

Appeal Decision

Site visit made on 3 October 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: 25 October 2016

Appeal Ref: APP/N0410/W/16/3153126

Crown House, Crown Lane, Farnham Royal, Buckinghamshire SL2 3SQ

- 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 C & O Developments Ltd against the decision of South Bucks District Council.
 - The application Ref 16/00392/FUL, dated 3 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is erection of coach house building to provide 6 residential dwellings.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Amended plans were submitted to the Council during its consideration of the application to address highway concerns. The Council used these amended plans in making its decision and I, too, will use them.

Main Issues

3. As the site is within 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;
 - whether the proposal makes adequate provision for affordable housing;
 - 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. Policy GB1 of the South Bucks District Local Plan (the LP), adopted in 1999, indicates that in the Green Belt planning permission will not be granted for development other than the change of use of existing buildings or land, or for the construction of new buildings, or extensions to existing buildings. In the
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context of this appeal these exceptions are then further restricted to the limited extension, alteration or replacement of existing dwellings subject to Policies GB10 and GB11, and the re-use of buildings of permanent and substantial construction in accordance with Policy GB2. If permitted, development, and where buildings are involved the scale, height, layout, siting, form, design and materials of those buildings, should not affect the character and amenities of the Green Belt, nearby properties or the locality in general.

5. 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. Included within this are the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces (exception 4), and for limited infilling or the partial or complete redevelopment of previously developed land 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 (exception 6).
6. Given that the Framework is a much more recent expression of national policy than the LP I shall proceed to apply the tests in the Framework when considering the question of inappropriateness as I do not consider the LP to be consistent with the Framework based as it was on PPG2¹.
7. The Courts have made clear that policy statements should be considered objectively in accordance with the language used, read as always in its proper context and that the Framework means what it says. It is also a self-contained statement of national planning policy. The case for the appellant is made in two, alternative, ways, under exceptions 4 and 6 to paragraph 89 of the Framework as set out above, although reference is also made to exceptions 3 and 5.
8. Crown House was formerly an office, but is in the process of being converted into dwellings, and I noted at the site visit that at least one flat appeared to be occupied. The proposal is to erect a new building in an open part of the overall site some way to the south of the main building to provide six dwellings.
9. There are a number of outbuildings around the overall site. In particular the 'Nursery Block' in the southwest portion of the site, and a caravan to the east of the site. It is proposed that these should be cleared from the site. The Nursery Block is currently two separate buildings, as a previous middle section has been removed. The appellant also notes that a garage by Crown House, and a set of concrete garages, have been demolished relatively recently, and considers that these structures should also be taken into account.
10. It is not disputed that the planning permission for the change of use of Crown House to dwellings covered the whole site and thus the use of the site is residential. I am therefore satisfied that the use would remain the same. However, to replace a building the previous building(s) must exist. Those buildings, or parts of buildings, that have been demolished or removed cannot be taken into account in considering whether the proposed replacement building would be materially larger or not.
11. The appellant has referred to the 'original building' definition in the Glossary to the Framework, and thus the situation in 1948, but I do not consider this to be

¹ Green Belts

relevant to the consideration of exception 4 as this is referring to other matters, for example exception 3 to paragraph 89 of the Framework. As a free-standing building, the proposal does not represent the extension or alteration of a building and exception 3 is not material. The proposal also does not represent either limited infilling in a village, or limited affordable housing for local community needs as allowed for under exception 5.

12. The parties have provided floorspaces of the various buildings, but on the basis that I have set out above, the floorspace of the proposed building is materially larger than those currently in existence on site. I am therefore satisfied that the proposal cannot be considered to be not inappropriate development under exception 4 to paragraph 89 of the Framework.
13. The alternative approach is that put forward under exception 6. The definition of previously developed land in the Glossary to the Framework is land which is or was occupied by a permanent structure, including the curtilage of the developed land. There is no dispute that the whole of the appeal site falls within the curtilage of Crown House and I agree with that conclusion. The definition excludes land in built-up areas such as private residential gardens but, again, there is no dispute that the appeal site lies outside a built-up area so this exclusion does not apply. I am therefore satisfied that the appeal site represents previously developed land.
14. To thus conclude whether the proposal would or would not represent inappropriate development under exception 6, it is therefore necessary to consider whether the proposal would have a greater impact on the openness of the Green Belt and the purposes of including the land within it than the existing development.

Openness

15. Openness can be seen as the lack of buildings or development. For the same reasons I have explained above, I consider that buildings must be in existence to be taken into account in this assessment. This would therefore exclude those buildings which have been demolished or removed.
16. While I do not have figures, the volume of the proposed building would be materially larger than those in existence, particularly as the proposed building encloses a substantial volume, without creating floorspace, in the central arch and turret section. Having said that there would be a small enhancement to openness from the consolidation of development within the site from around the periphery. However, this needs to be tempered as the Nursery Building forms part of the boundary of the site and, if demolished, a replacement boundary treatment would be needed.
17. I am therefore satisfied that even off-setting the consolidation of building on site the new building would have an adverse effect on openness when compared with the existing situation and would fail to safeguard the countryside from encroachment, being one of the purposes of the Green Belt.
18. Therefore, the proposal would not comply with exception 6 of paragraph 89 of the Framework, and therefore the proposal represents inappropriate development in the Green Belt. As the Framework makes clear substantial weight should be given to any harm to the Green Belt.

Affordable housing

19. Core Policy 3 of the South Bucks Core Strategy (the CS) promotes the delivery of affordable housing and indicates that developments of 5 dwellings or more will be subject to providing affordable housing which may be delivered through a commuted financial sum.
20. The national Planning Practice Guidance (the PPG) refers² to the Written Ministerial Statement (the WMS) of 28 November 2014. This indicates that contributions towards, in this case, affordable housing should not be sought from developments of 10-units or less. I concur with the parties that the threshold in the WMS should be utilised in preference to that set out in the CS as this is a more recent expression of Government policy.
21. The parties also agree that the redevelopment of the main Crown House building and the current appeal proposal represents a single project for the purposes of the PPG as set out above. The planning history of the conversion of Crown House is slightly complicated³ but in simple terms it represents the provision of an additional net five dwellings. The proposal would add another six dwellings creating a total of eleven, being above the threshold in the WMS.
22. However, the appellant considers that the Nursery Block represents three dwellings and this should be off-set against the additional dwellings here proposed. This is not the forum to determine whether the Nursery Block could lawfully be used as three dwellings, especially as part of the building has been removed. Although the building was being used as a site office associated with the works at Crown House, in looking around the Nursery Block building at the site visit it had the necessary facilities for day to day living, in that it had a kitchen, washing facilities and other rooms. I am satisfied that it could be used as at least a single dwelling, which should be off-set against the new provision from the current proposal. Overall, this would take the total number of dwellings below the threshold in the WMS.
23. I am therefore satisfied that the proposal does not need to make specific provision for affordable housing and therefore the proposal makes appropriate provision within its terms. It would therefore comply with Policy 3 of the CS as considered in the light of the PPG and WMS as set out above.

Other considerations

24. The appellant's grounds of appeal do not set out specifically any other considerations. Rather it relies on its view that the proposal does not represent inappropriate development. That the design, including landscaping, may be appropriate to its context, constructed of appropriate materials and it would ensure the health and longevity of protected trees, are matters any well considered design would take into account and should not have any additional positive weight in the balance.

² Reference ID: 23b-031-20160519

³ The building was originally to be converted from an office to dwellings under the provisions of what is now the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the subsequent express grant of planning permission by the Council for "refurbishment and extension of existing building incorporating single storey and two storey rear extensions to provide 13 apartments. Construction of new vehicular access drive and parking area" provided for five more dwellings than the permitted development conversion.

25. That there were buildings on site prior to them being removed is also a consideration to be taken into account, but this can only be given limited weight as planning permission would be required to reinstate them. Similarly, the loss of the mobile home, in tidying up the appearance of the site, can only be of limited weight.

Other matters

26. The Council refused the application on the basis that it would set an undesirable precedent for other developments elsewhere. While precedent can represent a material consideration the Council has not shown any particular examples, beyond a generalised concern, where the granting of this permission would set an undesirable precedent. Consequently, as each case should be considered on its individual merits I give this little weight.
27. The City of London Corporation owns the nearby Burnham Beeches and has objected to this proposal on the basis that the proposed residents of the development may recreate on that site which is a National Nature Reserve, a Site of Special Scientific Interest and a Special Area of Conservation. While future residents may recreate on Burnham Beeches it has not been demonstrated that they, either on their own or in combination with the effects of other plans or projects, are likely to have a significant effect in light of the site's conservation objectives. In addition, I note that Natural England, the government's specialist nature conservation advisor, has not objected to the proposal. I am therefore satisfied that the proposal would not have an unacceptable effect from an ecological point of view.

Conclusion

28. The proposed development represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt, and paragraph 88 of the Framework indicates that substantial weight should be given to that harm. Insofar as it is of weight the proposal is also contrary to Policy GB1 in the LP. In addition I have concluded that the proposal would adversely affect openness in the Green Belt and that it would be contrary to one of the purposes of the Green Belt. While there would be the benefit of tidying up the appeal site and the loss of the mobile home these are of only limited weight in favour of the development. In addition there would be the limited weight that can be given to the previous buildings on site.
29. The Framework reminds that inappropriate development should not be approved except in very special circumstances, and the Government has repeatedly emphasized the importance of protecting the Green Belt. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances needed to justify the development do not exist.
30. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR