



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: 09 July 2025

Appeal Ref: APP/J1535/W/25/3358497

Lilac House, 6 London Road, Stanford Rivers, Ongar, Essex CM5 9PH

- 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 Paul Marigliane against the decision of Epping Forest District Council.
 - The application Ref is EPF/0523/24.
 - The development proposed is new dwelling within residential curtilage of Lilac House and associated car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the integrity of the Epping Forest Special Area of Conservation (SAC);
 - whether the proposed development 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 the effect on openness; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Habitats Regulations

3. The Epping Forest Special Area of Conservation (SAC) is designated under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The SAC comprises wood-pasture with habitats of high nature conservation value including ancient semi-natural woodland, old grassland plains, wet and dry heathland and scattered wetland. The woodland represents one of the largest continuous semi-natural blocks in the country, characterised by groves of over-mature pollards. The plains contain a variety of unimproved acid grasslands uncommon elsewhere in Essex and the London area. The Forest supports a nationally outstanding assemblage of invertebrates, holds major amphibian interest and has an exceptional breeding bird community.
4. The SAC is designated for three Annex I habitats (Northern Atlantic wet heaths, European dry heaths, and Atlantic acidophilous beech forests), as well as one Annex II species (Stag Beetle). The conservation objectives of the SAC include

ensuring that the integrity of the site is maintained or restored as appropriate and ensuring that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features and Species.

5. The SAC and its qualifying features are at risk from increases in oxides of nitrogen, ammonia and nitrogen deposition, primarily from vehicular traffic. It is also at risk from recreational disturbance which can give rise to a range of effects including eutrophication, damage and disturbance to flora and fauna, harvesting of fauna and spread of disease and alien plants. The proposed development would, in combination with other residential development, have a likely significant effect on the integrity of the SAC as a result of the increased population and associated activity which would give rise to the above effects.
6. In these circumstances, the Habitats Regulations require me to undertake an Appropriate Assessment (AA) of the implications of the proposed development for the SAC in view of its conservation objectives before deciding to grant permission. It is also clear at Regulation 63(2) that it is for the person applying to provide such evidence that the competent authority may reasonably require for the purposes of AA.
7. Strategic mitigation measures to address these effects are set out in the Air Pollution Mitigation Strategy (APMS), the Epping Forest District Green Infrastructure Strategy and the Epping Forest Strategic Access Management and Monitoring Strategy (SAMM). These set out tariff based contributions to contribute to the delivery of the mitigation strategies outlined in each document.
8. The SAMM provides a tiered level of financial contribution to mitigate the effects of recreational disturbance, based on the location of the proposal relative to the SAC. The appellant's statement of case is inconsistent on this point, referring to the site as being both within and outwith the 6.2km buffer where a recreation contribution would be sought. The submitted Habitats Regulations Assessment and other documentation does not include any mapping information which would allow me to be certain as to the location of the site relative to this buffer. I therefore cannot be certain if it would be necessary for the proposal to make a recreation contribution.
9. The appellant has identified that a contribution of £335 towards the mitigation measures identified in the APMS would be required as would measures to secure electric vehicle charging and high speed broadband. I am satisfied that electric vehicle charging and high speed broadband could be secured by condition. The appellant has provided a Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) which seeks to secure this contribution. However, this has not been dated and consequently, the UU is not complete and the contribution is not secured. I therefore cannot be certain that the proposed development would not have an adverse effect on the integrity of the SAC. There is no evidence before me to allow me to demonstrate that there are not alternative solutions to deliver new housing that would have a lesser effect on the features of the sites in question, that there are imperative reasons of overriding public interest to permit what is proposed or that there would be compensatory measures that would offset the harm.
10. Consequently, the proposed development would be contrary to Epping Forest District Local Plan 2011-2033 Part One (2023) (LP) Policies DM2 and DM22, the Habitats Regulations and, insofar as it relates to habitats sites, Section 15 of the

Framework which taken together require all impacts on habitats sites to be mitigated for.

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.
12. The appellant contends that the proposal would meet the exception set out in paragraph 154g) of the Framework. This was updated in the December 2024 revision, after the Council made its decision. Consequently, LP Policy DM4C(vi) is no longer entirely consistent with the Framework. I have therefore assessed this issue in line with the approach set out in the Framework.
13. Paragraph 154g) now sets out that limited infilling or the partial or complete redevelopment of previously developed land will not be inappropriate in the Green Belt where it would not cause substantial harm to the openness of the Green Belt. It is not in dispute that, consistent with the previous appeal decision¹, the proposal would represent the partial or complete redevelopment of previously developed land. I have no reason to reach a different conclusion and agree the site is previously developed land.
14. There is linear development along London Road, to either side of the appeal site and on the land opposite. The boundary of the appeal site does not project beyond the boundary of the adjacent residential properties. The proposal is for a single storey dwelling with a typical level of parking and private amenity space. Given the position of the dwelling in relation to the existing built form and its limited scale, the proposal would not cause substantial harm to the openness of the Green Belt.
15. I therefore conclude the proposal would be not inappropriate development in the Green Belt as it would be in accordance with the exception set out in paragraph 154g) of the Framework.

Character and Appearance

16. The site lies within a predominantly linear stretch of development along London Road. This is varied in appearance, with some dwellings in more expansive plots while others are terraced and located on more narrow plots. The majority of the development is on the opposite side of the road to the appeal site. There is no consistent appearance to the form and grain of the housing along the road.
17. The appeal site lies to the side of Lilac House, with a substantial evergreen hedge separating it from the dwellings beyond. It is a semi-detached property, as are the properties beyond the evergreen hedge, with gardens to the side as well as to the rear. The dwellings to the other side of 8 London Road are detached bungalows, set further back from the street than the semi-detached properties.

¹ APP/J1535/W/18/3197421 dismissed 28 November 2018

18. Given the limited number of dwellings on the same side of the street as the appeal site, and the varied nature of the layout of development in the vicinity, the gap is a neutral feature in the street scene. Its development to accommodate a dwelling, including with the associated boundary treatments, would not be incongruous or result in harm.
19. The proposal would therefore have an acceptable effect on the character and appearance of the area. It would be in accordance with LP Policy DM9 which requires development to have regard to the rhythm of neighbouring or local plots.

Other Matters

20. As I have found the proposal acceptable on its own merits with respect to the Green Belt and character and appearance, it is not necessary for me to consider the fallback position further.
21. There would be a benefit from the provision of an additional dwelling. There would be economic benefits arising during the construction and occupation stages of the development. These would be limited given the proposal is for one dwelling.
22. The proposal would provide appropriate living conditions for future occupiers of the property and would not adversely affect the living conditions of neighbouring occupiers. Adequate parking and manoeuvring provision would be made for both the existing and proposed property. Suitable drainage could be secured and modern methods of heating and electric vehicle charging could be secured. However these are to be expected of any well designed development and so would be neutral in my assessment.

Planning Balance and Conclusion

23. The Council cannot meet the requirements of the housing delivery test. In such circumstances, paragraph 11d of the Framework is engaged. My findings in respect of the SAC 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.
24. I have concluded the proposal would be not inappropriate in the Green Belt and would have an acceptable effect on the character and appearance of the area. Notwithstanding, I have concluded that the proposal would be likely to have a significant adverse effect on the integrity of the SAC. I cannot be certain if the proposal would contribute to the effects of recreational disturbance on the integrity of the SAC and there is no controlling mechanism before me to ensure that contributions towards the mitigation of air quality would be paid. These provide a clear reason for refusing the proposed development. Therefore, and taking into account all other matters raised, the appeal should be dismissed.

Jennifer Wallace

INSPECTOR