

Report to District Development Management Committee



Report Reference: **EPF/0897/20**
Date of meeting: **16 September 2020**

**Epping Forest
District Council**

Address: Land at Benton's Farm, Middle Street, Bumbles Green, Nazeing, EN9 2LN

Subject: Development of 1 no. two storey, four bedroom detached residential dwelling house together with double garage. Utilising existing access from Oak Tree Close.

Responsible Officer: Sukhi Dhadwar (01992 564597)

Committee Secretary: Gary Woodhall (01992 564470)

Recommendation:

That planning permission be **GRANTED** subject to the prior completion of a s106 obligation to secure the following:

- 1) No objections being raised by Natural England, and
- 2) subject to the completion of:
 - (a) An Electric charging point for electric vehicles
 - (b) Resources relevant to the use of passenger transport and cycling/walking (e.g. Travel Plans, provision of travel packs and introductory tickets for use on public transport, cycle parking,)
 - (c) The new home to have the ability to connect to high speed broadband.
 - (d) Appropriate mitigation of air pollution from the development to the Epping Forest SAC.

In the event that the required s106 obligation is not satisfactorily completed then the Assistant Director (Development Management) is authorised to refuse planning permission for appropriate reasons.

And the following conditions: -

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed and retained strictly in accordance with the approved drawings numbers:

HD20010 100 B, HD20010 101, HD20010 102 B, B, HD20010 103 B, HD20010 104, HD20010 105, HD20010 106 A, HD20010 107, Arboricultural Report Phase 2 Rev 1 and Tree Protection Plan 15th May 2020 by Andrew Day Associates, Surface water storage requirements for sites by HR Wallingford, SuDS Management Plan, Phase 1 and Phase II Geo-Environmental Investigation by Land

- 3 Samples of the types and colours of the external finishes shall be submitted to and approved by the Local Planning Authority in writing prior to their use on site. The development shall be implemented in accordance with such approved details. For the purposes of this condition, the samples shall only be made available for inspection by the Local Planning Authority at the planning application site itself.
- 4 The development permitted by this planning permission shall be carried out in accordance with the detailed drainage plan (HD20010 101, Revision B April 2020 unless otherwise agreed in writing with the Local Planning Authority.
- 5 Tree protection shall be implemented prior to the commencement of development activities (including demolition), and the methodology for development (including supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be installed as shown on Andrew Day Arboricultural Consultancy Ltd 'Tree Protection Plan' dated 15th May 2020.
- 6 Tree protection shall be implemented prior to the commencement of development activities (including demolition), and the methodology for development (including supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports unless the Local Planning Authority gives its prior written approval to any alterations.
Tree protection shall be installed as shown on Andrew Day Arboricultural Consultancy Ltd 'Tree Protection Plan' dated 15th May 2020.
- 7 Prior to any above ground works, full details of soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The soft landscaping to rear boundaries of the site shall consist of a planting strip of a minimum width of 3metres with garden fences on the inside edge. The landscaping shall consist of trees / hedges of native species. If any plant dies, becomes diseased or fails to thrive within a period of 5 years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand in writing.
- 8 No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning

authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

- 9 Following completion of the measures identified in the approved remediation scheme, and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 10 In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the Phase 2 report, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 11 Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
- 12 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Class A-E of Part 1 of Schedule 2 to the Order shall be

undertaken without the prior written permission of the Local Planning Authority.

- 14 Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point shall be installed and retained thereafter for use by the occupants of the site.
- 15 Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

This application is before this Committee since the Area Plans Sub-Committee West's proposed decision is a substantial departure from the development or other approved plan for the area; (Pursuant to Article 10 of The Constitution).

This application carried an officer recommendation to refuse planning permission when reported to the Area Planning Sub-Committee West at their meeting held on 12 August 2020 for the following reasons:

- 1 The proposal constitutes inappropriate development in the Green Belt, for which there are no very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt and therefore the proposal is contrary to policies GB2A and GB7A of the Adopted Local Plan and Alterations, DM4 of the Submission Version Local Plan and with the objectives of the National Planning Policy Framework.
- 2 The proposed dwelling is significantly recessed from the public carriageway which introduces an inappropriate pattern of development, in stark contrast to the prevailing character of the Conservation Area. The pattern of development is an important aspect of the Conservation Area and the proposal fails to preserve or enhance this pattern. Furthermore, the grain of development would extend a cul-de-sac, which is suburban in character, into a rural hamlet setting. The suburban character of the development would be reinforced by the repetitive design of the proposed new dwelling, mirroring the ones previously granted. The proposal is therefore contrary to policies HC6 and HC7 of the Adopted Local Plan and Alterations, DM 7 of the Submission Version Local Plan and with the objectives of the National Planning Policy Framework
- 3 The application does not provide sufficient information to satisfy the Council, as competent authority, that the development has not adversely affected the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM2 and DM22 of the Submission Version Local Plan 2017 and the requirements of the Habitats Regulations 2017.

Members voted against this recommendation (6 against the refusal and 4 for the refusal). Cllr Avey instead put forward a motion that planning permission for the proposal should be granted subject to the same conditions as those imposed on EPF/0292/17 and other standard conditions usually imposed on this type of application (this list should include the requirement made by Cllr Sartin for details to be submitted and approved of a landscaping scheme prior to the implementation of any permission.) The motion was subsequently seconded by Cllr Bassett. Members voted in favour of this motion by 7 votes (2 abstained 1 against).

Original Report

This application is before this Committee since it has been 'called in' by Councillor Avey (*Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council*).

Description of site

The application site is located on the northern side of Middle Street which is within the settlement of Nazeing. The site has a roughly rectangular shape and measures 0.19 hectares. The site is currently covered in vegetation. Adjoining the western boundary is a cul-de sac of 4 houses approved under reference EPF/0292/17. To the north are open fields, to the east are commercial uses and to the south is a telephone exchange building and workshop.

The application site is also located within the boundaries of the Nazeing and South Roydon Conservation Area and Metropolitan Green Belt.

Description of proposal

Permission is sought for the development of 1 no. two storey four bedroom detached residential dwelling house together with a double garage. Access will be from the existing access at Oak Tree Close.

Relevant History

Planning permission was granted under reference EPF/0292/17 for the construction of 4 no. detached four-bedroom residential dwellings. This permission is west of the application site on land owned by the applicant.

Planning permission was refused under reference EPF/0510/19 for an extension to four residential dwellings on an adjoining site. Infill comprising of x 2 no. four bedroom residential dwellings on the grounds that: -

- (1) The proposal constitutes inappropriate development in the Green Belt, for which there are no very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt and therefore the proposal is contrary to policies GB2A and GB7A of the Adopted Local Plan and Alterations, DM4 of the Submission Version Local Plan and with the objectives of the National Planning Policy Framework.
- (2) The proposed dwellings are significantly recessed from the public carriageway which introduces an inappropriate pattern of development, in stark contrast to the prevailing character of the Conservation Area. The pattern of development is an important aspect of the Conservation Area and the proposal fails to preserve or enhance this pattern. Furthermore, the grain of development would introduce a cul-de-sac, which is suburban in character, into a rural hamlet setting. The suburban character of the development would be reinforced by the repetitive design of the proposed new dwellings, mirroring the ones previously granted. The proposal is therefore contrary to policies HC6 and HC7 of the Adopted Local Plan and Alterations, DM 7 of the

Submission Version Local Plan and with the objectives of the National Planning Policy Framework.

An appeal on this application was later dismissed on the same grounds. (A copy of the decision notice is attached to the bottom of this report.)

Policies Applied

CP1 – Achieving sustainable development objectives

CP2 – Protecting the quality of the rural and built environment

CP7- Quality of development

DBE10 – Design

DBE9 – Residential amenity

GB2A – Development in the Green Belt

GB7A – Conspicuous Development

HC6 – Character, appearance and setting of Conservation Areas

HC7 – Development within Conservation Areas

RP4A – Contaminated Land

RP5A – Adverse Environmental Impacts

DBE1 – Design of New Buildings

DBE2 – Effect on neighbouring properties

DBE4 – Design in the Green Belt

DBE9 – Loss of Amenity

ST4 – Road Safety

ST6 – Vehicle Parking

NC1 - SPAs, SACs and SSSIs

NC3 - Replacement of Lost Habitat

NC4 - Protection of established Habitat

NC5 – promotion of Nature Conservation Schemes

The National Planning Policy Framework

The revised National Planning Policy Framework (NPPF) has been adopted as national policy since February 2019. Paragraph 213 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

Epping Forest District Local Plan (Submission Version) 2017:

The Epping Forest Local Plan Submission Version 2017 was submitted for independent examination in September 2018. Accordingly, it can be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 provides that decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

In general terms it is considered that the Submission Version of the Plan is at an advanced stage of preparation and the policies are considered to be consistent with the NPPF. As regards unresolved objections, some policies within the Submission Version have more unresolved objections than others. All of these factors have been taken into consideration in arriving at the weight accorded to each of the relevant policies in the context of the proposed development listed below:

SP1 - Presumption in Favour of Sustainable Development

SP6 - Green Belt and District Open Land

H1 - Housing Mix and Accommodation Types

T1 - Sustainable Transport Choices

DM1 - Habitat Protection and Improving Biodiversity

DM2 - Epping Forest SAC and the Lee Valley SPA

DM3 - Landscape Character, Ancient Landscapes and Geodiversity

DM4 - Green Belt

DM5 - Green and Blue Infrastructure

DM7 - Heritage Assets

DM9 - High Quality Design

DM10 - Housing Design and Quality

DM11 - Waste Recycling Facilities on New Development

DM15 - Managing and Reducing Flood Risk

DM16 - Sustainable Drainage Systems

DM17 - Protecting and Enhancing Watercourses and Flood Defences

DM19 - Sustainable Water Use

DM20 - Low Carbon and Renewable Energy

DM21 - Local Environmental Impacts, Pollution and Land Contamination

DM22 - Air Quality

Number of neighbours consulted: 26

Site notice posted: Yes

Responses received:

20 Long Green, 1 email: No objection

The Lodge Benton's Farm, Bumbles Green Farm 1 email: Support Applicants building behind the telephone exchange so previous reasons for refusal no longer apply.

NAZEING PARISH COUNCIL – NO OBJECTION and that the Council supports the application and considers that it should be considered by Area Plan West Committee and not dealt with by the officers under delegated powers. The Council supports the application because

- i. The application reduces the scale of the development from two dwellings to one dwelling, which limits it to a small-scale development.
- ii. The house is positioned at the end of the cul-de-sac so it does not seek to extend it.
- iii. The position of the proposed dwelling means that it does not affect the views of the open countryside.
- iv. There have been no objections from immediate neighbours of the proposed development.

Main considerations

The main issues to consider when assessing this application are the potential impacts on the Green Belt, the character and appearance of the Conservation Area, integrity of the Epping Forest Special Area of Conservation, the living conditions of neighbours. highway issues, land drainage considerations and contaminated land.

Green Belt

Government Guidance states that new development within the Green Belt is inappropriate unless it falls within the list of exceptions set out in paragraphs 145 and 146 of the National Planning Policy Framework (NPPF). And provided it does not harm the openness of the Green Belt or conflict with the five purposes of including land within it than the existing development.

Local Policy GB2A is broadly in compliance with the aims and objectives of national Green Belt Policy. The NPPF states that one of the exceptions to inappropriate development within the Green Belt is the limited infilling or partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

The first justification for the application is that it is in accordance with paragraph 145(e) 'limited infill within a village.

The case officer dealing with the previous application approved at West Area Planning Committee under reference EPF/0292/17 was satisfied that the site falls within a village.

The second limb of this exception is whether the proposal constitutes 'limited infilling'.

Once the site is considered to fall within a village, the next stage of this exception to inappropriate development is whether the proposal can be considered to constitute 'limited infilling'. (This view is supported by the overturned officer recommendation under reference EPF/0292/17)

Policy DM4 of the SVLP defines limited infilling as

"The development of a small gap in an otherwise continuous built up frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. Limited infilling should be appropriate to the scale of the locality and not have an adverse impact on the character of the countryside or the local environment."

The proposal will extend the cul-de-sac to an area of land which is not bound by built development but is instead currently open. It would also create an additional row of development behind the existing the single line of development fronting Middle Street.

It would therefore not be filling in a gap but would instead further extend the suburban cul-de-sac development beyond the linear ribbon development along Middle Street. It is therefore considered to be a backland development and not an infill development and as a result will further encroach built development and associated household paraphernalia into the open countryside. This is urban sprawl. The fundamental purpose of Green Belt policy is to prevent urban sprawl.

When assessing the impact of the proposal on openness, the NPPG on Green Belt advises that openness is capable of having both spatial and visual aspects. This means what impact the proposal will have on the visual amenity of this location in the Green Belt and its general volume. Volume relates to the proposal's presence, irrespective of whether this volume can be seen or not.

The size, bulk and presence of the two storey, 4 bedroom detached dwelling will block public long views between and above the part single storey telephone building of the fields further north of the site from the street scene as well as harm public views looking south towards the garage and house on the site from the public right of way to the north of the site. It is for these reasons considered that the proposed development will encroach on the countryside and rural setting of this location. It is therefore considered that the proposal is not an infill development and as such is inappropriate development which is contrary to the requirements of policies GB2A and GB7A of the Adopted Local Plan, and DM 4 of the Submission Version Plan.

Conservation Area Issues

S72(1) of the Planning and Listed Building and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

In determining planning applications, the Council is required by the NPPF to consider the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF requires that “When considering the impact of a proposal on the significance of the designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater weight should be given to its conservation. Significance can be harmed or lost through (inter alia) development within its setting”.

Paragraph 194 of the NPPF requires where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

The proposal was reviewed by the Conservation Officer who made the following comments:

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“The site stands within the Nazeing and South Roydon Conservation Area; a wide area designated to protect the surviving historic landscape and patterns of settlement, which includes the medieval 'long green' settlements of Middle Street. Although development within this part of the conservation area was rapid in the 20th century, until then, Middle Street consisted of only a handful of properties. Development in the 20th century has predominantly been linear and is characterised by detached properties occupying large plots which front the highway.

In 2017, a planning application (EPF/0292/17) was submitted for the erection of 4 no. detached four-bedroom residential dwellings on a similar and adjacent site at Benton’s Farm. The application was recommended for refusal by officers, but permission was granted at the Area Plan West Committee. The Conservation Team objected to this application as we believed that the general principle of the development would harm the significance of this part of the conservation area which largely derives from open landscape and historic pattern

of development. Significantly recessed from the highway it has been considered that the new dwellings would introduce an inappropriate pattern of development with a proposed building line greatly deviating from the existing. We also believed that such development would result in unnecessary and harmful encroachment of unbuilt land.

Early in 2019 an application for the erection of two more dwellings, ref. EPF/0510/19, on the adjoining site, to the east has been refused for the same reasons that were previously raised. In addition, the proposal was found to go even more against the grain of development as it would introduce a cul-de-sac, which is suburban in character, into a rural hamlet setting. In this well-established rural context, detached properties, such as proposed, should sit within a large plot. An appeal was lodged and dismissed in October 2019.

In his report the Inspector states that:

“I find the significance of this part of the CA largely derives from its open landscape and historic pattern of development which goes on to cover the majority of the CA.

While I accept that a development within the CA should not be considered unacceptable in principle, it is essential that great weight is given to assets conservation as stated at paragraph 193 of the Framework. In this instance, although development exists surrounding it, the appeal site nonetheless contributes towards the open landscape that is an important and fundamental character of the CA. The introduction of built development would suburbanise the site, thereby further eroding the open character of the CA.

Moreover, the siting of the dwellings behind existing frontage development would result in a discordant form of development that would be out of keeping with the prevailing character of the area, resulting in additional harm to the CA.”

The current application is for the erection of one detached four beds dwelling with associated garage in place of the refused two detached dwellings. Given that the context is identical, the reasons for refusal given in references to previously submitted schemes are still considered to be relevant. The proposed scheme raises the same concerns as it will cause the same level of harm to the character and appearance of the conservation area. This was well expressed in reports by the LPA officers and the Inspector.

I still believe that the general principle of the development would harm the significance of this part of the conservation area and fail to preserve or enhance it. This application is, therefore, recommended to be REFUSED as it is contrary to policies HC6 and HC7 of our Local Plan and Alterations (1998 and 2006), policy DM7 and DM9 of our Submission Version Local Plan (2017), and paragraphs 189, 190, 194, 196 and 201 of the NPPF (2019).”

Living conditions of neighbours

The new dwelling relates well to each other and will provide a good standard of accommodation. They are set well away from existing neighbours and therefore it is not considered that there will be any harm to the living conditions of neighbours. The proposal therefore complies with the requirements of policy DBE 9 of the Local Plan.

Epping Forest Special Area of Conservation

Biodiversity features within, or associated with, a Special Area of Conservation enjoy a high level of protection under UK and EU law, and national planning policy in England. The provisions of the EU Habitats Directive are given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations").

Under the Habitats Regulations, the Epping Forest SAC is classified as a 'European Site' and, as such, any plans and projects (including applications for planning permission) that are likely, either alone or in combination with other plans or projects, to have a significant effect on the SAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any development plan or proposal, either alone or in combination, will not harm the integrity of the European Site.

The Council has a legal duty as the 'competent authority' under the Habitats Regulations to protect the Epping Forest SAC from the effects of development (both individually and in combination). Two specific issues relating to new development within the District have been identified as being likely to have a significant effect on the integrity of the Epping Forest SAC. Firstly, the increased levels of visitors using the Forest for recreation arising from new development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Forest, including trees and potentially the heathland habitats, from air pollution generated by increased motor vehicle usage (referred to as "air quality").

As regards visitor numbers, the adopted Interim Mitigation Strategy identifies that any additional residential development located within 3km of the Epping Forest SAC would be likely to have a significant effect when considered alone or in combination with other plans / projects. The application site is located more than 3km from the Epping Forest SAC.

As regards air quality, all proposals that result in additional residential development and / or employment development within the entire District would be likely to have an impact on the Epping Forest SAC when considered alone or in combination with other plans / projects.

Policy DM 22 of the LPSV provides the policy context for dealing with the effect of development on the integrity of the Epping Forest SAC outlined above.

Policy DM 22 requires:

Larger proposals, or those that have potential to produce air pollution, to undertake an air quality assessment that identifies the potential impact of the development, together with, where appropriate, contributions towards air quality monitoring. Assessments shall identify mitigation that will address any deterioration in air quality as a result of the development, having taken into account other permitted developments, and these measures shall be incorporated into the development proposals. This will include an assessment of emissions (including from traffic generation) and calculation of the cost of the development to the environment. All assessments for air quality shall be undertaken by competent persons.

This policy applies to development of all types and all locations as they all have the potential to result in increased traffic generation which would put pressure on the roads through the Epping Forest.

The Council commissioned a Habitats Regulations Assessment (January 2019) of the LPSV ("the 2019 HRA"), produced by AECOM, which has been published on the Council Local Plan Examination website. The 2019 HRA includes an Appropriate Assessment of the planned development within the LPSV and the effect of that development on the Epping Forest SAC.

The 2019 HRA concluded that, subject to securing the urbanisation/recreational pressure and air quality mitigation measures to which the Council, the adoption of the Local Plan will have no adverse effect on the Epping Forest SAC.

However, following their review of the 2019 HRA, Natural England maintained their objection to the Local Plan, citing a number of specific concerns about the HRA which were considered at the examination hearing held on 21 May 2019. With the assistance of its expert consultants and professional advisors, the Council robustly defended the LPSV and the 2019 HRA at the examination hearings.

Following completion of the examination hearings on 11 June 2019, in a letter dated 2 August 2019, the Local Plan Inspector provided the Council with advice concerning the changes to the Plan required to remedy issues of soundness in the form of Main Modifications ("MMs"). The Inspector's conclusion at this stage is that further MMs are required and that in some cases, additional work will need to be done by the Council to establish their precise form.

In her advice, the Inspector recorded that the 2019 HRA included an AA of the Plan's implications for the SAC, which concluded for both pathways of impact that, with mitigation, the Plan would not have an adverse effect on the integrity of the SAC, either alone or in combination with other plans or projects. At paragraph 13, the Inspector said:

"13. However, in their written representations and at the hearing itself, both Natural England and the Conservators of Epping Forest (the Conservators) strongly challenged the robustness of the HRA in terms of its methodology and conclusions. Given the uniqueness of the Forest, its high-risk status and the professed engagement between these key representors and the Council, the dispute at this stage seems most unfortunate. Nevertheless, I cannot conclude beyond reasonable scientific doubt (as the parties all agree that I must) that the Plan will not adversely affect the integrity of the SAC until steps have been taken towards resolving it."

The Local Plan Inspector has identified a number of actions which she considers necessary for the Council to take to remedy the areas of concern with the 2019 arising from Natural England and the Conservators objections

Air Quality

As regards air quality, there is currently no such agreed approach; however, the Council and other partner organisations continue to work together to identify an air quality mitigation strategy that is acceptable to Natural England, taking into account the Local Plan Inspector's advice. In the absence of such a strategy, all proposals that result in net additional

residential development and / or employment development within the entire District must be considered to be likely to have an impact on the Epping Forest SAC when considered alone or in combination with other plans or projects.

As a consequence, and in light of the Local Plan Inspector's interim advice, the Council, as competent authority, **cannot lawfully grant planning permission** for any development proposals within the District that are likely to have an air pollution impact on the Epping Forest SAC, save where a site specific AA demonstrates that the granting permission will not have such an effect in respect of air quality.

In this circumstance, paragraph 177 and para 11(d) (i) requires that the tilted balance towards the presumption in favour of sustainable development does not apply and instead this development should be restricted.

Trees and Landscaping

The site is within the Conservation Area and therefore all trees are afforded legal protection. The Tree and Landscape officer is satisfied that given the position of the dwelling there will be no in principle harm to the proposal, subject to conditions.

Highway considerations

The access has good visibility onto Middle Street and has appropriate geometry for the development. Consequently, there will be no detriment to the highway's safety or efficiency at this location.

Land Drainage

The development is of a size where it is necessary to avoid generating run off and therefore a Flood Risk Assessment is required. Details of foul and surface water drainage will also be required, and these elements can be secured through the use of planning conditions.

Land Contamination

Potential land contamination risks are likely to be low; it should not be necessary for these risks to be regulated under the Planning Regime by way of standard conditions. It is the responsibility of the developer to ensure the safe development of the site (including the appropriate disposal of any asbestos within the existing building & hardstanding) and the addition of a single condition requiring the developer to stop development, contact the Local Planning Authority and carry out any necessary agreed investigation and remediation works if significant contamination is encountered should suffice.

Conclusion

No appropriate assessment has been submitted to demonstrate that the proposal will not have an adverse impact on the integrity (either alone or in combination) of the Epping Forest Special Area of Conservation.

The changes made to this proposal compared with the previously refused scheme under reference EPF/0510/19 are insufficient to overcome the in-principle objections. It still

constitutes inappropriate development in the Green Belt, as it cannot be considered as limited infilling for the reasons listed above, and there are no very special circumstances sufficient to outweigh this and any other harm from the development. In addition, due to the uncharacteristic positioning of the dwelling and elements of its detailed design it will also cause undue harm to the character and appearance of the Conservation Area and therefore it is recommended that planning permission be refused.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

Planning Application Case Officer: Sukhi Dhadwar

Direct Line Telephone Number: 01992 564597

or if no direct contact can be made please email:

contactplanning@eppingforestdc.gov.uk



Appeal Decision

Site visit made on 24 September 2019

by **Graham Wyatt BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/J1535/W/19/3232917

Land at Bentons Farm, Middle Street, Bumbles Green, Nazeing EN9 2LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by R & V Bray against the decision of Epping Forest District Council.
 - The application Ref EPF/0510/19, dated 20 February 2019, was refused by notice dated 2 May 2019
 - The development proposed is described as "The development is proposed as an extension of a recently constructed plot of four residential dwellings on an adjoining site. The limited infill will comprise of 2 four bedroom residential dwellings, utilising the existing access and retaining the character and form of the existing dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council refer to policies within the Epping Forest Local Plan Submission Version 2017 (the LPSV) which was submitted for examination in September 2018 but has yet to be formally adopted. Thus, while it forms a material consideration, I afford it limited weight in this appeal.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the development would conserve or enhance the character or appearance of the Nazeing and South Roydon Conservation Area; and
 - if the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is a roughly square parcel of land that is currently laid to grass and lies within the Metropolitan Green Belt. The Framework states that inappropriate

development is harmful to the Green Belt and should not be approved except in very special circumstances.

5. Policy GB2A of the Epping Forest District Council Local Plan 1998 (the Local Plan) deals with exceptions where new buildings would not be inappropriate development within the Green Belt. Policy GB7A also seeks to restrict conspicuous development in the Green Belt that should not have an excessive adverse impact on the openness, rural character or visual amenities of the Green Belt.
6. However, in considering the construction of new buildings that are inappropriate development within the Green Belt, exceptions to this are at paragraph 145) of the Framework and includes limited infilling at paragraph 145 e) which is not reflected in Policy GB2A or GB7A of the Local Plan. Thus, these policies are not entirely consistent with the Framework and having regard to paragraph 213 of the Framework, in this particular instance, I afford them limited weight. Policy DM4 of the LPSV aligns more closely with the Framework, but as noted above, I only afford this limited weight. I have therefore considered this issue in relation to Section 13 of the Framework.
7. The appellant leans towards paragraph 145 e) of the Framework which states that limited infilling in villages need not be inappropriate development within the Green Belt. The Framework does not define what is considered to represent 'limited' or 'infilling' in villages' and the Council's policies within the Local Plan are of no assistance either. The Council agree that the site is within a 'village' and satisfies this particular element of paragraph 145 e). Given the location of the site in respect to surrounding development, I have no reason to disagree with that assessment.
8. In considering whether the development could be considered limited infilling or not, I find it a reasonable approach to rely on the definition that it would constitute a small-scale development that fills a gap in an otherwise built-up frontage. This would concur with the definition that the appellant has provided from paragraph 4.34 of the LPSV, which states that infilling is defined as the development of a small gap in an otherwise continuous frontage and includes infilling of small gaps within built development.
9. Firstly, one has to consider whether the development can be considered to be limited. It is clear that the site is not a small gap in that it is capable of accommodating two, four bedroom detached dwellings, separated by some 5m, and a detached double garage building. Additionally, neither can the development of two, four bedroom dwellings be regarded as small-scale. Consequently, the development cannot be considered to be 'limited'. Secondly, notwithstanding that the site to the west contains four recently erected dwellings and to the east the site has planning permission to extend and erect a workshop, the appeal site is not part of a continuous frontage development being set behind Nazeing Telephone Exchange and the commercial workshop building, in contrast to the recent development of four dwellings at Oak Tree Close which are not set behind frontage buildings. Accordingly, the proposal does not constitute limited infilling and thus is inappropriate development within the Green Belt, contrary to Section 13 of the Framework.

Openness

10. Paragraph 133 of the Framework tells us that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that openness is an essential characteristic of the Green Belt. The appeal site is currently undeveloped and the erection of two large dwellings and double garage

on the land, where no development currently exists, would inevitably mean that there would be a reduction to openness. This harm would be clearly visible through the gap between Nazeing Telephone Exchange and the commercial workshop and from the recent development on Oak Tree Close.

11. Thus, the development would erode the openness of the Green Belt and would be contrary to one of its purposes which is to safeguard the countryside from encroachment.

Nazeing and South Roydon Conservation Area (CA)

12. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
13. I find the CA to display an open and loose knit character that is reinforced by the open layout of development along Middle Street and is complemented and softened by the presence of mature landscaping. Although development towards the centre of the village is more closely knit, it nonetheless displays a degree of openness as a result of spacing about and between dwellings that is reinforced by the open character of the surrounding countryside. I find the significance of this part of the CA largely derives from its open landscape and historic pattern of development which goes on to cover the majority of the CA.
14. While I accept that a development within the CA should not be considered unacceptable in principle, it is essential that great weight is given to an asset's conservation as stated at paragraph 193 of the Framework. In this instance, although development exists surrounding it, the appeal site nonetheless contributes towards the open landscape that is an important and fundamental character of the CA. The introduction of built development would suburbanise the site, thereby further eroding the open character of the CA. Moreover, the siting of the dwellings behind existing frontage development would result in a discordant form of development that would be out of keeping with the prevailing character of the area, resulting in additional harm to the CA.
15. While I accept that a cul-de-sac development in itself would not be harmful, the suburbanisation of the site would neither preserve or enhance the CA and the significance that is derived from the open landscape. This harm would be clearly visible from surrounding properties, including those that have recently been constructed along Oak Tree Close. Additionally, from the submitted plans although unit five would be sited effectively behind the telephone exchange, the gap between it and the commercial building allows oblique views of the countryside beyond. Therefore, I am not persuaded that the development would not also affect long views of the fields beyond the appeal site, further harming the character of the CA.
16. Given the size of the CA and as the proposed development would only result in harm to part of the significance of the heritage asset, I find it to be less than substantial. Accordingly, the Framework requires at paragraph 196 that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
17. In this case the development would make a contribution to housing provision. However, this would not amount to more than moderate weight as a public benefit.

Nevertheless, given the harm I have identified to the setting of the CA as a designated heritage asset, the benefits do not outweigh the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets. Thus, the proposal would be in conflict with policies HC6 and HC7 of the Local Plan and the Framework which seek, amongst other things, to ensure that developments are sympathetic to the character and appearance of a Conservation Area.

Other Matters

18. I acknowledge that the design of the dwellings is acceptable, following the Essex Design Guide and that suitable materials could be employed. I also note that the Parish Council supported the development and that neighbouring occupiers did not object or make a representation regarding the development. I accept that as a windfall site the development would boost the supply of housing within the District which would support local services and facilities. While these matters are material considerations that weigh in favour of the proposal, I do not consider that either individually or cumulatively they outweigh the harm identified above.
19. The appellant also refers to an appeal decision¹ which allowed a development on Middle Street. Although planning policy has moved on considerably since this decision was made, notwithstanding that the inspector did not find the landscape to be outstanding, it was nonetheless recognised as being pleasantly rural. Moreover, while the inspector did not comment specifically about the effect of the proposal on the CA, the development sought was a double garage and not for two detached dwellings within the Green Belt. Thus, I do not find that this particular decision represents an irresistible precedent to find in favour of a proposal that would cause harm or lead me to alter my findings on the main issues. In any case, I have considered the appeal on its own merits, which is a fundamental principle that underpins the planning system.

Other Considerations

20. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. The appellant puts forward a range of benefits that are considered to amount to very special circumstances to justify the development. However, all of the benefits would not only flow from dwellings in this location, they would apply equally to new dwellings within those areas that are identified as appropriate for development or outside of the Green Belt and thus, are not related to this specific site or proposal. Consequently, I only afford the benefits limited weight and they are not considered to be the very special circumstances required to outweigh the substantial weight given to any harm to the Green Belt.
22. Furthermore, having regard to footnote 6 of the Framework, as the development would result in harm to a designated heritage asset and is located within the Green Belt, and I have found that the policies within the Framework provide a clear reason to dismiss the appeal, even if the Council is unable to demonstrate a five year supply of deliverable housing sites and the policies which are the most important for determining the appeal are out-of-date, the 'tilted balance' would not

¹ T/APP/5215/A/80/04145/08 dated 21 August 1980

be engaged and the presumption in favour of sustainable development anticipated in paragraph 11 of the Framework does not apply.

Green Belt Balance

23. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness of the Green Belt resulting from the development. Against this, I attach little weight to the appellant's assertion that the benefits of the proposal amount to the very special circumstances required to justify the development.

Conclusion

24. I therefore conclude that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist. I have also found that the development would fail to preserve or enhance the CA. Thus, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR