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## Appeal Decision

Site visit made on 16 September 2025

**by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> October 2025

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**Appeal Ref: APP/J1535/W/25/3368428**

**Forest Cottage, High Road, Thornwood, Epping, Essex CM16 6LP**

- 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 JR and DR Properties against the decision of Epping Forest District Council.
  - The application Ref is EPF/0024/25.
  - The development proposed is proposal for the development of the site to provide 5no. new dwellings in place of the existing 2no dwellings.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and relevant development plan policies including the effect of the proposal on the openness of the Green Belt;
  - the effect of the proposal on the character and appearance of the area;
  - the effect of the proposal on the visual amenity of nearby trees;
  - the effect of the proposal on highway safety;
  - the effect of the proposal on Epping Forest Special Area of Conservation (EFSAC); 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

#### *Inappropriateness*

3. The appeal site lies in the Green Belt. Paragraph 154 of the Framework sets out that development in the Green Belt is inappropriate unless one of a number of exceptions applies. One of the exceptions 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.

4. Policy SP5 of the Epping Forest District Local Plan 2011-2033 Part One Adopted March 2023 (LP) sets out the general extent of the Green Belt. LP Policy DM4 provides exceptions that broadly align with the Framework. However, the exception relating to previously developed land is more restrictive than the equivalent paragraph in the Framework.

5. There appears to be no dispute between the parties that the proposal constitutes redevelopment of previously developed land. From the evidence before me I see no reason to disagree.

6. In terms of openness, the existing buildings on the site comprise single and two storey elements that contain 2 residential units. There is a modest area of grass and driveway to the front of the buildings, and the site is set back from the road. To the sides and rear of the site lie land that is largely undeveloped such that the site and surroundings have an open character. The existing buildings are of varying heights that break up its massing, resulting in a modest effect on the openness of the Green Belt.

7. The volume of proposed building would be significantly greater than the existing structures on the site. This would amount to significant harm to the spatial openness of the Green Belt.

8. In terms of visual openness, the proposal would consolidate the footprint of the existing structures on the site to a single rectangular footprint. However, as it would be a two storey building, the proposal would occupy space at high level which is currently open and free from development. From the front of the site the overall height and width of built form would be greater than the existing buildings. Accordingly, despite the greater set back from the road compared with the existing building, the visual openness of the Green Belt would be significantly harmed by the proposal. The scheme would therefore not meet the exception set out in paragraph 154g of the Framework. It would also not accord with LP Policy DM4.

9. Consequently, the proposed development would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies including the effect of the proposal on the openness of the Green Belt.

10. LP Policy DM4 reflects the wording of the 2023 version of the Framework and is therefore more restrictive with respect to limited infilling or the partial or complete redevelopment of previously developed land. Even if I attribute moderate weight to the conflict with this Policy, I must necessarily attribute substantial weight to any harm to the Green Belt as required by the Framework.

#### *Character and appearance*

11. The site is surrounded on three sides by open rural areas including ancient woodlands. As such, the surrounding area has an attractive rural feel and wooded character and appearance. The scale of built form on the site is limited and the front of the plot includes some hardscaping and grassed areas and is a modest area. Therefore, the site is in keeping with the rural feel of the surroundings.

12. The existing buildings include a single storey element close to the southern boundary that faces woodland. I note the evidence regarding a previously refused scheme. However, I have necessarily assessed the scheme before me. The proposed two storey building would have a greater height than the existing buildings and would therefore be more visible from the south than the existing structures despite the set-

back from the southern boundary. The increased urbanisation of the site would be apparent, detracting from the rural character and appearance of the area.

13. The existing buildings appear to be in need of some maintenance. In addition, the proposed buildings have been designed to reflect the style of the original buildings on the site. While the appearance of the proposed building would be newer than existing with a more traditional and unified style, this would not override the harm to the rural character of the area that would result from the greater height and width of the proposed building.

14. As the existing buildings constitute 2 dwellings, the potential number of vehicles parked on the site is currently limited. The proposal includes the increase in dwellings and provision of several car parking spaces at the front of the proposed building. This would further urbanise the site and substantially diminish the rural character of the area.

15. While there is some vegetation at the front of the site, the level of screening is not consistent and cannot be guaranteed throughout the year. I note the evidence regarding additional hedge screening being planted while the existing hedge remains in place. However detailed plans are not before me to demonstrate that there would be sufficient space for additional planting or that this would effectively screen the parking spaces. As such there is no certainty that a condition would mitigate the harm. Accordingly, the proposed provision of car parking would harm the character and appearance of the area.

16. Consequently, the proposal would harm the character and appearance of the area. Therefore, it would conflict with LP Policies DM2, DM3 and DM9 which seek, among other things, development that assists in the conservation and enhancement of Epping Forest, proposals that are sensitive to their setting in the landscape and relate positively to their context.

### *Trees*

17. The Decision Notice includes reference to landscaping. However, from the wider evidence, the Council's concerns focus on the trees on and near the site. I therefore focus my assessment on the trees.

18. There are a number of trees within the site that are subject to Tree Preservation Orders (TPOs). One of these trees is annotated as 'T9' on the Tree Preservation Order Plan and as 'T16' in the Arboricultural Site Plan (Proposed)(ASP).

19. There is a dispute between the parties about the accuracy of the Arboricultural Impact Assessment including the diameter of the tree and whether it should be classified as a 'late mature tree' or 'veteran' tree and therefore the extent of Root Protection Area (RPA) required. I also note reference to other trees including an Oak tree that lies outside the site boundary and is not subject to a TPO.

20. With respect to the ASP T16 tree, this is an English Oak tree identified as 'Category A' in the ASP and therefore of high quality, capable of providing a significant contribution to the local amenity. It is one of the taller trees on the site and given its size and quality, it provides a significantly positive contribution to the visual amenity of the area.

21. The Council's classification of the tree as a 'veteran' tree appears to be based on a number of factors such as size, form, and volume of deadwood, not only the diameter

of the trunk. In any event, taking the Appellant's position that the tree is 'late mature' and the RPA radius as shown in the ASP, the hard surfacing would intrude a substantial distance into the RPA of the tree shown as T16 in the ASP.

22. The proposed mitigation includes a raised surface on screw piles for the car parking area that utilises a specialist root-bridge solution along with soil amelioration with vertical mulching. However, there is little detailed information such as specifications or examples to provide certainty that the roots of the tree would not be harmed. Accordingly, given the extent of intrusion into the RPA and quality of the tree, there can be no certainty that the proposal would preserve the visual amenity of the tree.

23. I note evidence regarding discrepancies between the ASP submitted with the proposal, compared with previous versions submitted with another application. However, I have necessarily assessed the scheme before me.

24. Consequently, the proposal may lead to harm to the trees that would harm their contribution toward visual amenity. Therefore, on balance it would conflict with LP Policy DM5 which seeks, among other things, development that has been designed to retain and where possible enhance existing green infrastructure including trees.

#### *Highway safety*

25. The site is accessed via a driveway from High Road through land that is not owned by the Appellant. The stretch of High Road that lies near the site has a slight bend and is a busy road with vehicles travelling at speed.

26. The existing width of the access would not allow two vehicles to pass side by side. Therefore, vehicles seeking to enter the site would be required to wait on the carriageway while vehicles exit the site. Given the bend in the road, motorists would have limited time to react to stationary vehicles in the road waiting to enter the site. This would result in an increased risk of collision and an unacceptable impact on highway safety.

27. As part of the Appellant's Appeal Statement, a wider access is proposed that tapers from the pavement at High Road to the existing width at the site boundary. A letter from the owner of the land setting out an agreement with the Appellant has also been submitted as part of the appeal. However, this letter and accompanying plan describe the access as being a maximum width of 4.5m which would not allow two vehicles to pass comfortably and would not mitigate the risk of collision identified above. Accordingly, a condition seeking to secure works to the access would not be appropriate.

28. Consequently, the proposal would result in an unacceptable impact on highway safety. Therefore, it would conflict with LP Policy T1 which seeks, among other things, development that does not compromise highway safety.

#### *EFSAC*

29. The site lies within the Zone of Influence of the EFSAC which has been identified primarily for its value in respect of beech trees and wet and dry heaths and for its population of stag beetle.

30. The proposal would increase the number of dwellings on the site and would be likely to result in additional recreational pressure on EPSAC. The scheme would also

be likely to increase the number of vehicles travelling on roads close to the EPSAC thereby increasing atmospheric pollution. Accordingly, the development would result in a likely significant effect on the integrity of EPSAC either alone or in combination with other plans or projects. As such an Appropriate Assessment would be required.

31. As part of the Appeal, the Appellant submitted a draft planning obligation, in the form of a Unilateral Undertaking, that seeks, among other things, to secure financial contributions towards mitigating the effect on the EFSAC. As the UU is not signed or dated, I cannot attribute it any weight.

32. LP Policies DM2 and DM22 together seek, among other things, development proposals that would have no adverse effect on the integrity of the EFSAC and protect the District from the impacts of air pollution.

33. I will return to the appropriate assessment, if necessary, in my conclusion.

#### *Other considerations*

34. The site benefits from a number of Lawful Development Certificates (LDCs)<sup>1</sup>. The schemes subject of the LDCs are a rear extension, 2 garage and office/study outbuildings, 4 further rear extensions and a gym outbuilding.

35. The proposals subject of the LDCs have not been implemented, and they would not have the same functionality or appearance as the proposal. In addition, there would be likely to be a substantial cost associated with renovating the existing buildings given their current state of disrepair. However, given that those forms of development have been proved to be lawful, I see no reason why they could not be implemented should this appeal fail. The LDCs together therefore form a fall-back position to which I afford significant weight.

36. While I note the comments of the Inspector for the case at Stanford Rivers, further details of the circumstances of that case are not before me to enable a direct comparison to be made with this appeal.

37. The fall-back proposals together would have a volume slightly greater than the proposed development. The proposal would also consolidate the massing into one building with a smaller collective perimeter, built frontage and footprint. Accordingly, the fall-back scheme would result in less harm to the spatial openness of the Green Belt than the proposed development.

38. However, the outbuildings and extensions subject of the fall-back scheme would be single storey structures whereas the proposal would be two storey and taller than the existing building. Therefore, the proposal would be more visible from surrounding views compared with the fall-back scheme and would therefore result in greater harm to the visual openness of the Green Belt. Overall, the visual harm would be greater than any increase in spatial openness. Therefore, this matter weighs against the proposal.

39. The proposal would contribute 3 additional dwellings to the local housing supply. The Council is able to demonstrate 6 year supply of housing. Nevertheless, given the Government's objective of significantly boosting the supply of homes, the contribution of additional housing carries weight in favour of the scheme. The weight is limited commensurate to the number of additional homes proposed.

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<sup>1</sup> Council references: EPF/1452/24, EPF/1453/24, EPF/1454/24, EPF/1455/24

## **Other Matters**

40. I note concerns regarding the service provided by the Council, including the provision of opportunity to submit a detailed landscaping scheme. However, I have necessarily assessed the proposal on its planning merits, and this matter cannot alter my overall decision.

## **Green Belt Balance and Conclusion**

41. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
42. The other considerations that weigh in favour of the scheme consist of the benefit of the contribution of 3 dwellings to the local housing supply which carries limited weight. The fall-back position does not weigh in favour of the proposal as discussed above. I have not carried out an appropriate assessment to consider whether there would be harm to the integrity of the EFSAC. On the basis that I would have given the appellant the opportunity to submit an executed planning obligation that may have overcome any harm to integrity had I been otherwise minded to allow the appeal, I will give neutral weight to this consideration.
43. Balanced against the other considerations is the substantial weight attached to the Green Belt harm. In addition, the harm to the character and appearance of the area, to trees and the unacceptable impact on highways safety together carry significant weight against the proposal.
44. Accordingly, the other considerations do not outweigh the substantial weight necessarily attached to the Green Belt harm and significant weight attached to the other harms. Therefore, very special circumstances has not been demonstrated in this case.
45. Consequently, the proposed development would conflict with the development plan as a whole and in the absence of material considerations to indicate otherwise, the appeal is dismissed.

*R Sabu*

INSPECTOR