



Appeal Decision

Site visit made on 17 June 2025

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 21st July 2025

Appeal Ref: APP/J1535/W/25/3361394

Rose Nursery, Tylers Road, Roydon, Harlow CM19 5LJ

- 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 Joe Ricotta against the decision of Epping Forest District Council.
 - The application Ref is EPF/1331/24.
 - The development proposed is the demolition of existing bungalow and former nursery buildings and erection of two detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have had regard to the National Planning Policy Framework (the Framework) which has been updated since the application was submitted. I note that national policies relating to housing land supply and the Green Belt have been revised and that the parties have commented on these changes in their appeal documentation. I have taken account of their comments on the updated Framework in the determination of the appeal.
3. Although the application form provides limited information about the site location, both the decision notice and the appeal form include a site address. Following my site visit and review of the appeal site, I have confirmed the correct address, and the banner heading has been updated accordingly.
4. Following concerns raised by the Council, the appellant submitted an executed and signed deed of unilateral undertaking during the appeal process to address potential atmospheric pollution impacts on the Epping Forest Special Area of Conservation. An Air Pollution Contribution has been provided, which aligns with the £335 per dwelling rate, plus a 5% monitoring fee, as sought by the Council. Based on the evidence before me, I am satisfied that this issue has been adequately addressed.

Main Issues

5. The main issues are:
 - the effect of the proposed development on surface water drainage and flood risk in the area;
 - whether or not the appeal site is grey belt land and whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;

- the effect of the proposal on the openness and purposes of the Green Belt; 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.

Reasons

6. The appeal site lies within the Metropolitan Green Belt. The proposal involves demolishing an existing bungalow and former nursery buildings to construct two detached, one-and-a-half-storey, four-bedroom houses with associated parking, gardens, and amenities.

Flooding

7. The appeal site contains a bungalow, with the remainder consisting of grassed areas, trees, hardstanding, a central pond, and several redundant buildings formerly associated with Rose Nursery. The site lies within Environment Agency Flood Zone 1, indicating that it is at the lowest flood risk.
8. Policy DM16 of the Epping Forest District Local Plan (2023) (the 'DLP') requires all new development proposals to seek to manage surface water as close to its source as possible using the most appropriate sustainable drainage systems solutions, or combination of solutions, taking into account site specific circumstances and the Council's preferred drainage hierarchy. To that end, the Council requires sustainable drainage systems to be sensitively incorporated into new development by way of site layout and design. Any runoff from the proposed development should be managed on site.
9. Additionally, major development proposals must submit a drainage strategy to identify the most appropriate drainage solutions. The DLP adopts the definition of 'major development' set out in section 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This defines major development proposals as involving ten or more dwellings; or housing development on sites equal to or larger than 0.5 hectares; or any development with proposals with a floor space of 1000 square metres or more; or any development sites of more than one hectare. The Existing & Proposed Block Plan indicates that the appeal site is approximately 3884m², which is roughly equivalent to 0.3884 hectares. As it would not meet the definition of major development, it is not necessary for a drainage strategy to be submitted.
10. Nonetheless, the Council's Environmental Protection and Drainage team has submitted a holding objection, requesting infiltration testing to ensure that the proposed surface water drainage meets policy requirements. The proposed development would introduce new impermeable areas, reducing the garden's ability to naturally absorb and dissipate rainwater, which could potentially increase flood risk.
11. The appellant's Sustainable Drainage Assessment concludes that, due to the underlying clay and chalk geology, the site has low potential for water infiltration, meaning surface water is unlikely to drain effectively into the ground. No alternative discharge points, such as nearby watercourses, were identified. The report therefore recommends further site investigation, including trial pits, to

confirm infiltration rates and assess the capacity of any surface water features or nearby sewers to receive runoff.

