



## Appeal Decision

Site visit made on 8 May 2019

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 June 2019**

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**Appeal Ref: APP/J1535/W/19/3220256**

**Site adjacent Great Notts, Ongar, Essex CM5 0LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mrs Shirley Bates against Epping Forest District Council.
  - The application Ref EPF/0904/18, is dated 27 March 2018.
  - The development proposed is conversion of existing barn to form a single detached residential unit, retaining existing access and on-site car parking.
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### Decision

1. The appeal is dismissed and planning permission is refused

### Procedural Matters

2. The appeal form states that this is an appeal against conditions. However, there is no decision notice before me and other evidence suggests that a decision notice was not issued. It is therefore an appeal for non-determination and this is the basis upon which I have determined the appeal. I have identified my main issues having reviewed the evidence from the main parties and other representations.
3. The Council has confirmed that the Epping Forest Local Plan Submission Version 2017 (the EFLPSV) was submitted for examination in September 2018 and that examination hearings commenced in February 2019. Although I understand that the examination process is yet to conclude, where the content of relevant policies has been substantiated in the evidence before me, I have given them limited weight in my consideration of this appeal. This is because their content may yet change prior to being formally adopted.

### Main Issues

4. The main issues are:
  - Whether or not the proposal is inappropriate development in the Green Belt, having regard to the revised Framework policies and any relevant development plan policies; and,
  - Whether the proposals would accord with local policies, national guidance and legislation with regard to the Epping Forest Special Area of Conservation (the SAC).

## Reasons

### *Whether or not inappropriate development*

5. The revised National Planning Policy Framework (the revised Framework) (February 2019) sets out, under paragraph 146, that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One of these forms of development is the re-use of buildings provided that the buildings are of permanent and substantial construction. In addition, the revised Framework sets out, under paragraph 145, that the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building, should not be regarded as inappropriate (irrespective of any associated effect on openness).
6. In this instance I am satisfied that the proposal would represent the re-use of a permanent and substantial building and that the alterations proposed to the building as part of its conversion would not result in disproportionate additions to it. I must therefore consider, in accordance with the provisions of paragraph 146 of the revised Framework, whether the proposed re-use of the building would preserve the Green Belt's openness.
7. A residential use of the building would generate vehicle movements, associated parking requirements and the introduction of residential paraphernalia to its immediate surroundings. It was however apparent from inspection that there is existing paraphernalia related to the building's existing use (including various materials, tools and other equipment) stored externally and alongside the building. Whilst my single visit to the site cannot be relied upon to give an accurate account of precisely how the building and its immediate surroundings are used on a day-to-day basis, I consider that the extent of external paraphernalia that would realistically be expected to be generated by the proposed conversion would not noticeably exceed the extent of external storage (albeit not domestic in character) generated by the building's existing use, such that a loss of openness would not be caused.
8. I am also content that the proposed re-use of the building would not generate a noticeable increase in traffic movements or parked vehicles such that openness would be compromised. Indeed, it is reasonable to assume that the building, used in its current agricultural capacity, would generate vehicle movements and lead to the parking of vehicles on the site. I am thus content that the proposal would preserve the Green Belt's openness and would not conflict with the purposes of including land within it.
9. For the above reasons, the proposal would not be inappropriate development in the Green Belt and it would accord with revised Framework policies.

### *Special Area of Conservation*

10. The site lies in the proximity of the Epping Forest Special Area of Conservation (the SAC) and therefore the requirements of The Conservation of Habitats and Species Regulations 2017 apply (the Regulations). These regulations require that I, as the competent authority, must ensure that there are no significant effects from the proposed development (either alone or in-combination with other projects) that would adversely affect the integrity of the SAC.

11. The SAC is comprised of various habitats of high nature conservation value and supports a nationally outstanding assemblage of invertebrates, major amphibian interest and an exceptional breeding bird community.
12. Interim advice to the Council from Natural England (NE) identifies in-combination recreational and air pollution impacts as areas of specific concern that would threaten the various habitats and important species contained within the SAC. Potential harm to the SAC from residential development is considered to include recreational trips by future occupiers and associated disturbance to fauna, the trampling and wearing of vegetation and eutrophication from dog fouling. This application, however, falls outside the NE's Zone of Influence (ZOI) with respect to recreational impact.
13. The Council's interim approach to managing recreational pressures requires, inside the ZOI, a contribution of £352 per new dwelling to contribute to mitigation in respect of recreational impacts. I am satisfied that such a contribution would not be required in this instance because the proposal does not fall within the ZOI and would thus not be anticipated to have a recreational impact on the SAC.
14. However, with respect to air pollution impacts, NE advises that for 'minor development', likely significant effects and adverse effects on the integrity of the SAC cannot be ruled out. There is no ZOI, and NE advises that all residential and employment proposals within the Epping Forest District are likely to have an air pollution impact on the SAC. Applications are therefore subject to a Habitat Regulations Assessment (HRA).
15. The appeal site has a close geographical relationship with the SAC, and there is a fairly direct road link. Whilst only a single dwelling is proposed, it is highly likely to generate additional traffic and associated air pollution in the proximity of the SAC. This could have detrimental effects upon the high value habitats. Taking a precautionary approach, I conclude that additional air pollution would be detrimental to the integrity of the SAC.
16. The Council has confirmed that to date, there is no mechanism in place to offset the potential impact of a development proposal from air pollution through contributions. Nor is there anything before me to indicate that the development would not contribute to additional air pollution or to suggest alternative means of mitigation. In the light of the above I conclude that the development would have an adverse effect on the integrity of the SAC and given the statutory weight attached to the Regulations, I give this significant weight.
17. I acknowledge that evidence suggests that the appellant would contribute £250 towards mitigation. It is however unclear how this level of contribution has been calculated and what precise scheme of mitigation it would be put towards. Even if I considered that £250 was sufficient to provide adequate mitigation for air pollution impacts arising from the development, there is no completed obligation before me.
18. I appreciate that the Planning Inspectorate has indicated that an Environmental Impact Assessment would not be required. However, this does not alter the position with regard to the SAC. Indeed, the NE is clear in its interim advice that minor developments, due to the in-combination impacts they will have upon the SAC, should be considered as being complex in this context.

19. For the above reasons, I cannot be satisfied that the proposal would not adversely affect the integrity of the SAC. The proposal would fail to accord with local policies, national guidance and legislation with regard to the SAC. The proposal also conflicts with Policy NC1 (Sites of Special Scientific Interest (SSSIs)) of the Epping Forest District Local Plan (January 1998) and with paragraphs 170, 175 and 176 of the revised Framework in so far as these policies require that the UK's international obligations for those SSSIs designated or proposed as Special Protection Areas or Special Areas of Conservation will be complied with.

### **Other Matters**

20. Third parties to this appeal have noted that the existing barn was originally intended to be used for agricultural purposes and consider that an unfortunate precedent would be set by granting planning permission for its conversion here. I am also aware that previous planning applications to convert the barn were refused. I am however content that the proposal would represent the re-use of a permanent building such that it would be eligible to be considered not inappropriate in the Green Belt. This is irrespective of whether or not the proposed conversion would be essential to oversee or manage adjacent campsite activities. For the avoidance of doubt, I have considered the proposal against the provisions of the revised Framework.

21. I acknowledge that a third party to this appeal has raised various matters, including with respect to highway safety. As I have found the development unacceptable for other reasons however, it is not necessary for me to consider these matters further.

### **Conclusion**

22. Whilst I have found that the proposal would not be inappropriate development in the Green Belt, I cannot be satisfied that the conversion would not adversely affect the integrity of the SAC. That is the overriding consideration.

23. For the reasons set out above, the appeal is dismissed.

*Andrew Smith*

INSPECTOR