



Appeal Decision

Site visit made on 11 August 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2025

Appeal Ref: APP/J1535/W/25/3360546

Glenwood, Pedlars End, Moreton, Ongar, Essex CM5 0LW

- 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 Mrs Kylie Hunter against the decision of Epping Forest District Council.
 - The application Ref is EPF/1722/24.
 - The development proposed is for the development of three new dwellings in place of the existing dwelling and outhouses (Including permitted development approvals) on the site of Pedlars End, Moreton.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As part of the appeal the appellant has submitted an amended site plan which retains the existing access to Glenwood. I have considered whether it would be appropriate to accept this as an amended plan having regard to the guidance in the 'Procedural Guide: Planning Appeals – England, and the tests given in the 'Holborn Studios' judgement.¹
3. The Procedural Guide makes clear that the appeal process should not be used to evolve the scheme and that in most cases the appeal should be determined on the basis of the plans upon which the Council made their decision and on which interested people's views were sought. However, given that the existing access is already in use, I do not consider anyone would be prejudiced if I take the amended plan into account. I will therefore accept the amended site plan.

Main Issues

4. The main issues are:
 - 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;
 - whether the proposed development would deliver an appropriate mix of housing,
 - the effect of the proposed development on protected trees;

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

- the effect of the proposed development on the Public Right of Way (PROW); 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

Inappropriate development

5. The appeal site lies in the Metropolitan Green Belt. The Framework explains that the Government 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.
6. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Certain forms of development are, however, not inappropriate. One such exception, set out at paragraph 154(g) is the 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.
7. Policy SP5 of the Epping Forest District Local Plan 2011-2035 Part 1 (LP1) seeks to protect the openness of the Green Belt in accordance with National Policy and Policy DM4. However, the Framework was revised in December 2024, consequently Policy DM4 C(vi) is no longer consistent with the Framework. I have therefore assessed this issue in line with the approach set out in the Framework.
8. There is no dispute between the parties that the appeal site comprises previously developed land. From the information before me and my site observations I find no reason to come to an alternate view. This issue therefore turns on the effect of the proposed development on the openness of the Green Belt. The Council consider that the proposal would fail to preserve the openness of the Green Belt. However, there is no requirement under exception 154(g) to preserve openness. The test is whether any harm to openness would be substantial.
9. Planning Practice Guidance (PPG) provides advice on the factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt, with openness being capable of having both spatial and visual aspects.
10. The appeal site currently has a large, detached bungalow and several dispersed outbuildings, generally low level in height, including former stables. There are also large areas of hardstanding that were primarily used in relation to the former equestrian business. The outbuildings are located mostly towards the middle and rear of the appeal site, set back a substantial distance from the road.
11. Beyond the rear of the site is grassland in the appellants ownership, and beyond that is open countryside. From the rear, the site is screened from wider views by thick mature vegetation, which is also present on its western and eastern

boundaries. Mature trees and hedgerow also border the southern boundary, adjacent to the main road.

12. The existing bungalow and outbuildings would be replaced by a two-storey dwelling and outbuilding with a further two detached bungalows to the west.
13. From the submitted information, the overall volume and footprint of the proposed buildings would be marginally less than the existing buildings on site. Considering this and that the proposal would consolidate the existing dispersed built form on the site, I find spatially the scheme would not have a harmful effect on the openness of the Green Belt.
14. Turning to the visual aspect of openness, the proposed two bungalows in a linear arrangement, within close proximity to each other and significantly closer to the road than the existing outbuildings would result in a visual loss of openness to the Green Belt when viewed from the main road. However, set against this harm, the ridge height of the bungalows would not exceed that of the existing caravan store outbuilding, which can be seen from the road. Moreover, the existing tall solid boundary treatment and gate directly adjacent to the road, currently reduces the visual openness of this part of the site from public vantage points.
15. Whilst the additional two bungalows would lead to increased domestication of the site through the creation of residential curtilages and associated domestic paraphernalia, any harm to openness would be offset by the removal of the existing dispersed outbuildings used for equestrian and residential purposes and the paraphernalia associated with those. For these reasons, I also find the proposal would not lead to increased encroachment into the countryside.
16. The existing bungalow is in a prominent, elevated position due to the higher land levels with sloping driveway. Although the replacement two-storey dwelling would be taller, its front elevation would be narrower. Moreover, as part of the proposal, the ground level would be lowered, which would significantly reduce any adverse visual impact from the increased ridge height.
17. The submitted section drawing demonstrates that any spoil relocated from the front of the site to the rear would be spread across a wide area. Given the extent of the spoil spread and estimated spoil volume I am satisfied that any adverse impacts to openness would be very marginal and could be successfully mitigated through a suitably worded landscape condition should the appeal be allowed.
18. Considering the set-back position of the replacement dwelling, the mature boundary vegetation, the lowering of the ground levels and reduced width of the front elevation, it would not appear unduly prominent and would have a limited adverse visual effect on openness, compared to the existing situation.
19. Drawing the above points together, I find the proposal as a whole would have a limited adverse effect on the visual openness of the Green Belt, with a lack of spatial harm to its openness. Since I find that the proposal would not result in substantial harm to the openness of the Green Belt, it meets the exception set out at paragraph 154(g) of the Framework and would not represent inappropriate development in the Green Belt. I therefore also find no conflict with Policy SP5 of LP1.

