



Appeal Decision

Hearing Held on 15 March 2018

Site visit made on 15 March 2018

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2018

Appeal Ref: APP/J1535/W/17/3188509

Fernbank Nursery, Nazeing Road, Nazeing, Waltham Abbey EN9 2JN

- 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 Stallan Nazeing Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/3062/16, dated 17 November 2016, was refused by notice dated 28 July 2017.
 - The development proposed is an outline application for the redevelopment of nursery to provide up to 50 dwelling houses including means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application which led to this appeal was made in outline with all matters, with the exception of access, reserved for future consideration. Apart from the access, indicated from Nazeing Road, the plans were submitted as illustrative material.
3. The Council has been preparing a new Local Plan. It has reached the stage where it will shortly be submitted for public examination. While I have had regard to the emerging Local Plan (eLP), because it has not yet been independently tested, and its contents are subject to change, the weight I can accord its policies is limited.

Background and Main Issues

4. The appeal concerns a large, rectangular, horticultural nursery site occupied largely by glass houses, ancillary buildings and hardstanding. Located in the Metropolitan Green Belt, two of its sides are bordered by the housing of Nazeing, with the other two sides bordered by more open land and the Lee Valley Regional Park.
 5. Saved policy GB2A of the Epping Forest District Local Plan 1998 (LP), concerns the Green Belt. While it is not entirely consistent with the National Planning Policy Framework (the Framework) which it substantially predates, I share the view of both parties that there is no material conflict between its approach and the Framework in the application of Green Belt policy in respect of this proposal.
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6. Paragraph 89 of the Framework indicates that the construction of new buildings should be regarded as inappropriate development in the Green Belt. It sets out a number of exceptions to this presumption, the criteria for which, it is common ground, the proposal would not meet. I have no reason to conclude differently.
7. The proposed development would therefore be inappropriate development in the Green Belt which is, by definition, harmful, and should not be approved except in very special circumstances. Accordingly, the main issues are:
 - i) the effect of the proposal on the openness of the Green Belt; and,
 - ii) 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

Effect on openness

8. It is undisputed that a scheme for 50 dwellings would reduce the built footprint on the site by around 80% and would reduce the volume of buildings by around 50%. In superficial terms, the effect of the proposal on openness would be less than the present collection of buildings.
9. The indicative drawings show a low-density, Essex Design Guide inspired housing scheme arranged with its grain dissipating towards the open fields. The housing would be concentrated towards the back gardens of the houses in North Street and on the existing areas of hardstanding. A large area of public open space would form the edge to the field to the north. An arrangement following this illustration would reduce the spatial effect of the housing scheme on openness.
10. Notwithstanding these positive aspects, the buffer of public open space in the proposal would be broadly comparable to the area of undeveloped land on site today. The indicative scheme is suggested as being 2-storeys high with back gardens, garages and parking courts and access roads. Many of the glass houses are more akin in height to bungalows than 2-storey houses. This would off-set to a degree the volumetric gain. While the removal of the fly-tipping and the suggested landscape enhancements would benefit the appearance of this edge of the site, the gain in terms of openness would be insubstantial.
11. Most significantly, compared to the sub-divided land, the houses upon it, their individual gardens and the access roads illustrated in the proposal, the glass houses and the hardstandings between them are relatively innocuous. The clear glazing of the glass houses diminishes their presence compared to the more solid enclosures of houses. The glass houses enclose much of the activity on site within single volumes; they do not have the trappings which accompany domestic occupation such as parking courts, washing lines and the more intense activity of the comings and goings of 50 households. While I give weight to the reduction in building footprint and volume that could be achieved in a detailed scheme, I conclude that overall, the proposal would have a greater impact on the openness of the Green Belt than the present development.

12. While the loss of openness would be limited it adds to the harm to the Green Belt by reason of inappropriateness. It would also conflict with the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. Paragraph 88 of the Framework states that in considering a planning application, substantial weight should be given to any harm to the Green Belt.

Other considerations

Housing supply and affordable housing

13. During the 5 years 2011 to 2016 the Council met less than 50% of its housing requirement. It agrees that it presently has only 1.35 years of deliverable housing sites. While the Council's Housing Implementation Strategy addresses the housing situation, it relies on the adoption of the eLP which will be subject to public examination later this year and therefore subject to change; it may be some years before the undersupply is resolved.
14. The appellant draws my attention to the Framework's presumption in favour of sustainable development¹ in circumstances where the LP is out-of-date. However, this does not apply where specific policies, such as those relating to land in the Green Belt, indicate that development should be restricted.
15. While the proposal would contribute to meeting the under supply of housing sites, the Planning Practice Guidance² advises *that an unmet need for housing is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development on a site within the Green Belt*'. This limits the weight I can accord this benefit.
16. The number of affordable housing completions between 2011 and 2015 amounted to 185 against a requirement of 572 for the same period. The proposal would provide 40% of the housing as affordable. Whilst this is no more than that required by LP policies H6A and H7A, the Council described the challenge of meeting the target where so much of the Borough is in Green Belt and many sites are below the threshold requiring affordable housing. Given this, and the shortfall over recent years, and subject to the submission of an executed unilateral undertaking (UU), the provision of affordable housing would be a benefit to which I attach moderate weight.

Site enhancement

17. The proposal includes substantial areas of public open space where presently there are none. This would be in excess of the requirements in the Local Plan. Moreover, the illustrative layout shows the bulk of the open space being located against the edge beside the neighbouring, open field and extending deep into the site beside the housing.
18. While views of the site from the west are limited, the suggested layout shows the opportunity for landscape improvements that would provide a significant visual benefit when viewed from surrounding land, as well as a social benefit to those living in the area.
19. Some of the glass houses have begun to collapse, the boiler houses have suffered weather damage and there are many piles of fly-tipped rubbish around

¹ National Planning Policy Framework paragraphs 14 & 49

² Planning Practice Guidance paragraph 3-034-201410-6

the site. The overall appearance is one of dereliction. The Framework³ encourages the improvement of derelict land in the Green Belt. The Council suggests that very limited/no weight be given to derelict sites because of the precedent this may set for similar sites. However, the Council has accepted that the present use is no longer viable. In these circumstances, the visual enhancement under the proposed alternative use would be a benefit to which I attribute moderate weight.

Alternative use, services and New Homes Bonus

20. The Council accepts that the site is no longer viable for use as a horticultural nursery. However, the appellant's brief dismissal of alternative uses is not convincing. While he has provided unchallenged evidence on decontamination and demolition costs, there is no evidence of marketing for alternative uses for the site or any financial evaluation of them, even taking into account extraordinary costs. This does not make a compelling case that housing is the only viable, alternative use for this site.
21. Similarly, while the occupiers of the proposed development would support the local shops and other local services, which is an economic and social benefit, there is no evidence that they are not already well-supported. The New Homes Bonus is an incentive for Councils to provide housing on suitable sites. There is no evidence of a direct benefit from the bonus to the site or the immediate area.
22. The unviability of any use for the site other than housing, the additional support for local facilities and services from the development and the benefit from the New Homes Bonus to the Council are factors to which I attribute little weight.

Green Belt purposes

23. As part of preparing the eLP, the site was identified in a Green Belt Report⁴ as part of a larger parcel of land which makes a 'lower' contribution to Green Belt purposes. The assessment concludes against the five purposes set out in the Framework. It was agreed at the Hearing that the land does not relate to the setting and special character of a historic town and cannot therefore serve the purpose of preserving it. This purpose of the Green Belt does not apply. The Council has permitted development on brownfield land and is likely to continue to do so. It was therefore agreed that the purpose of encouraging the recycling of derelict and other urban land is being fulfilled, at least to some degree.
24. Because of the scale and distance between neighbouring settlements, the purpose of preventing neighbouring towns from merging is less relevant. However, the Green Belt Report concludes that the parcel's contribution to safeguarding the countryside from encroachment is moderate. This suggests that it successfully contributes to the third purpose of the Green Belt, albeit to a moderate degree. While I note its assessment of the purpose of checking the unrestricted sprawl of large built-up areas as weak, presumably because of the containment of the Park, however the development would nonetheless result in Nazeing's sprawl westwards.

³ National Planning Policy Framework paragraph 81

⁴ Epping Forest District Council Green Belt Assessment: Stage 2 Report, LUC (August 2016)

25. The conclusion in the Report⁵ on site selection on harm to the Green Belt is drawn widely attributing harm ranging from very low to medium. This suggests the prospect of harm to the Green Belt. In the context of the openness of the land to the west and the tightly confined boundary around this part of Nazeing's built-up area, I consider the horticultural use and glasshouses on the site make a strong contribution to safeguarding the countryside from encroachment and to preventing urban sprawl.
26. In any event, while the Council has freed some land from the Green Belt for development in the eLP, the appeal site did not meet its criteria for release, so it remains as Green Belt in the eLP. More decisively, the adopted LP designates the site as Green Belt. The proposal would result in the sprawl westwards of Nazeing and an encroachment into the countryside.
27. Looking at the case as a whole, I find that the other considerations do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would be contrary to LP policy GB2A and the requirements of the Framework.

Other Matters

28. I understand the concerns of neighbours regarding a housing development and the potential for harm to their living conditions. However, the layout and heights of the housing are only illustrative at this stage. There is no evidence that a final layout could not safeguard the living conditions of surrounding occupiers.
29. I have noted the comments of neighbours and Nazeing Parish Council and experienced the constraints of the existing access road in terms of its surfacing and its layout. However, the scheme includes for the reconfiguration of the junction of the access road and Nazeing Road to make it easier to turn into and out of. It would also realign the footway and provide a shared surface close to the site entrance. These proposals follow a safety audit of the access road. Their implementation would improve the present access sufficiently to accommodate the traffic predicted to enter and leave the development.
30. There are objections from neighbours and Nazeing Parish Council to the proposal as well as support. While I note the comments about the volume of traffic on Nazeing Road, there is no substantive evidence to contradict the traffic analysis which concluded that there would be only a very small additional demand for capacity at the junction of Langley Green and Nazeing Road. The additional number of trips from the proposal would have no discernible effect on the traffic on surrounding roads. I note that the highways authority did not object to the proposal.
31. The UU would secure the provision of affordable housing against which potential benefit I have already concluded, as well as financial contributions towards meeting the need for additional facilities and services arising from the development. The contributions towards early years places and additional places at Nazeing Primary School and towards the cost of transporting pupils to a secondary school are in accordance with the County Council's Developers' Guide to Infrastructure Contributions. The Council has justified the various sums sought with the most recent data available.

⁵ Site Suitability Assessment SR-0160 by ARUP

32. I consider that the measures in the UU are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.

Conclusion

33. Both parties agree the proposal is inappropriate development, which is by definition, harmful to the Green Belt. In addition, I have found that there would also be harm through loss of openness, albeit limited, as well as encroachment into the countryside.

34. Against this, I have considered the other considerations cited in support of the proposal. However, they do not amount to the very special circumstances needed to outweigh the harm to the Green Belt. For the reasons above, and having regard to all other matters raised, the proposal is in conflict with the development plan and the Framework and there are no material considerations which outweigh that conflict. The appeal is therefore dismissed.

Patrick Whelan

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Ed Kemsley

Director, Peacock and Smith

Mr Simon Quinton-Smith

Director, Quinton Edwards

FOR THE LOCAL PLANNING AUTHORITY:

Ms Jill Shingler

Principal Planning Officer
Epping Forest District Council

INTERESTED PERSONS:

Ms Sue Clarke

Local Resident

Mr Harry Mann

Local Resident

Ms Karen Thorne

Local Resident

Documents submitted at the Hearing

By the appellant:

1. Copy of unilateral undertaking previously submitted, partly signed

Documents submitted after the Hearing

By the appellant:

1. Unilateral Undertaking signed by the other parties
2. Counterpart Unilateral Undertaking signed by National Westminster Bank Plc
3. Copy of covering letter from National Westminster Bank Plc, 29 March 2018
4. Official copy of register of title EX224927, edition date 06.04.2018