
Appeal Decision

Site visit made on 26 September 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 10TH October 2016

Appeal Ref: APP/X0415/D/16/3157793

7 Long Row, Moat Lane, Prestwood, Bucks HP16 9BS

- 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 N Plumridge against the decision of Chiltern District Council.
 - The application Ref CH/2016/0809/FA, dated 29 April 2016, was refused by notice dated 14 July 2016.
 - The development proposed is erection of outbuilding including demolition of 3 x existing outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of outbuilding including demolition of 3 x existing outbuildings at 7 Long Row, Moat Lane, Prestwood, Bucks HP16 9BS in accordance with the terms of the application, Ref CH/2016/0809/FA, dated 29 April 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan in-numbered Drawing at 1:1250 scale; Location Site Plan, Plan and Elevations Drawing No. 131218.
 - 3) The development to which this permission relates shall not be implemented if either (i) the development for which a Certificate of Lawful Use of Development was granted on 1 February 2016 under reference no. APP/X0415/X/15/2134757 has been commenced, or (ii) any other development within the curtilage of the dwellinghouse falling within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order) has been commenced.
 - 4) Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no building shall be constructed within the curtilage of the dwellinghouse other than that expressly authorised by this permission.
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Main Issues

2. The main issues in this appeal are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- the effect on the openness of the Green Belt;
- the effects on the landscape character of the area including the Chilterns Area of Outstanding Natural Beauty (AONB); and
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

3. Paragraph 89 of the Framework establishes that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. In this case, the proposed building would replace three existing small buildings on the site. However, it was clear from my observations on site that these existing structures would not constitute a volume (either singly or in combination) equivalent to the size of that proposed.
4. I therefore consider that the proposed building would be materially larger than the totality of those it would replace. Thus it does not fall within the relevant exception set out in the Framework and therefore constitutes inappropriate development in the Green Belt.
5. Within its reasons for refusal, the Council has cited saved Policy GB15 of the Chiltern District Local Plan (1997) Consolidated 2007 and 2011 (LP). This policy flows from the Council's more general saved LP Green Belt Policy GB2 and indicates that the construction or extension of non-habitable buildings within domestic curtilages within the Green Belt may be acceptable provided they are small and subordinate in scale to the original¹ dwelling. It is clear from the information before me that the proposed building has a much greater footprint than the modest original dwelling. I do not therefore consider the proposed building to be either small or subordinate in scale. Nevertheless, I share the view of the Inspector who, in determining an appeal² nearby in Moat Lane, came to the view that limited weight should be attached to this policy and significantly more weight placed on the Framework. However, I also recognise that the proposal conflicts with Policy GB15, which lends some weight to my conclusion that the proposal represents inappropriate development in the Green Belt.

¹ For the purposes of LP Policy GB15, "original" means in relation to a building existing on 1st July 1948, as existing on that date and, in relation to a building built on or after 1st July 1948 as so built.

² Ref APP/X0415/D/13/2199706.

Openness of the Green Belt

6. The proposed building would be located within the relatively large, irregular shaped garden forming part of the appellant's property, which, in combination with neighbouring gardens, creates a general sense of spaciousness within this part of the settlement. Nevertheless, the immediate surrounding character is greatly influenced by residential development and there are a number of outbuildings dotted around the gardens of neighbouring properties.
7. Furthermore, the appeal site is visually and physically well-contained by the surrounding mature trees and other vegetation that create the edge between the built-up area and the open countryside to the north and east. This restricts views into the site.
8. The proposed removal of some of the existing outbuildings must also be weighed in the balance in assessing the overall effect on openness. Whilst the proposed building would be larger overall, taking into account the residential context and the restricted views, I am not persuaded that the net increase in size would result in a substantial effect on the openness of the Green Belt.

Landscape character and the AONB

9. As I have already mentioned, the appeal site is surrounded by a combination of mature vegetation and a number of other residential properties that prevent it from being seen in views from the surrounding landscape. Moreover, the immediate surroundings appear distinct from that of the wider landscape. The access to the dwellings forming Long Row is not a thoroughfare and thus is used only by the occupants of the dwellings themselves or by their visitors. The proposed building would be set away from the dwelling and would not be obtrusive in views along Long Row from the west. Moreover, the proposed building would be experienced only within the context of residential development and the other existing outbuildings nearby.
10. I do not therefore consider that the proposal would have a harmful effect on the character and appearance of the area, thereby being in accordance with the statutory duty to the AONB and which is reflected in Policy CS22 of the Core Strategy for Chiltern District (2011) (CS) and LP policy LSQ1. The proposal also therefore accords with the objectives of CS Policy CS20 and saved LP Policy GC1 that require development to respect the character of the surrounding area.

Other considerations

11. The appellant has obtained a Certificate of Lawful Use or Development (LDC) for the erection of an outbuilding with a gross external floor area of about 69m², which is about 9m² smaller than that proposed in the scheme before me. The difference in ridge height would be marginal, with the LDC building being only about 100mm lower. Consequently the overall scale of the LDC building and the appeal proposal would not be materially different.
12. The appellant has made clear his intention to construct the LDC building should the appeal be dismissed and I have no reason to doubt that there is every likelihood that it would be built. The LDC building could be constructed without the removal of the three outbuildings as proposed in the appeal scheme and would be located further towards the dwelling and thus more prominent in views along Long Row from the west. I judge that the erection of the LDC

building would be more perceptible and thus of greater harm to the openness of the Green Belt than the appeal proposal.

13. I am aware that in allowing the appeal, both the appeal building and that for which the LDC has been granted could be built. Such a scenario would seriously erode the openness of the Green Belt. However, I have the option of imposing conditions to limit development to the building of one or the other and also to restrict the proliferation of buildings under further permitted development rights. The appellant has indicated that he would not be opposed to such a course of action.

Conditions

14. In addition to the standard time limit, I have specified the approved plans as this provides certainty. For the reasons already set out, I consider conditions are necessary to prevent further outbuildings being constructed on the site and to ensure only the LDC building or the appeal proposal is built. The Council has suggested a condition relating to materials, which I have not imposed as this is adequately covered by the information on the approved plans and the application form. The Council has also suggested a condition relating to the restriction of the building's occupation or conversion. However, I do not consider, given the surrounding context, that the reasons for the suggested condition are sufficient such that it would be necessary to refuse the whole permission without its requirements. Therefore such a condition would not meet the tests set out in paragraph 206 of the Framework and in National Planning Practice Guidance.

Conclusion

15. The other considerations put forward by the appellant, in addition to the absence of harm that I have found to openness, landscape character and the AONB are sufficient to clearly outweigh the harm to the Green Belt by reason of inappropriateness, which attracts substantial weight. Consequently, these constitute the very special circumstances necessary to justify the development. The proposal would therefore accord with the Framework and the development plan as a whole, including the Council's Supplementary Planning Document on Residential Extensions and Householder Development (2013).
16. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden Baugh-Jones

Inspector