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## Appeal Decision

Hearing held on 25 August 2015

Site visit made on 25 August 2015

**by Michael Boniface MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 September 2015**

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**Appeal Ref: APP/J1535/W/15/3033482**

**Former Haulage Yard, Sewardstone Road, Waltham Abbey, Essex, E4 7RH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by E W Davies Farms Ltd against the decision of Epping Forest District Council.
  - The application Ref EPF/1556/14, dated 26 June 2014, was refused by notice dated 19 November 2014.
  - The development proposed is demolition of all existing structures except the farmhouse and erection of up to 72 dwellings with ancillary parking, access and gardens, along with the erection of a community building.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is submitted in outline form with access to be considered. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration. I have considered the appeal on this basis.
3. During the Hearing, the appellant withdrew a number of the drawings submitted with the planning application, relying only on drawings 'Site Location Plan', 13027\_010, 13027\_101A and ITB6205-GA-002D from the original submissions. Drawings 13027\_110E, 13047\_102B and 13027\_112B accompanied the appeal documentation and were said to replace the previous drawings. All parties had the opportunity to consider the new drawings, which are in any case indicative, and I am satisfied that no party has been prejudiced. I have determined the appeal with regard to the drawings listed.

### Main Issues

4. The main issues are:
  - (a) Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and whether it would have a greater effect on the openness of the Green Belt;
  - (b) The effect on the character and appearance of the area;
  - (c) Whether the development would be suitably located in terms of access to services, facilities and sustainable modes of transport;
  - (d) The effect on local employment provision;

- (e) If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Whether inappropriate development and the effect on openness*

5. Policy GB2A of the Epping Forest District Local Plan<sup>1</sup> (LP) restricts development in the Green Belt other than for specified purposes. This approach is consistent with the National Planning Policy Framework (the Framework) but it was highlighted by the appellant that less stringent restrictions are imposed by the latter. I agree that the policy is not entirely consistent with that of the Framework and as much more recently published national policy, I attach it greater weight.
6. Paragraph 79 of the Framework makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics, those being openness and permanence. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings are to be regarded as inappropriate development, subject to a number of express exceptions outlined in paragraph 89.
7. It is agreed between the parties that the southern part of the site, which contains a series of commercial buildings, along with large areas of hard standing, would constitute a previously developed site for the purposes of the Framework. I have no reason to disagree. Paragraph 89 allows for the redevelopment of such land, whether redundant or in continuing use (excluding temporary buildings). However, this is subject to the caveat that development would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
8. According to the appellant, the proposed development would involve a combined building footprint of 3169sq.m compared to the existing combined footprint of 2539sq.m. It is also confirmed that that the combined area of hard standing and built footprint would increase on the site as a result of the development, albeit to a lesser extent. In addition to this, I was told that the proposed dwellings would extend up to 2.5 storeys in height, with ridge heights exceeding that of even the tallest building currently existing on the site. Consequently, it is clear that the volume of buildings would be much greater than the existing structures, many of which are single storey and low level.
9. Openness is epitomised by the absence of buildings and whilst the existing buildings on the site undoubtedly have an impact in this respect, the proposed increase in volume, height and massing would, in my view, result in a greater impact on openness. I also noted that parts of the site were currently void of built development, including the grassed area towards the front of the site. The indicative drawings indicate that these areas would necessarily be built over to accommodate the number of dwellings sought and this would dramatically alter the openness of these parts of the site.

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<sup>1</sup> Comprising the Epping Forest District Local Plan (1998) and Local Plan Alterations (2006)

10. The appellant suggests that the site does not perform a function as Green Belt land but the site is washed over by the Green Belt and any impact on its openness would be at odds with its essential characteristics of openness and permanence. Whilst the part of the site to be developed is not undeveloped countryside, it nevertheless contributes to the characteristics and purposes of the Green Belt.
11. I note the appellant's assertion that the development would involve reconfiguration of the built form within the site, increasing permeability and creating green fingers through the development so as to maximise views compared to the large planned buildings existing. However, these are largely matters relating to the visual impact of the development and the character of the area. The courts have established<sup>2</sup> a clear distinction between the concept of openness and visual impact and the appellant recognised this distinction during the Hearing.
12. Whilst I have had regard to the comments of the appellant that matters of openness and visual impact are interlinked and I recognise that parallel conclusions might often be reached on the two matters, this does not alter the need to make a distinct judgement on both in the overall balancing exercise required by the Framework. For the reasons set out above, the development would have a greater impact on the openness of the Green Belt and would conflict with its defined purposes, specifically to assist in safeguarding the countryside from encroachment.
13. As a consequence, the development does not fall within the exceptions outlined in the Framework and the proposal would be inappropriate development in the Green Belt, which is by definition, harmful. In accordance with paragraph 88 of the Framework, I attach substantial weight to this harm.

#### *Character and appearance*

14. The appeal is accompanied by a 'Landscape and Visual Issues relating to the Green Belt' (Landscape Appraisal) report dated May 2015. This recognises the linear form of the existing settlement and the varied landscape characteristics surrounding the site. With reference to a landscape appraisal carried out by the Council<sup>3</sup> it is concluded that the northern edge of the settlement has a low overall sensitivity in terms of both its landscape character and visual prominence. That said, it is also highlighted that the northern edge of the settlement, in the location of the site, is characterised by a soft green urban edge lined with trees, hedgerows and woodland.
15. The Lee Valley Regional Park provides a woodland backdrop beyond the site to the west, whilst the undeveloped pasture land in the northern part of the site provides a distinctly rural and verdant appearance on approach to the built-up area of the settlement. In my view, the developed part of the site offers a visual transition between these areas. The existing buildings are set well back from the public highway behind a group of trees (subject to an area Tree Preservation Order) and grassed area. The commercial buildings are rural in their appearance, owing to their largely agricultural origins. The structures are well related to one another, generally low in height and screened on the boundaries by existing landscaping. Whilst some of the buildings have large

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<sup>2</sup> Timmins v Gedling Borough Council [2014]

<sup>3</sup> Epping Forest District Council Landscape Character Assessment (2010)

- footprints, this is not uncommon for agricultural or similar rural buildings and this does not detract from the rural character of the area.
16. The proposed development would involve up to 72 dwellings which are shown indicatively to comprise a mix of house types, including detached, semi-detached and terraced properties over 2 or 2.5 storeys. Although smaller in footprint than many of the existing buildings on site, the proposed dwellings would cover a greater proportion of the site, including currently open areas. The buildings would also extend to a greater height across much of the site.
  17. The development would appear as a large residential development in the context of this rural settlement, resulting in an urbanising effect on its edge. This would be prominent from Sewardstone Road and Hawes Lane despite proposals for increased landscaping on the northern part of the site, which would take some time to mature. Furthermore, I walked the footpath along the southern boundary of the site and a further path within the Lee Valley Regional Park, shown as Viewpoint 6 in the appellants Landscape Appraisal. The site was clearly visible from the latter and whilst established landscaping on the southern boundary provided some screening, the development would remain a prominent feature in gaps and on approach from the direction of Enfield Island Village.
  18. The residential appearance of the development, its scale and visual prominence would be visually intrusive and harmful to the rural character of the area. Whilst the nature of the surrounding landscape, which is reasonably flat with field boundaries well enclosed by trees and hedgerows, would restrict long distance views of the development, it would nonetheless have significant and adverse impacts locally.
  19. I note that the development would serve to break up the massing of the existing large buildings by replacing them with buildings of a domestic scale, that views would be possible between gaps in the built form and that permeability would improved for pedestrians on to the adjacent footpath. However, these matters do not alter my overall conclusions as to the visual impacts of the proposal. The development would harm the character and appearance of the area contrary to Policies CP1, LL1 and LL2 of the LP which require that development minimise impacts on the environment, respect or enhance the character of the landscape and conserve the character and appearance of the countryside. I attach significant weight to this harm.

#### *Accessibility*

20. Sewardstone is a small rural settlement which the appellant recognises as offering limited services and facilities compared to larger settlements. However, whilst encouraging sustainable patterns of development that encourage sustainable modes of travel such as walking and cycling, the Framework recognises that the opportunities for meeting these objectives will differ between urban and rural areas.
21. The Transport Accessibility and Sustainability Report accompanying the application identifies two public houses/restaurants and a hotel within Sewardstone and in close proximity to the site which would be accessible to future residents. It is also identified that a petrol station/convenience store is located around 1000m from the site. Whilst I acknowledge this, the presence of a petrol station is unlikely to promote the use of sustainable modes of

- transport and the associated shop is likely to provide only a very limited range of goods that would not meet the day to day needs of future residents.
22. A wider range of services and facilities is available at Enfield Island Village to the west of the site and accessible via the footpath and cycle route on the southern boundary of the site. This provides a Tesco Express store, gym, library and a doctor's surgery all within around 1,100m of the site according to the appellant. This wider range of services can be seen as accessible on foot or bicycle for many people but I noted the currently unlit nature of the paths leading from the site (though a developer obligation might be used to light the route) and its rural, largely secluded nature. It is unlikely that this would be an attractive route for unaccompanied children or other vulnerable people. Furthermore, the distance involved is likely to deter many people from walking and cycling.
23. The nearest bus stop to the site is located around 60m away on Sewardstone Road. The 505 route from these stops provides a 2 hourly service to Harlow and Chingford on Mondays to Saturdays with no service on Sundays or Bank Holidays. Services towards Chingford and its railway station commence at 7.14 with the latest return journey leaving Chingford station at 18.55. This offers a realistic opportunity for commuting, and making use of rail services to London but would offer limited flexibility given the infrequency of the service. A wider range of bus routes is provided at Enfield Island Village but again, this necessitates walking or cycling to an area that feels somewhat remote to Sewardstone itself.
24. It seems to me that there are limited opportunities for those committed to using sustainable modes of travel or that rely on such means to access some services and facilities in this way. However, access to many day to day facilities such as schools, hospitals and employment centres would require a lengthy or convoluted journey. I heard from local people that the existing bus services and facilities were not adequate and that elderly or immobile people find it very difficult to meet their day to day needs. In my view, the site cannot be seen as a location for residential development on this scale that is sustainable in accessibility terms. The distances from, and options for reaching day to day services and facilities, are likely to discourage sustainable patterns of movements and would instead lead to a reliance of private cars.
25. This would be contrary to the objectives of the Framework; as well as Policies CP1, CP3, CP6 and CP9 of the LP which, amongst other things, seek to minimise the impacts of development on the environment, reduce reliance of private cars, reduce commuting, ensure access by sustainable means of transport and generally promote sustainable patterns of development. This matter weighs against the grant of planning permission and I attach it significant weight.
26. I have had regard to the Council's resolution to grant planning permission (subject to S106) for 16 dwellings at Netherhouse Farm, close to the site. However, I do not agree with the appellant that this lends support to the appeal proposal in terms of the Council's conclusions on accessibility. The Council's Committee Report, provided during the Hearing, concludes that the site is not a sustainable location for development but that other matters outweigh the harm that would result in that case. As such, the resolution does not alter my conclusions on this matter.

### *Local employment*

27. The proposal would include complete redevelopment of the site which is currently occupied by around 10 businesses and approximately 40-50 employees according to the appellant. The Council highlight the need to provide for a working countryside and facilitate local employment for people in rural areas. This approach is synonymous with the accessibility considerations set out above in that providing local employment opportunities reduces the need to travel.
28. A Commercial Viability Assessment (May 2015) accompanies the appeal documentation which involves an analysis of the existing buildings. It concludes that the predominantly former agricultural buildings are poorly suited to the commercial uses currently operating, that they do not meet modern day requirements and are reaching the end of their economic life. It highlights the availability of other commercial premises in the local area that could accommodate the relocation of displaced businesses. I also heard that existing occupiers were holding over on expired leases and that they were aware of the potential redevelopment.
29. I heard from an existing business owner occupying the site who found the existing buildings and facilities to be adequate for his business needs. Furthermore, it was suggested that the location of the unit was vital to maintaining the largely local trade that was attracted.
30. Whilst this is so, the Council was unable to offer any contrary evidence as to the commercial viability of the buildings or with respect to local employment needs in the area. Under these circumstances I can attach only limited weight to the need for retention of the employment use, particularly given the general unsuitability of the existing buildings for modern requirements. This is particularly so, given that Policy E4A specifically makes provision for the release of employment land for housing under these circumstances.
31. However, the weight that I attach to the Commercial Viability Assessment is all limited given that the site currently accommodates 10 businesses and there appeared to be no difficulty in the appellant finding occupiers for the buildings. Whilst the buildings may not meet modern requirements for many businesses, the site is clearly providing important employment opportunities for local people and contributing to a prosperous rural economy, a key objective of the Framework.
32. Overall, whilst it would be regrettable that local employment would be lost, I find no conflict with Policies CP1, CP3, CP6 and E4A of the LP, which whilst seeking to protect local employment where possible, allow for redevelopment where the site is unsuitable or uneconomic to redevelop for employment purposes. This is notwithstanding objectives to promote local employment and avoid the need to travel. Whilst I have not found a conflict with the development plan based on the evidence before me, the loss of employment cannot be considered to weigh in favour of the development and this is a neutral factor in my determination.

### *Other considerations*

33. It is agreed between the parties that the Council cannot currently demonstrate a deliverable five year supply of housing sites as required by paragraph 47 of

the Framework and that consequently there is a housing need, including for affordable housing. In the context of the need to boost significantly the supply of housing and to deliver a mix of quality house types, the provision of up to 72 dwellings, 50% of which would be affordable units, weighs significantly in favour of granting planning permission, particularly as the site involves previously developed land.

34. The appellant highlights the presumption in favour of sustainable development advocated by the Framework and suggests that the decision taking criteria set out in paragraph 14 should apply in the absence of a 5 year housing land supply and up to date policies for the supply of housing. However, footnote 9 associated with this paragraph makes it clear that land designated as Green Belt is one example of a specific policy in the Framework which indicates that development should be restricted. Given the harm to the Green Belt that I have identified, the decision taking criteria set out in paragraph 14 are not engaged.
35. I have noted the proposed provision of a community building and a large area of open space as part of the development for use by future residents and existing people in the area. However, it was accepted during the Hearing that these elements of the scheme were offered as planning obligations as a benefit to local people rather than to mitigate the impact of the proposed development. This was agreed to be the case by both parties and no evidence is before me to suggest that such facilities are needed to make the development acceptable in planning terms or that they are fairly and reasonably related to the development in scale and kind. As such, the obligations would not meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I cannot take them into account.
36. Other planning obligations are proposed and a Unilateral Undertaking was provided during the Hearing. There is no dispute between the parties that these obligations are necessary but I need only consider this matter in detail in the event that planning permission is granted.
37. A series of highway improvements are proposed as part of the development in order to facilitate safe access to the site and these would have broader safety benefits for existing users of the highway according to the Local Highway Authority. This is a benefit to which I attach significant weight.
38. I have had regard to the petition supporting the proposed development but as this does not explain the reasons for support, I can attach it only limited weight. This is particularly so as I have also received a number of detailed comments from local people objecting to the proposal.

## **Conclusion**

39. I have identified that the proposed scheme would harm the openness of the Green Belt and represent inappropriate development in the Green Belt for the purposes of the Framework. In addition, the development would harm the character and appearance of the area and would lead to a reliance on the use of private vehicles as opposed to sustainable modes of travel. I have considered the grounds presented in support of the development but together they do not outweigh the harm the scheme would cause. Consequently, the

very special circumstances necessary to justify the development have not been demonstrated. As such, I conclude that the appeal should be dismissed.

*Michael Boniface*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

Alan Simmonds	Agent
Gary Soltys	Landscape Architect
Neil Marshall	Transport Consultant
Hugh Morgan	Chartered Surveyor
Andrew Davies	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Dominic Duffin	Planning Officer
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### INTERESTED PERSONS:

Ian Barnard	Local resident
Mr Hardy	Local resident
Mr Houghton	Local resident
Mrs Houghton	Local resident
Councillor Lea	Local Councillor
Councillor Shiels	Local Councillor

## **DOCUMENTS**

Document 1	Unilateral Undertaking dated 24 August 2015
Document 2	Timetable for bus route 505
Document 3	Appellant's floor area calculations and comparisons
Document 4	Landscape Strategy Plan (1:500 @ A1 copy)
Document 5	Committee Report relating to proposal at Netherhouse Farm
Document 6	Updated Personal Accident Injury Data