstone Road in the vicinity of the site, I am satisfied that three dwellings would constitute limited.
15. Paragraph 4.30 also provides advice on the interpretation of LP Policy DM4. It does confirm that infilling would include the infilling of small gaps within built development. There is an employment use to one side of the site, and glasshouses, a nursery and a residential property to the other side and rear. Directly opposite the site are further dwellings. In light of the scale and extent of surrounding development, I am satisfied that the proposal would constitute infilling.
16. I therefore conclude the proposal would not be inappropriate development in the Green Belt. It would be in accordance with LP Policy DM4 and the exemption set out in paragraph 154e) of the Framework. As I have found the proposal would be not inappropriate development in the Green Belt, it is not necessary for me to assess it in light of paragraph 155 of the Framework, to consider the effect on openness or to consider very special circumstances.

Other Matters

17. The site is located within the Zone of Influence for the Epping Forest Special Area of Conservation (SAC) which is subject to pressures from air pollution and recreational disturbance. The appellant has submitted a planning obligation which seeks to secure a contribution towards mitigation. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the SAC and whether the contribution had been appropriately secured. However, given my findings above, it has not been necessary for me to pursue this issue further. A finding that the proposal would not

² APP/J1535/W/16/3151154 dismissed 16 November 2016

³ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

have an adverse effect on the integrity of the SAC, with or without any mitigation, would be at best a neutral matter.

18. The Council's reason for refusal did not raise any concerns with the effect of the proposal on the character and appearance of the area and they have not sought to argue the site would not be in a sustainable location. I have no reason to conclude otherwise in light of my observations at my site visit. Appropriate provision for parking and access would be provided by the proposed development.
19. Despite the passage of time from the previous appeal decision, I am also of the view that the glasshouses remain reasonably intact and tidy. While I note the findings of the previous Inspector, I do not consider the proposal would necessarily be a more efficient use of land than that which the site could be put to. There is no substantive evidence before me the proposal would be unviable or undesirable in its current use. Nor is there evidence of any marketing of the site.
20. There would be a benefit from the delivery of three additional dwellings. There would be economic benefits arising from both the construction and occupation stages of the development. Additional occupiers could support surrounding businesses and the public houses. An increase in biodiversity net gain above the mandatory requirement would be a benefit of the proposal. Given the small scale of the proposal, I attach limited weight to these factors.

Planning Balance

21. The Council has put forward that it has re-calculated its Housing Delivery Test results. However, this has not been accompanied by any formal notification that its result has been officially updated. I therefore proceed on the basis that paragraph 11 of the Framework is engaged.
22. My findings in respect of flood risk means that there are policies in the Framework that provide a strong reason for refusing the development proposed. The proposal does therefore not benefit from the presumption in favour of sustainable development set out in paragraph 11d)i of the Framework.

Conclusion

23. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to indicate the decision should be taken otherwise. For the reasons given, I conclude that the appeal should be dismissed.

Jennifer Wallace

INSPECTOR