

Appeal Decision

Site visit made on 6 December 2016

by Rory Cridland LLB (Hons)

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

Decision date: 19 January 2017

Appeal Ref: APP/X0415/W/16/3156951

Land to the Rear of 65 Denham Lane, Chalfont St Peter, Buckinghamshire, SL9 0EW

- 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 Terry Daniel against the decision of Chiltern District Council.
 - The application Ref CH/2016/0208/FA, dated 5 February 2016, was refused by notice dated 3 June 2016.
 - The development proposed is redevelopment of site to provide two dwellings and associated access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site to provide two dwellings and associated access and landscaping at Land to the Rear of 65 Denham Lane, Chalfont St Peter, Buckinghamshire SL9 0EW in accordance with the terms of the application, Ref CH/2016/0208/FA, dated 5 February 2016, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. As part of the appeal, the appellant has submitted amended plans¹ which have removed the basement and reconfigured the internal layout of the dwellings. Although this alters the proposal, the overall result is a reduction in the size of the internal floor space with some minor alterations to the arrangement of windows. I have considered these amended plans under the principles established by the Court in *Wheatcroft*². I am satisfied that these drawings do not change the nature of the scheme to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of these revised plans.
3. Policies GB2 and GB30 of the Local Plan³ restrict development within the Green Belt other than in a limited number of defined circumstances. However, I note that these policies pre-date the introduction of the National Planning Policy Framework ("the Framework") and are generally more restrictive, particularly in relation to previously developed land. Paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Accordingly, I have afforded them limited weight and have instead considered the proposal against the guidance set out in the Framework.

¹ Drawing Nos: D1B, D2A, D3A, D4A, D5A and D6A

² *Bernard Wheatcroft v. Secretary of State for the Environment* [1982] JPL 37

³ Chiltern District Local Plan 1997

Main Issues

4. The main issues are:

- (i) whether or not the proposal is inappropriate development in the Green Belt and if so, 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; and
- (ii) the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Whether the development is appropriate development in the Green Belt.

- 5. The appeal site is situated in the Green Belt. The Framework indicates⁴ that, other than in connection with a small number of exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. However, the limited infilling or partial or complete redevelopment of previously developed sites, whether redundant or in continuing use⁵, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development is one of the listed exceptions. Annex 2 of the Framework provides a definition of 'previously developed land' which includes land which is occupied by a permanent structure, including its curtilage and any fixed surface infrastructure.
- 6. The appeal site consists of a number of buildings together with an enclosed curtilage surrounded by paddocks. I understand that the site has historically operated as a private centre for sick and injured horses in association with the RSPCA. I am therefore satisfied that it falls within the definition of 'previously developed land'. The central question is therefore whether the proposal would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development does.
- 7. Openness has both a visual and spatial aspect. In terms of their overall size and bulk, the dwellings would be comparable to those currently on the site. While I acknowledge that the footprint would extend beyond that of the existing buildings at certain points and that there would be some increases in height, these would be compensated for by reductions in size elsewhere. Overall, its spatial impact would be substantially the same as that of the existing buildings and any impact on openness would be minimal.
- 8. Likewise, its overall appearance would not materially differ to that of the existing structures. Furthermore, while I note the Council's concerns regarding the introduction of domestic paraphernalia into the setting, I observed during my site visit that the site already plays host to a number of items externally which are associated with its present use. The replacement of these with items of a more domestic appearance would have only a limited effect on openness in this location, particularly in view of its close proximity to nearby residential dwellings. On balance, I consider that any impact on openness resulting from

⁴ Paragraph 89

⁵ Excluding temporary buildings

the development would be minimal and that the overall openness of the Green Belt would be preserved.

9. Turning then to the purposes of including land within the Green Belt⁶, in view of its siting on previously developed land, I do not consider it would result in urban sprawl or the merging of towns. For similar reasons, I do not consider that it would encroach onto the open countryside. It does not affect any historic setting and the last bullet point is not relevant. As such, the proposal does not conflict with the purposes of including land within the Green Belt and there would be no harm caused in this respect
10. Consequently, I have concluded that the appeal site constitutes previously developed land. In addition, I have found that would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Accordingly, it satisfies both limbs of the test set out in the sixth bullet point of Paragraph 89. It would not therefore constitute inappropriate development in the Green Belt and, as such, the need for very special circumstances does not arise

Character and appearance.

11. The Council is also concerned that the design of the proposed buildings, together with the domestic paraphernalia which would be likely to accumulate around them, would have a much more harmful impact on the character of the surrounding area. However, as I have already noted above, the appearance of the proposed dwellings would not materially differ from that of the existing main building. While I note the Council's concerns regarding the introduction of rooflights and glazing, the impact of these would be limited and would not materially detract from the surroundings, particularly in view of their close proximity to other nearby residential dwellings. Similarly, the accumulation of domestic paraphernalia around the site would only have a limited impact.
12. Consequently, I do not consider the proposal would be harmful to the character and appearance of the surrounding area. As such, I find no conflict with Policy CS20 of the Core Strategy⁷ which requires new development to be of a high quality design which reflects and respects the character of the surrounding area.

Other Matters

13. In reaching my decision, I have had regard to the concerns of the Parish Council, local residents and the Chilterns Society. However, I have found above that the proposal would not represent inappropriate development in the Green Belt or involve an encroachment into the countryside. It follows that such development would not set an unacceptable precedent. Likewise, while I note their concerns regarding the loss of an employment site, I have seen no robust evidence which would indicate that the retention of the site for employment purposes would justify a refusal of planning permission.
14. I have also had regard to the appeal decisions referred to by those parties. However, I note that those decisions relate to sites which are situated some distance away from the appeal site and while I do not have full details of those schemes, they are, in my view, unlikely to be sufficiently similar to the appeal proposal that they would justify a refusal of planning permission for the

⁶ As set out in paragraph 80 of the Framework

⁷ Local Development Framework Core Strategy for Chiltern District (2011)

development proposed. In any event, each application should be considered on its own merit and that is the approach I have taken in determining this appeal.

Conditions

15. I have had regard to the various planning conditions that have been suggested by the Council. Those relating to materials, external lighting and boundary treatments are appropriate in the interests of character and appearance. In addition to the standard time condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty.
16. Likewise, I consider a condition requiring the submission, approval and implementation of a landscaping scheme as necessary to ensure that any impact of the proposed development on the surrounding area is limited.
17. Details of vehicular access and parking are also necessary in the interests of highway safety as are the provision of visibility splays and securing of the parking provision.
18. However, the Framework advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary as no detailed explanation for it is given.
19. A number of these conditions need to be discharged before work commences on site as these relate to matters which need to be resolved on a fully coordinated basis

Conclusion

20. For the reasons set out above, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

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:
Drawing No's: 311/X-1, 311/D1B, 311/D2A, 311/D3A, 311/D4A, 311/D5A and 311/D6A
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details
- 4) No external lighting shall be erected or placed within the site or affixed to a building hereby permitted, other than in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a plan indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatment shall be completed before the building is occupied and development shall be carried out in accordance with the approved details and retained and maintained thereafter.
- 6) Prior to the construction of the buildings hereby permitted, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
- 8) A scheme for the parking of vehicles associated with the adjacent paddock land shall be submitted to and approved in writing by the Local Planning Authority, and subsequently provided on site in accordance with the approved details, prior to the first occupation of the dwellings hereby permitted. The parking areas shall thereafter be reserved for the parking of vehicles in connection with the adjacent land use and shall not be used for any other purpose.
- 9) The dwellings hereby permitted shall not be occupied until the approved car port and parking spaces have been constructed in accordance with the approved plans and details. The parking areas shall thereafter be reserved for the parking of vehicles in connection with the residential occupation of the dwellings hereby permitted and shall not be used for any other purpose.

- 10) Prior to first occupation of the dwelling hereby permitted, the access shall be constructed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 11) No development shall take place until details of visibility splays have been submitted to and approved in writing by the local planning authority. The visibility splays shall be implemented in accordance with the approved details and thereafter kept free of all obstructions to visibility above a height of 0.6 metres from the surface of the carriageway.