
Appeal Decision

Site visit made on 27 September 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 11 October 2016

Appeal Ref: APP/T0355/W/16/3152712

Priory Stables, Church Road, Old Windsor, Windsor SL4 2JW

- 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 David Holmes, G F Falconer against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 15/03143, dated 17 September 2015, was refused by notice dated 2 March 2016.
 - The development proposed is construction of a barn.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the processing of the application amended plans were submitted to the Council amending the scale of the drawing and adding dimensions to the drawing. I have used this amended plan in my decision.

Main Issues

3. As the site is in the Green Belt the main issues 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 effect on the character and appearance of the area, including the effects on the setting of the Old Windsor Conservation Area (OWCA), and on the setting of The Priory, a Grade II* listed building;
 - the effect on the scheduled monument;
 - 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

4. The appeal site lies to the south of an existing indoor manège building in an area of generally flat open land, which appeared to be used as a paddock, a short way to the west of the River Thames. The River Thames towpath (the
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Thames Path National Trail) runs on this side of the River Thames, with the landholding separated by an approximately 1.8m high wire fence. There is a small intervening strip of open land between the towpath and appeal site. To the north of the manège building is a 'U' shaped building used for stabling.

5. To the north of the appeal site lies The Priory, a Grade II* listed building, which is located within the OWCA. The underlying area is a scheduled monument, being noted on the OWCA map as being the site of a Saxon Royal Palace. It is formally known as "Early medieval and medieval palace and associated monuments, Kingsbury" and the appeal site lies in the southernmost of five land parcels which make up the monument.

Inappropriate development

6. Under Policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan Including Alterations (RWMLP), which was adopted in 2003, within the Green Belt permission will only be granted, save in very special circumstances, for the construction of buildings in a limited list of types of development. Included within the list are buildings for agriculture or forestry, or buildings for essential facilities for outdoor sports and recreation which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. The Framework, in paragraph 89, makes clear that the construction of new buildings is inappropriate in the Green Belt although it sets out a number of exceptions. The first exception is for buildings for agriculture or forestry and the second is for the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as the proposal preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. As the Framework is a much more recent expression of Green Belt policy than the RWMLP I will make my assessment of the proposal against the policies in the Framework.
8. The appeal site lies towards the eastern side of an area of open paddocks. Although I have not been provided with the area, at the site visit I noted 14 horses grazing in the paddocks and a number of others within the stables. I am satisfied that the site represents an equestrian facility of some size based on the landholding on which it is located. It, therefore, represents the base for an outdoor recreation enterprise.
9. Although the building would be used for the storage of hay taken from the adjacent fields which form part of the same land holding as the appeal site, the appeal documentation makes clear it would also be used for storage, principally of hay and straw brought onto the site from elsewhere and then used for the existing equestrian operation on site, and also for storage of tractors and other equipment associated with the equestrian enterprise. The proposal would not, therefore, represent an agricultural use but rather facilities ancillary to outdoor sport or outdoor recreation. In light of this finding, the building potentially falls within the second exception set out in paragraph 89 of the Framework and the determination as to whether it represents inappropriate development will depend on whether it preserves openness and whether it would not conflict with the purposes of including land within the Green Belt.

Openness

10. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, one of the essential characteristics of Green Belts is their openness.
11. The proposed building would adversely affect openness in that it would introduce a building where one currently does not exist. However, the proposal makes clear that it is also proposed to remove a number of 'boxes' which are currently used for hay and straw storage. I saw three of these 'boxes' which appeared to be converted shipping containers with curtained sides. Even taken together these three are considerably smaller, covering a smaller area and of less height, than the building proposed. While the loss of these 'boxes' would be beneficial to the openness of the Green Belt, this benefit would be more than offset by the harm to loss of openness of the proposed larger building.
12. Consequently the proposal represents inappropriate development and in line with the advice in paragraphs 87 and 88 the Framework it would be, by definition, harmful to the Green Belt and substantial weight should be given to this harm.
13. Insofar as openness has a visual component I will assess the effects of this in the next section of this decision.

Character and appearance, OWCA and The Priory

14. As noted above the appeal site lies in a large, flat, open landscape. A short way to the south is residential development which, essentially, backs on to the river with only the towpath between. This means that there are no long distance views of the appeal site from the south, with the site only becoming visible only a short distance away. From the north, with the proposal located in close proximity to the existing manège building, views would also be limited to those from short distances. Due to the short open section between the end of the housing and the more enclosed treed area of the OWCA the views from this section of the towpath are important as they allow the appreciation of the flat open nature of the landscape by those using the National Trail.
15. Although the proposed building could only be seen from limited viewpoints, principally from the short section of the towpath identified in the previous paragraph, in this section it would interrupt the views across the open landholding from the river and would be harmful to the character and appearance of the area and would result in the loss of an important view. It would therefore be contrary to one of the purposes of the Green Belt in that it would not safeguard the countryside from encroachment. I give this harm significant weight.
16. While a public footpath runs to the west of the landholding between the site and the properties to the west the views from this footpath are extremely limited as there is a hedgerow between the footpath and the landholding.
17. Due to the intervening existing indoor manège building the proposed development would not affect the setting of either The Priory or the OWCA and, in accordance, respectively, with Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), their settings would be preserved. The proposal would therefore comply with

Policy LB2 of the RWMLP which seeks that development does not adversely affect the grounds and/or setting of listed buildings.

18. However, the proposed development would be harmful to the character and appearance of the area. It would therefore fail to comply with Policies GB2 and N2 of the RWMLP in that it would harm the character of the countryside because of its siting and would not protect important views from the river. It would also be contrary to the core planning principle set out in paragraph 17 of the Framework in that it would not recognise the intrinsic character and beauty of the countryside.

Scheduled monument

19. Old Windsor was the site of the royal palace or vill of Edward the Confessor and the early Norman Kings until the court moved to Windsor in the early twelfth century. Excavations have identified evidence of pre-medieval and early-medieval remains in the immediate area. It is clear through the designation of the scheduled monument that the remains are nationally significant.
20. The application was accompanied by an Archaeological Desk-based Assessment (ADBA) which identifies that there is significant potential for the presence of below-ground archaeological remains within the proposed development area. The ADBA acknowledges that none of the previous excavations of the scheduled monument appear to have been undertaken in this area, so the presence or characters of any deposits remain unknown.
21. The proposal indicates that “only very minimal footing pads” will be required with the floor above existing ground level, but no details of these or of the drainage systems for the extensive roofing areas have been provided.
22. Historic England objected to the application on the basis that the proposed development will cause some harm to the significance of the monument by impacting on its buried archaeological remains, although it acknowledges that this harm could be mitigated by foundation design and archaeological monitoring and recording of groundworks.
23. Without knowing the precise nature of the foundations and drainage systems it is not possible to be sure that the proposals will not unacceptable harm or even destroy the archaeological record. From this it is not possible to clarify whether the harm would be substantial or less than substantial as described in the Framework and the national Planning Practice Guidance. As paragraph 132 of the Framework makes clear, as heritage assets, including scheduled monuments, are irreplaceable any harm or loss should require clear and convincing justification. I give this harm great weight as on the basis of the information currently available I cannot be sure the proposal would secure the asset’s conservation in line with paragraph 131 of the Framework.
24. As such I am not satisfied that the development would not have an adverse effect on the scheduled monument. Consequently, the proposal would not comply with Policy ARCH1 and ARCH2 of the RWMLP which indicate that planning permission will not be granted for development likely to affect the settings of scheduled monuments and those in Berkshire’s Sites and Monuments Record. It would therefore be contrary to paragraphs 131 and 132 of the Framework as set out above.

Other considerations

25. The appellant has put forward a number of other considerations in favour of the development. Firstly, is the reduction in the number of vehicle movements that would occur when compared with the current situation in that deliveries of feed and bedding would occur less frequently as there would be greater capacity for storage on site. I would concur with this proposition, but consider that this should have only limited weight as there would still be the traffic associated with the main equestrian activities and this reduction would only make a small effect on the overall level of traffic associated with the site.
26. It is also indicated that there would be an economic advantage of reducing the frequency of deliveries and less waste from the effects on the weather on the existing storage arrangements. As this has not been quantified, while I would accept this proposition, I can only give this limited weight.
27. The appellant indicates that he could erect a close-boarded fence up to 2m in height adjacent to the river. This would interrupt views across the appeal site from the river to a greater extent than the proposed building. This appeal is not the forum to determine whether such a fence would be lawful, but I consider that this would not be a likely occurrence as I can see no business need for this to happen. Consequently I give this proposition limited weight.

Conclusion

28. The proposal represents inappropriate development in the Green Belt and would have a harmful effect on the character and appearance of the area and on important views from the River Thames. The Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, the lack of a detailed assessment on the effect on the scheduled monument means that I am not satisfied that the development would not have an adverse effect on this nationally important heritage asset, and I give this harm great weight. While the proposal would preserve the setting of the OWCA and The Priory as a Grade II* listed building these are neutral in the balance as they preserve the existing situation. The proposal would reduce the amount of traffic visiting the site and there would be an economic advantage through the reduction in the number of visits and through the loss of hay and straw to the weather and I give these benefits limited weight in support of the proposal. Overall these other considerations do not clearly outweigh the harm to the Green Belt and the other harm, which is the test that must be met. Consequently very special circumstances do not exist.
29. Therefore I conclude that the proposal would be contrary to Policy GB1 of the RWMLP and the Framework regarding the protection of the Green Belt. It would also be contrary to Policies GB2, N2, ARCH1 and ARCH2 of the RWMLP as set out above.
30. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR