
Appeal Decision

Site visit made on 13 June 2025

by **E Catcheside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2025

Appeal Ref: APP/W1905/W/24/3358063

2 E Flat Cottages, Hailey Lane, Hoddesdon, Hertfordshire SG13 7NY

- 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 and Mrs Cavill against the decision of Broxbourne Borough Council.
 - The application reference is 07/24/0527/F.
 - The development proposed is demolition of existing garage and outbuildings and erection of single dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Cavill against Broxbourne District Council. The application for costs is the subject of a separate decision.

Preliminary Matters

3. The site address is taken from the decision notice and the appeal form, because it more accurately describes the site than the address on the application form.
4. The National Planning Policy Framework (the Framework) was revised in December 2024, including in respect of how the redevelopment of previously developed land (PDL) in the Green Belt should be considered. The parties have had the opportunity to comment on the revised Framework as part of the appeal process, and comments were specifically sought to clarify the parties' views as to whether the site comprises PDL. I have had regard to the comments received.
5. The site contains trees that are the subject of Tree Preservation Order (no.6) 2014 (the TPO). The parties have been invited to comment on the effect of the proposal on protected trees, and I have taken those comments into account.

Main Issues

6. I have identified the main issues in this appeal based on the evidence before me and my own observations of the site and surroundings. 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;
 - the effect of the proposal on protected trees; and

- whether material considerations exist that are sufficient to outweigh any harm identified in respect of the above issues.

Reasons

Whether inappropriate development

7. The appeal site lies in the Green Belt, where Policy GB1 of The Broxbourne Local Plan: A Framework for the Future Development of the Borough (June 2020) (LP) requires planning applications to be considered in line with the provisions of the Framework. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate, other than in a few listed exceptions including at paragraph 154 g): *“limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt”*.
8. The parties’ views are not aligned as to whether the site comprises PDL. PDL is defined in the Framework as: *“Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed”*. The definition goes on to list some exclusions from PDL, including: *“land in built-up areas such as residential gardens, parks, recreation grounds and allotments”*.
9. The appeal site forms part of a small group of dwellings near to the Hailey Lane/Springle Lane junction. It is located close to Hoddesdon, but the buildings here have a looser grain than in the town due to their generous plot sizes and the wide spacings between buildings. The lane is characteristically rural owing to its narrow width, gradient, the absence of footpaths, and limited street lighting, which collectively give it a markedly different character to the urban roads and residential streets that I observed in Hoddesdon. Indeed, the site is referred to throughout the Council’s evidence as being situated within a “rural setting”, which from my observations appropriately characterises the area. Consequently, the evidence leads me to conclude the site lies close to but outside of the built-up area of Hoddesdon and, therefore, whilst the site comprises a residential garden, it would not be exempt from the definition of PDL due to its location.
10. The site comprises hardstanding, a garage, and other outbuildings within the grounds of 2 E Flat Cottages, and there is no evidence before me to indicate the buildings and hardstanding are unlawful or temporary. It is therefore land which has been lawfully developed and is occupied by permanent structures and hardstanding. The site therefore comprises PDL.
11. The proposed dwelling would be wider and deeper than the existing garage. However, its footprint would not be significantly larger than the combined footprint of the outbuildings it would replace. Moreover, as a single-storey dwelling, it would have a low profile in keeping with the structures to be demolished.
12. Even if the extent of the hardstanding would be reduced, the addition of a new household would inevitably increase the opportunity for parked vehicles and

domestic paraphernalia to be sited close to the lane, where it could be observed from public vantage points. However, the site already has a domestic character and existing views through to the rear of the site are already partially restricted due to the height, width, and siting of the existing garage and outbuildings. This would not be significantly exacerbated by the appeal proposal. It follows that the harm caused to the openness of the Green Belt would not be substantial.

13. On this basis, I conclude that the proposal falls within the exception to Green Belt policy set out in paragraph 154 g) of the Framework and therefore it would not be inappropriate development in the Green Belt. It follows that there would be no conflict with Policy GB1 of the LP.

Protected trees

14. The appeal site contains many trees, some of which are protected by the TPO. On my site visit, I observed that a tree, which in the absence of evidence to the contrary is a protected tree, lies close to the buildings that would be demolished and the site for the proposed dwelling. The tree is very tall, and it is prominent in views from Hailey Lane due to its height and distinctive appearance. A protected Oak tree, located slightly further from the area of proposed works, is also a commanding specimen due to its height and broad foliage. Individually, and when combined with other trees in the area, these protected trees make a significant and valuable contribution to local character and the visual amenity of the area, and they are of particular importance due to their protected status.
15. The tree nearest to the site is already surrounded by existing hardstanding, and it is clearly the appellants' intention to retain and care for the protected trees, as is indicated on the submitted Biodiversity Enhancement Plan. Indeed, I have been referred to the appellant's experience in undertaking construction works near to trees, and I note that the works could be undertaken using specialist construction techniques and with tree protection measures installed.
16. However, in the absence of a tree survey or other authoritative technical evidence, I cannot be certain about the location and extent of the root protection areas of the protected trees, and therefore I am unable to form a judgement as to the need for and effectiveness of the suggested mitigation and protection measures. For this reason, and given the protected status of the trees, it would not be appropriate to leave this matter to be dealt with through a condition. I have particular concerns about the effect of the proposal on the tree closest to the site due to its proximity to the proposed demolition and construction works, which could harm the health and longevity of the tree. Any encroachment into the RPA of this tree would be contrary to BS 5837:2012 Trees in relation to design, demolition and construction, which states that any development within RPAs should only be undertaken where it is unavoidable or where there is an over-riding justification.
17. It is clearly open to the appellants to address this issue through the submission of a new planning application that is accompanied by the necessary technical information to ensure the trees would not come to harm. However, in the absence of this information, I am unable to conclude that the protected trees would not be harmed. The proposal would therefore be contrary to the Framework, which seeks to ensure the protection of existing trees.

Other material considerations

18. The proposal would accord with the development plan in respect of development in the Green Belt, and I have not been provided with any other relevant development plan policies in respect of the main issues in this appeal. Therefore, the proposal would accord with the development plan when read as a whole. In these circumstances, paragraph 11 c) of the Framework states that planning permission should be approved without delay and paragraph 11 d) of the Framework is not triggered.
19. However, I have found the proposal would cause harm to the protected trees. This would be contrary to the Framework and is a matter to which I attach substantial negative weight.
20. Set against this harm, would be the benefits of the proposal. The proposed dwelling has been designed to meet the needs of an individual with a disability that are not being met within the existing accommodation, and this is a matter of particular importance. Indeed, the single storey property proposed, with its level access and generous internal circulation space would facilitate a significantly improved quality of life for a wheelchair user, and it would enable an appropriate level of care to be provided for that person in the long term. This is clearly evidenced through the medical letters and other information before me. The proposal would also enable family members to occupy the host property thus improving the care and support network for the disabled person.
21. Disability is a protected characteristic. Accordingly, I have had regard to Article 8 of the Human Rights Act 1998, Article 19 of the UN Convention on the Rights of Persons with Disabilities, and the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010, which requires me to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and access, and to foster good relations between persons who share a protected characteristic and those who do not share it. However, these are qualified rights and interference with them may be justified where there is public interest.
22. The personal needs of the future occupier of the dwelling carry significant weight in favour of the appeal. However, the evidence is not persuasive that the harm to the protected trees is necessary in order to meet the personal needs of the appellants. In this respect, there are clear differences between the proposal and the appeal scheme at Twyford Bury to which I have been referred¹. Consequently, on the basis of the information before me, the public interests in this case necessitate the interference with the aforementioned qualified rights.
23. The proposal would offer other social and economic benefits, through the provision of housing to meet specific needs, which could be in accordance with development plan policies. The delivery of housing would also contribute towards local housing needs more generally, where the evidence indicates there is a shortfall, and it would provide construction jobs for local workers. The site is located close to the services and facilities in Hoddesdon, which also provides for onward transport connections by sustainable modes. Environmentally, the proposal would make use of land that has previously been developed, and it would offer biodiversity and landscape enhancements. Given the small-scale of the proposal, these benefits carry moderate positive weight.

¹ Appeal decision reference APP/J1915/W/21/3273500, dated 30 May 2022.

24. No harm has been identified in respect of the design and appearance of the proposal, highway safety, biodiversity, or the living conditions of neighbours. The absence of harm weighs neither for nor against the proposal.
25. The cumulative weight of the benefits in this case would be significant. However, I am not convinced the proposal is the only way in which these benefits could be realised. Therefore, and in the absence of substantive evidence to convince me otherwise, the harm that would be caused to protected trees would be unnecessary. On this basis, I conclude that the material considerations present in favour of the scheme are not sufficient to outweigh the harm I have identified.

Conclusion

26. The proposal would be in accordance with the development plan but the material considerations in this case lead me to conclude that the appeal should be decided otherwise than in accordance with the development plan. Therefore, for the reasons given above, the appeal should be dismissed.

E Catchside

INSPECTOR