20. Policy DM9 has been cited on the decision notice in relation to this issue. However, this policy primarily relates to design and not the Green Belt. Therefore, it has not been determinative on this main issue.
21. As I have concluded that the proposal would not amount to inappropriate development in the Green Belt, I do not need to consider other considerations and whether these amount to very special circumstances, nor do I need to consider whether the proposal would meet the tests set out at paragraph 155 of the Framework in relation to grey belt land.

Housing mix

22. The Moreton, Bobbingworth and the Lavers Neighbourhood Plan 2017-2035 (NP) explains that the parish contains predominantly large homes, with limited amounts of small homes for families or older residents who may wish to downsize. Policy MBL 1.1 of the NP, amongst other matters, seeks to address this by setting out that new build open market housing shall be for smaller dwellings, consisting of 1 or 2 bedrooms.
23. Policy MBL 1.1. does allow some discretion, outlining that for proposals of 3 or more dwellings, a limited number of dwellings providing 3 or more bedrooms may be acceptable. However, as all of the proposed dwellings would have a minimum of 4 bedrooms there would be clear conflict with this policy.
24. I acknowledge that the supporting text to housing Policy H1 of LP1 indicates there is a need for accessible housing which can be supported by bungalow accommodation, with bungalow stock in decline in the borough. In this regard, the proposed two bungalows would address this. Nevertheless, these bungalows would be large and would not meet the need for smaller homes. Part A (i) of Policy H1 seeks development where the mix of new homes, amongst other matters, addresses local need including for down-sizing. The local need for smaller dwellings has been set out in the NP. At part (iii) of Policy H1 it also seeks development that takes into account the existing housing stock in the neighbourhood in order to avoid any over-concentration of a single size of home.
25. The appellant opines that the survey which underpins the NP policy is of some age, has limited responses and no longer reflects current housing needs. However, limited substantive evidence has been provided by the appellant to indicate that there is now a need for larger properties in the neighbourhood.
26. The appellant has suggested that the proposal would be for self-build homes. However, the application form indicates the proposal is for market housing and there is no legal agreement before me to secure the dwellings as self-build, which would be the appropriate method. This therefore carries little weight.
27. On this issue, I conclude that the proposal would not deliver an appropriate mix of housing in respect of size, conflicting with Policy MBL 1.1 of the NP. It would also conflict with Policy H1 of the LP which amongst other matters, requires development to include a range of new home types, tenures and sizes to address local need as appropriate.

Trees

28. A number of mature trees are located within the appeal site, visible from the road. Collectively and individually many of these make a significant and positive contribution towards the visual amenity of the area. This has been recognised by a number of these being given a tree preservation order (TPO) during the course of the appeal.
29. Whilst a revised Arboricultural Assessment submitted in rebuttal of the TPOs raises concerns around the structural integrity of several of the trees, it is not my role in the assessment of this appeal to determine whether or not they should be covered by a TPO.
30. The Council in their officer report raise concern that part of the proposed driveway to serve the replacement dwelling at Glenwood would lead to the removal of a protected mature horse chestnut tree. However, the amended site plan which I have accepted, uses the existing accessway for Glenwood and thus would no longer require the horse chestnut tree to be removed, nor would it affect the root protection area (RPA) of the ash tree, marked T19 on the tree protection plan, dated Jan 2025 (formerly T14 on the superseded tree protection plan dated Nov 2024).
31. However, the proposed driveway providing access to the two bungalows would lead to the creation of additional hardstanding. This would project into a not insignificant amount of the RPA of a protected ash tree, marked T22 on the tree protection plan (dated Jan 2025), and would only be a very short distance from the stem of the tree, compared to the current situation. The ash tree is prominent in the street scene and I find it makes a significant contribution to the sylvan character of the area.
32. The default position set out in the British Standard² is that structures which includes carriageways and paths, are located outside the RPAs of trees to be retained, unless there is an overriding justification for construction within the RPA. Construction within the RPA could damage the tree and its roots, as well as damage to its soil including through compaction from the movement of vehicles.
33. The tree protection plan demonstrates that protective barriers would be installed around this mature tree during construction and the Arboricultural Assessment sets out that no dig methods would be employed when creating the driveway. However, although some mitigation/working methods are proposed, in my view it does not contain sufficient evidence, for example cross sections, to demonstrate that the driveway, which is within the RPA and close to the stem of the tree, would not have an adverse effect on the structural roots of the tree, in part of the RPA likely to be most sensitive to works, nor sufficiently considers the effects of any root flare from the tree.
34. For the reasons above, I consider that it has not been sufficiently demonstrated that the proposal would not adversely harm a protected tree, which would be of detriment to the visual amenity of the area. The proposal would therefore conflict with Policies DM3 of LP1 which seeks to ensure proposals do not cause significant harm to landscape character and DM5 of the LP1 which requires sufficient evidence to demonstrate that the retention of trees will be successfully secured.

² Ref: BS 5837:2012 Trees in relation to design, demolition and construction

PROW

35. The Definitive Map shows that PROW No.16 runs through the garden of the appeal site and is currently blocked by the existing dwelling. The submitted plans show that the replacement dwelling would also likely obstruct the definitive route of PROW no.16, compounding the existing issue. The rights for the public to use a definitive PROW are an important material planning consideration.
36. The appellant has provided evidence that the PROW has not been in existence on the appeal site since before the late 1970s. Instead, a route the public has used adjacent to the eastern boundary is said to have been in existence since at least 1978, predating the 1980 Highway Act. On my site visit, I observed this route, which is immediately next to but outside of the appeal site.
37. The highways authority, which has strongly objected, acknowledges the existence of the adjacent footpath, but that this is not the route shown on the Definitive Map. The Definitive Map is considered proof of the legal and correct route of a PROW. Historical mapping of PROW no.16 also aligns with the current Definitive Map.
38. The fact that the existing footpath predates the 1980 Highway Act does not alter the validity of the Definitive Map. The existence of the adjacent footpath only demonstrates that an alternative walked route exists, but this is not the same as a PROW and does not provide evidence that the legal Definitive route has been either altered, diverted or removed by the making of a formal legal Order, of which I have no evidence that one has been made or that an application is likely to be approved.
39. As the route the public are said to be using is on land outside of the appellant's ownership, there is no guarantee that an application for the permanent diversion of PROW no.16 to align with it would be successful. Any such application would have to go through various legal processes.
40. A grant of planning permission does not, in itself, authorise any obstruction of a PROW. For that reason, a condition which would prevent the development from taking place until the PROW has been diverted would fail the test of relevance to planning and would be unnecessary. As the outcome of any diversion could not be guaranteed, if the appeal were to be successful it could result in planning permission which could not be implemented.
41. Drawing the above together, I conclude that the proposal would not protect the existing PROW on the site, adversely affecting the ability of the public to use the legal route. It would thus conflict with LP1 Policy T1 which seeks to safeguard public rights of way and Policy MBL 4.3 of the NP which has similar aims.

Planning Balance

42. The proposal would deliver three high quality, energy-efficient and accessible homes on a small-medium sized site. Such sites can often be built out relatively quickly and it would be an efficient use of previously developed land, helping to boost the supply of homes. Social and economic benefits would ensue related to their construction and from future occupiers spending in the local economy. Though with a net gain of two dwellings, the extent of such benefits would be limited.
43. Given the position of the proposed dwellings, extending the linear form of dwellings located to the west and the single-storey nature of the bungalows, there would be

no adverse impacts on the living conditions of neighbouring occupiers. I have also found the development would not be inappropriate development in the Green Belt. However, a lack of harm is a neutral consideration, weighing neither for nor against the proposal.

44. I have found that the proposal would not reflect the identified housing need within the neighbourhood with regards to size, conflicting with the development plan. These policies align with the Framework which seeks an appropriate mix of housing, of which size is a consideration.
45. I have also identified harm and development plan conflict with regards to a protected tree and the PROW, with Paragraph 105 of the Framework seeking to ensure decisions protect and enhance PROW. I give significant weight to these harms.
46. There has been dispute between the parties over the housing supply position in the district. Even if I were to consider that paragraph 11d (ii) of the Framework was engaged, the harm arising from the proposal's conflict with the development plan significantly and demonstrably outweighs the benefits, when assessed against the Framework as a whole. The presumption in favour of sustainable development does therefore not apply.

Other Matters

47. The appeal site lies within the zone of influence of the Epping Forest Special Area of Conservation (EFSAC). This 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.
48. The EFSAC is 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.
49. Given that the proposal is for additional housing, there is a reasonable likelihood that this European Site would be accessed for recreational purposes by future occupiers of the development and result in a net increase in vehicular traffic using the road. Therefore, in combination with other developments, likely significant effects cannot be ruled out.
50. Strategic mitigation measures to address these effects are set out in the Air Pollution Mitigation Strategy, the Epping Forest District Green Infrastructure Strategy and the Epping Forest Strategic Access Management and Monitoring Strategy. These set out tariff based contributions to contribute to the delivery of the mitigation strategies outlined in each document. A completed unilateral undertaking has been submitted to secure a financial contribution in relation to the protection of habitats.
51. The Conservation of Habitats and Species Regulations 2017, requires that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an Appropriate Assessment (AA). However, regulation 63(1) indicates the requirement for an AA is only necessary where the

competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this matter in any further detail.

Conclusion

52. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

T Bennett

INSPECTOR