12. The plans indicate that the site is relatively unconstrained and that the proposed low-density development could, in principle, accommodate a range of drainage solutions. However, despite the site being located within Flood Zone 1, there remains a significant risk of surface water flooding due to the proposed increase in built form. While the appellant's assessment recommends further site investigation, no additional evidence has been provided to demonstrate the feasibility of any such drainage measures. This omission is significant, given the site's low potential for infiltration. I acknowledge the appellant's concerns that preparing a detailed drainage methodology at this stage could involve unnecessary and potentially abortive costs. However, paragraph 173 of the Framework highlights the need to ensure that developments are protected from all forms of flooding, including pluvial flooding from surface water runoff. In the absence of detailed supporting information, it has not been demonstrated that the proposed development would avoid increasing flood risk. Given the sensitivity of the location and its limited capacity for water infiltration, the potential for a significant increase in flood risk remains.
13. I have considered the use of a pre-commencement condition and planning condition to secure further on-site investigation works, noting the appellant's willingness to explore alternative options, including utilising mains infrastructure or providing a mechanical or crated solution. However, in the absence of any detailed evidence confirming the feasibility of these measures, it is unclear whether they would adequately mitigate the increased flood risk from the proposed development. Moreover, any alteration to the available space within the appeal site could also result in significant changes to the layout of the proposal, potentially prejudicing interested parties who have not had the opportunity to provide comments. Imposing these conditions would therefore be contrary to the Procedural Guide¹, which states that the appeal process should not be used to evolve a scheme. Accordingly, I am not persuaded that these conditions would be sufficiently precise or that they would make the development acceptable in planning terms.
14. In conclusion, the proposed development would have the potential to cause harmful effect on surface water drainage and flood risk in the area. It has not been adequately demonstrated that surface water would be managed as close to its source as possible, contrary to Policy DM16 of the DLP.

Whether or not inappropriate development in the Green Belt

15. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
16. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions set out in paragraphs 154 and 155 of the Framework. Policy DM4 of the DLP sets out a general presumption against inappropriate development. It is consistent with the Framework.

¹ Paragraph 16: Procedural Guide – Planning Appeals – England

17. The appellant acknowledges that only part of the appeal site can be defined as previously developed land. This designation is limited to the existing bungalow and its domestic curtilage. Consequently, the former horticultural buildings are excluded from the definition of previously developed land. It is therefore agreed between the parties that the exceptions under paragraph 154 do not apply.
18. The updated Framework also states that the development of homes within the Green Belt should not be regarded as inappropriate where the proposal meets all the criteria set out in paragraph 155 of the Framework. The first criterion requires that the development utilises grey belt land and does not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. However, the definition of Grey Belt excludes areas identified in footnote 7 of the Framework. This specifically includes land at risk of flooding, where such risk would result in a strong reason for refusing or restricting development. I consider that given my findings, flood risk constitutes a strong reason for refusal in this case. Accordingly, the site does not constitute Grey Belt land and the allowance for housing in terms of paragraph 155 of the Framework would not be met.
19. For these reasons, I conclude that the proposal would be inappropriate development in the Green Belt.

Openness

20. The Planning Practice Guidance (PPG) states that assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. It outlines several matters that may need to be taken into account when making this assessment, including - but is not limited to - the spatial and visual aspects of the proposed development. Other relevant considerations may include the duration of the development, its remediability and the degree of activity likely to be generated, such as traffic generation.
21. The proposal involves the demolition of the existing bungalow and former nursery buildings. The evidence indicates that both parties agree that the existing footprint of these buildings is approximately 429.7m². By contrast, the combined footprint of the proposed development would be roughly 276m², representing a notable reduction. The appellant states this would amount to a 35% reduction.
22. The plans also indicate that the combined volume of the existing buildings is approximately 1059m³. Each of the two proposed dwellings would have a volume of approximately 729.7m³, giving a total combined volume of 1459.m³. Again, this figure is not contested between the parties. As this would represent a volume percentage increase of approximately 38%, this would represent a significant increase in built volume.
23. Accordingly, while the overall footprint would decrease, the increased volume and bulk of the proposed buildings would significantly increase. In my judgement, this would result in spatial harm to openness. Visually, I also consider the impact on openness to be harmful, as the reduced footprint would be consolidated into two larger and bulkier structures rather than being dispersed across the appeal site.
24. Therefore, even when accounting for the reduction in footprint, I conclude that the proposed development would cause significant harm to the openness of the Green Belt, contrary to paragraph 153 of the Framework. Consequently, the development

would represent inappropriate development, which by definition is harmful to the Green Belt. In this regard, it would also fail to comply with Policy DM4 of the DLP.

Other considerations

25. The appellant considers that approximately 70% of the site would comprise previously developed land. However, the Framework does not specifically address developments on sites that are only partially previously developed. Instead, it refers solely to land that fully meets the definition of previously developed land. Consequently, the partial reuse of such land carries, in my view, only limited weight in favour of approval.
26. It is acknowledged that the appeal site currently contains several redundant and unsightly dilapidated buildings, formerly associated with Rose Nursery. The appellant contends that the demolition of these structures and their replacement with well-designed family homes would result in a significant visual improvement. However, as these buildings are privately owned, their removal does not appear to be contingent on the implementation of the proposed development. Similarly, the proposed development is also said to offer an opportunity to improve surface water attenuation. Yet, similarly, there is no clear evidence that these drainage works are contingent on the proposed development. As such, these considerations carry very limited weight in favour of approval.
27. The parties disagree on the Council's housing land supply position, particularly in relation to the delivery rate. As a result, there is no consensus on whether the Council can demonstrate a five-year housing land supply. The appellant contends that the delivery rate falls below the 75% threshold over the previous three years, thereby engaging the presumption in favour of sustainable development, as required by paragraph 79 c) of the Framework. The Council strongly disagrees, and claims that it can confidently demonstrate a 6-year supply of housing.
28. In any event, in accordance with paragraph 11 d) of the Framework, even where policies for determining the application are considered out-of-date, permission should not be granted unless the application of policies that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 confirms that this includes areas at risk of flooding. Given that flooding is a main issue in this appeal, and I have found harm to such an extent that I consider that this forms a strong reason for refusal, the presumption in favour of sustainable development is not engaged. As consequence, the scheme must be considered against the normal planning balance.

Other Matters

29. The proposal relates to a small windfall site that would deliver two dwellings, each offering generous internal and external amenity space and provision for cycle storage. The plans indicate that each dwelling would benefit from three dedicated parking spaces, in accordance with the relevant parking standards. While the development would result in the removal of 19 trees, the majority are of lower value and not subject to significant protection. As such, the overall contribution of trees to local amenity would not be materially diminished. The scheme is also expected to deliver at least a 10% biodiversity net gain, thereby meeting the mandatory requirement for small sites. In addition, modest economic benefits would arise from the construction phase and from future occupiers supporting local

services and facilities. The evidence also indicates that the appeal site is well located with regard to accessibility. However, considering the scale and nature of the proposed development, these benefits are relatively limited.

Green Belt and Planning Balance

Green Belt Balance

30. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that the proposal would cause significant harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 153 of the Framework. This weighs heavily against the development.
31. I have outlined a range of benefits of the scheme in the other considerations section above. These are acknowledged and carry some merit. However, even if the appellant's position regarding the supply of housing land is accepted, the proposed development would deliver only two family units of accommodation, resulting in a net gain of one unit following the removal of the existing bungalow. Accordingly, I attach only limited weight to the collective benefits of the proposal.
32. In contrast, the harm to the Green Belt, by reason of inappropriate development and the adverse impact on openness, carries substantial weight. As such, the identified benefits do not clearly outweigh this harm. Consequently, the very special circumstances required to justify the development do not exist.

Planning Balance

33. In addition to this harm to the Green Belt, I have identified further harm to the natural environment, specifically in relation to surface water drainage and the potential for flood risk. This cumulative harm, along with the associated policy conflicts, should be afforded substantial weight against the proposal. When considered as a whole, the scheme conflicts with the development plan. The limited weight attributed to the benefits does not outweigh this harm or the policy conflict.

Conclusion

34. The proposal conflicts with the development plan taken as a whole and material considerations do not indicate that the appeal should be determined other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR