



Appeal Decision

Site visit made on 3 February 2026

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2026

Appeal Ref: APP/J1535/W/25/3376015

1 Shelley Rectory, Church Lane, Fyfield, Essex CM5 0HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Tyrone Fry against the decision of Epping Forest District Council.
 - The application Ref is EPF/1521/25.
 - The development proposed is permission in principle for two bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Planning Practice Guidance¹ (PPG) advises that permission in principle is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second (technical details consent) stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. No plans of the dwellings are required at permission in principle stage. Nevertheless, an illustrative block plan, elevation drawings and floor plans have been submitted. These demonstrate how the site could be developed and I have considered them as indicative only.

Main Issues

5. The main issues in this appeal are:
 - Whether or not the proposal would be habitats development under Article 5B(1) of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) (the Order); and
 - Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

¹ Permission in Principle, updated March 2019

Reasons

Habitats development

6. Article 5B(1) of the Order states that permission in principle cannot be given for habitats development. This is defined as development (a) which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans and projects) and is not directly connected with or necessary for the management of the site; and (b) for which the competent authority has not given consent, permission or other authorisation in accordance with regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Regulations).
7. The Council considers that the appeal development would have likely significant effects on the Epping Forest Special Area of Conservation (EFSAC), which is a European site as defined in the Regulations. The EFSAC is designated for the purpose of protecting its qualifying features, which include the North Atlantic wet heaths; wet heathland with cross-leaved heath, European dry heaths; beech forests on acid soils; and its population of stag beetles. The conservation objectives are to ensure that the integrity of the site is maintained and restored, and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features.
8. The integrity of the EFSAC is under threat from atmospheric pollution and recreational pressure, which would be exacerbated by the increase in population and vehicle movements associated with the growth in population from additional housing. Consequently, because the development would lead to an uplift in the number of households in the area, it would be likely to have significant effects on the integrity of the EFSAC both alone and in-combination with other plans and projects. In this circumstance, I am required to undertake an Appropriate Assessment (AA) in accordance with my duty under the Regulations.
9. After carrying out the AA, the PPG states that permission in principle can be granted if, after taking account of mitigation measures in the AA, a decision-maker concludes the development would not adversely affect the integrity of a habitats site. However, to come to such a conclusion, I must be satisfied beyond all reasonable scientific doubt that an adverse effect on the integrity of the EFSAC would be avoided. This means that there must be certainty that the mitigation proposed would be delivered. The PPG goes on to say that it is not possible for planning obligations or conditions to be attached to a grant of permission at the permission in principle stage.
10. In this appeal, the Council considers that the proposed development would have likely significant effects on the EFSAC because of atmospheric pollution. In accordance with the Epping Forest Interim Air Pollution Mitigation Strategy (December 2020) and the Epping Forest Strategic Access Management and Monitoring (SAMM) Strategy 2021, mitigation is required. This is proposed in the form of on-site measures and financial contributions towards the strategic measures set out in these documents. It includes a tariff approach for new development that would fund mitigation measures including air pollution reduction schemes, the physical management of paths, signage, and visitor engagement campaigns. The Council indicate that the strategies were developed in communication with Natural England, and I have no reason to doubt that the

measures contained therein would be effective in mitigating the effect of the proposal on the EFSAC.

11. The appellant does not appear to dispute that the development would be required to provide this mitigation and demonstrates a willingness to enter a Unilateral Undertaking to secure this. Alternatively, the appellant suggests a planning condition to ensure that the development is not commenced until the Council has provided the necessary written approval under the Regulations. However, because there is no scope to secure obligations at this permission in principle stage, and there is no such UU or agreement before me, and I am not able to consider the use of a condition to secure mitigation, there is no effective mechanism before me through which the mitigation measures could be secured. Therefore, in carrying out this AA, I must take a precautionary approach, and I must conclude that I do not have the necessary certainty that an adverse effect on the integrity of the EFSAC would be avoided.
12. It is clearly open to the appellant to seek to rectify this issue by applying for full or outline planning permission or through the provision of an effective mechanism through which the mitigation could be secured. However, I have necessarily considered the appeal based on the information that is before me.
13. Consequently, the proposal would cause harm to the integrity of the EFSAC which would conflict with Policies DM1 and DM2 of the Epping Forest District Local Plan (2023) (EFDLP). It follows that the proposal would comprise habitats development, which precludes me from granting a permission in principle for the development proposed. For this reason, the proposal cannot succeed on the basis that it would not comply with Article 5B of the Order.
14. Although this appeal could be dismissed on this main issue alone, as indicated by the appeal decision submitted by the Council², for completeness, and because other matters are a valid part of the appeal, I have gone on to consider the other main issue.

Whether or not inappropriate development

15. The appeal site mainly comprises a mobile home, and two, low-lying, wooden-clad outbuildings which are described by the appellant as historically forming part of a smallholding. These structures stand close to an access track, at the upper part of a gently sloping, open grassy plot which is enclosed from the surrounding field by a mature hedge. Beyond to the north and west is a large field which slopes down to a brook with an expansive rural landscape beyond. Several footpaths cross this field. Adjoining the appeal site to the south are several buildings which appear to be dwellings with associated garden areas and together they comprise a cluster of built form within this relatively open agricultural landscape. The appeal proposal would demolish the structures on the site and construct two bungalows.
16. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. EFDLP Policy DM4 pre-dates the latest version of the Framework

² Appeal Ref.APP/X1545/W/21/3274431

and it does not align precisely with the 2024 revisions to national Green Belt policy. I have therefore had regard to this policy insofar as it is consistent with the Framework.

17. Paragraphs 154 and 155 of the Framework set out a number of categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. The exception in paragraph 154.g) allows for limited infilling or the partial or complete redevelopment of previously developed land provided that the development would not cause substantial harm to the openness of the Green Belt. Both the Council and the appellant consider that this exception could apply but disagree regarding the effect on the openness of the Green Belt. Consequently, I will focus my considerations on this issue. 'Substantial harm' to the openness of the Green Belt is not defined in the Framework and this, therefore, is a matter of judgement based on the circumstances of the case.
18. At this permission in principle stage, the accompanying plans provide an indication of what could be built. These suggest that the proposed dwellings, access and parking could be sited towards the access track. However, unlike the current structures on the site, the proposed built form is shown extending across the grassed area towards the centre of the site. The appellant suggests that, cumulatively, the built footprint could be reduced overall from what is currently on site, a matter not contested by the Council. However, compared to the size of the existing structures on the site, two dwellings would inevitably be significantly bigger in volume and footprint. Alongside the anticipated domestic paraphernalia, parking areas and boundary treatments, cumulatively I would anticipate a more harmful effect on openness in spatial terms, increasing the magnitude of built form and introducing buildings and other structures where there are currently none.
19. Visually, the proposed development would be to some extent screened from the surrounding open landscape by the existing mature boundaries which separate it from the larger field. However, in winter months or if the hedges were reduced in height, that screening effect would be diminished. The buildings would also be viewed alongside the existing residential development. These factors would limit the visual impact of the proposed development on the openness of the Green Belt to a degree. However, nevertheless, taking account of the anticipated height and scale of residential built form on the site, in any design iteration, the proposed development would be seen from the surrounding fields, including from the footpaths. It would clearly be seen as extending residential built form into the open countryside.
20. Ultimately, the scale of visual harm to Green Belt openness would depend upon such factors as the exact size and position of the dwellings, and garden areas. These would be matters for the technical details consent stage, but with careful design and landscaping, the visual harm to the openness of the Green Belt could be limited. Similarly, I find that the proposal would not significantly conflict with the Green Belt purpose 'to assist in safeguarding the countryside from encroachment'. Nor is there any adequate suggestion that there would be any conflict with the other Green Belt purposes identified within the Framework.
21. Drawing all this together, having regard to the existing development and its degree of dispersal on the site, I consider that the appeal proposal would be likely to have a greater spatial impact on the openness of the Green Belt but a relatively limited visual impact. Given this assessment, the development as a whole would not

amount to the high bar of causing substantial harm to the openness of the Green Belt. Therefore, I consider that it would meet the exception outlined in paragraph 154.g).

22. For the avoidance of doubt, regarding paragraph 155, Annex 2 of the Framework explains that 'greybelt' excludes land where the application of policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development. Footnote 7, specifically excludes land where the policies of the Framework relating to habitats sites would provide a strong reason for refusing the development. Therefore, the development would not comply with the exception in paragraph 155, and it is not necessary to consider the proposal against the Golden Rules.
23. As I have found that the proposal would comply with the exception outlined in paragraph 154 g) of the Framework it is not necessary for me to take into account 'other considerations'. I conclude, therefore, that the proposal would not be inappropriate development in the Green Belt and would comply with the Framework and EFDLP Policies SP5, DM4 and DM9.

Planning balance

24. Although I have found that the proposed development would not constitute inappropriate development in the Green Belt, I have concluded that it would constitute habitats development which precludes me from granting a permission in principle. Consequently, this is development for which an application for planning permission is required. Such an application would be a matter for the local planning authority in the first instance.

Conclusion

25. For the reasons given above, I conclude that the appeal should be dismissed as it does not comply with Article 5B(1) of the Order.

G Bayliss

INSPECTOR