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## Appeal Decision

Site visit made on 25 February 2019

**by J Gilbert MA (Hons) MTP MRTPI**

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

**Decision date: 1 March 2019**

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**Appeal Ref: APP/J1535/W/18/3199984**

**The Chequers, Matching Green, Matching, Harlow CM17 0PZ.**

- 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 Mr R Zeolla against the decision of Epping Forest District Council.
  - The application Ref EPF/2654/17, dated 28 September 2017, was refused by notice dated 7 March 2018.
  - The development proposed is rear extension to enclose existing outdoor dining area
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - a) whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - b) The effect of the proposed development on the openness of the Green Belt and the character of the area; and
  - c) if the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### Reasons

- a) *Inappropriate development in the Green Belt*
3. The appeal site is located within the Metropolitan Green Belt. Paragraph 143 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, other than in a number of exceptions. These include 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, and limited infilling in villages.
  4. Policies GB2A and GB7A of the Epping Forest District Local Plan Alterations (2006) (the Local Plan Alterations) pre-date the Framework. Policy GB2A states that, within the Green Belt, permission will not be granted for the use of land

- or the construction of new buildings, unless it is appropriate in that it is for one of 8 specific purposes. Policy GB7A addresses conspicuous development and confirms that development should not have an excessive adverse impact on openness, rural character or visual amenities of the Green Belt.
5. However, paragraph 145 of the Framework includes criteria which are not reflected in policy GB2A, including the criterion relating to limited infilling in villages. Additionally, policies GB2A and GB7A do not reflect paragraph 143 of the Framework. I find that policies GB2A and GB7A are not entirely consistent with the Framework. Taking account of paragraph 213 of the Framework, I give limited weight to policies GB2A and GB7A of the Local Plan Alterations. I have therefore considered this issue in relation to Section 13 of the Framework.
  6. The Council has referred to policy DM4 of the Epping Forest District Local Plan (Submission Version) 2017, which is currently at examination. Consequently, the weight that I can attach to the policies contained within the emerging Local Plan is limited.
  7. The locally listed The Chequers public house lies adjacent to the large village green within Matching Green. The red-brick two-storey 19<sup>th</sup> century public house has previously been extended to the side and the rear. Behind the existing black weatherboarded extensions which house the public house's dining area and kitchen, there are a number of outbuildings which provide space for food preparation and refuse storage. These outbuildings surround an Ash tree which has been cut down to no higher than the outbuildings' eaves. A decking area is located to the rear of The Chequers, providing external seating. There are further tables and chairs located within the grassed garden area to the east of The Chequers and at the front of The Chequers adjacent to the road. There is a large parking area west of The Chequers. No changes in vehicular access and parking are proposed as a part of this proposal.
  8. The proposed development would comprise a single-storey extension to enclose the external decking area and to replace the existing outbuildings to the rear of The Chequers. The proposed development would be between approximately 7.5m and 10m in depth and approximately 21m in width. It would provide for dining, bar, and toilet facilities.
  9. With regard to criterion e of paragraph 145 of the Framework on limited infilling in villages, the proposed development would be located within a village within the Green Belt. However, the Council's statement refers to it being generally accepted that in order to be considered infill, a proposal should be a self-contained building/structure between other buildings, not an extension to an existing building. Notwithstanding that the Framework does not define infill development, I concur with the Council's view in this instance. Even if this exception was relevant, I consider that the proposed development's size would be such that it would not constitute limited infilling.
  10. Turning to criterion c of paragraph 145 of the Framework regarding the extension or alteration of a building in the Green Belt, The Chequers has been substantially extended through previous planning permissions. While the proposed development would remove the existing outbuildings, it would involve further extension to a previous extension. If taken together, the proposed development and the existing and retained extensions would be likely to exceed the original building at The Chequers. As such, the proposed

development would give rise to disproportionate additions over and above the size of the original building and would constitute inappropriate development.

*b) Openness and character*

11. Paragraph 133 of the Framework states that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The proposed development would be subordinate in height to the original building at The Chequers, would be constructed to a traditional design and would use materials to match existing structures, and it would be screened from some views by the existing buildings. While it would also rationalise existing outbuildings into one structure, it would be somewhat more prominent, both spatially and visually, than the existing decking and outbuildings. There would therefore be a resulting moderate negative effect on openness.
12. Additionally, by increasing the mass of development on the site, it would erode the area's rural character. This effect would be limited given the presence of existing buildings and the site's proximity to housing. Nevertheless, it would have a small harmful effect on the character of the area as a result.

*Other considerations*

13. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. The proposed development would provide opportunity for the existing outbuildings to be consolidated into one extension, thereby tidying up the rear of the site, and the decking would be replaced by a covered and enclosed seating area available for use in all weathers and which would be likely to reduce any noise and disturbance to neighbouring residential occupiers on Summer evenings. The existing Ash tree would be replaced by 3 native trees within the garden area. I give these matters modest weight in my decision.
15. It would also achieve a minimum 10% improvement over Building Regulations requirements for carbon emissions, and would include energy and water use reduction measures, passive ventilation, low energy lighting, materials with low environmental impacts, and reuse and recycling of materials. Furthermore, the proposed development would not detrimentally affect the site's ecological value. I afford these matters limited weight.
16. A house<sup>1</sup> has been built very recently close to the fenced rear boundary with The Chequers. While the appellant considers that the proposed development would have a lesser effect on the Green Belt than the new house, the 2 schemes differ in nature and in policy circumstances. The new house does not constitute an extension and, as such, would have been considered under different parameters from the proposal before me. A comparison of the existing and proposed developments is of very limited relevance and weight.
17. The appellant sought pre-application advice, including a site meeting with planning and conservation officers, and changes were subsequently made to the proposal. However, pre-application advice is informal only, given on a

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<sup>1</sup> Planning permission EPF/0320/17.

'without prejudice' basis, and is not binding on the Council when it comes to making its formal decision. While the Council's conservation officer supported the proposal and the planning officer's recommendation for approval was overturned by members of the Council's Planning Committee, the decision is one which is a matter of judgment based on the scheme before the Council. The committee members were entitled not to accept the professional advice of officers so long as a case could be made for the contrary view.

18. In terms of the Planning Committee's decision being unduly influenced by residents, the application was presented at committee as the Parish Council had objected to the proposal. The opportunity to comment on planning applications is part of the planning system. Moreover, the committee members are bound to take a range of matters, including consultation responses, into account when determining planning applications. The pre-application and application process have only very limited weight in this instance.
- c) *If the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.*
19. The proposed development would be inappropriate development in the Green Belt and it would lead to moderate harm in respect to openness.
20. Cumulatively, the other considerations put forward in favour of the proposed development have only modest weight. They do not clearly outweigh the totality of harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development do not exist. Therefore, the proposed development would not accord with the aims of policies GB2A and GB7A of the Local Plan Alterations set out above. It would also fail to comply with the Framework, specifically Section 13 which aims to protect Green Belt land.

### **Other Matters**

21. Representations were made with regard to other matters, including the effect of the proposed development on the existing public house, the Matching Green Conservation Area, surrounding listed buildings, a watercourse, and the protected village green; increased traffic and associated car parking; blocking of fire hydrants; access for emergency services; noise, disturbance and odour; and alleged building work taking place without planning permission and on land not within the pub's ownership. As the proposed development would be unacceptable for other reasons, it is not necessary for me to reach a finding on these additional matters.

### **Conclusion**

22. For the reasons given above, the appeal is dismissed.

*J Gilbert*

INSPECTOR