

Appeal Decision

Site visit made on 28 December 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 6 February 2017

Appeal Ref: APP/C3620/D/16/3161092

Woodyers, Broomehall Road, Coldharbour, Dorking RH5 6HP

- 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 Nigel Perryer against the decision of Mole Valley District Council.
 - The application, Ref. MO/2016/1198/PLAH, dated 25 July 2016, was refused by notice dated 20 September 2016.
 - The development proposed is the erection of a replacement barn to provide ancillary accommodation in the alternative to and to the same siting and dimensions as permission granted under MO/2015/2003 for conversion of barn to ancillary accommodation.
-

Application for Costs

1. An application for costs has been made by Mr Nigel Perryer against Mole Valley District Council. This is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for the erection of a replacement barn to provide ancillary accommodation in the alternative to and to the same siting and dimensions as permission granted under MO/2015/2003 for conversion of barn to ancillary accommodation at Woodyers, Broomehall Road, Coldharbour, Dorking in accordance with the terms of the application, Ref. MO/2016/1198/PLAH, dated 25 July 2016, subject to the conditions in the attached Schedule.

Main Issues

3. The main issues are: (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2012 ('the Framework') and any relevant development plan policies; (ii) the effect on the openness of the Green Belt, and (iii) 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 required to justify the proposal.

Reasons

Issue (i) Whether inappropriate development

4. Paragraph 89 of the Framework states that the construction of new buildings is inappropriate development in the Green Belt, but that there are exceptions to
-

this. These include the fourth bullet point of paragraph 89 '*the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*'. The Council has referred to Policy CS1 of the Mole Valley Core Strategy 2009 in its Notice of Refusal but in my view neither this nor any other development plan policy is directly relevant to a replacement building in the Green Belt. However, the Notice of Refusal also refers to the Framework and I am satisfied that I can deal with issue (i) on this basis.

5. The new building would be the same size as the existing barn on the site and this is accepted by the Council as complying with the requirement in the fourth bullet point for the new building not to be materially larger than the one it replaces. However, the Council considers that the replacement building would not be 'in the same use' as the existing building as the proposal is to replace the current storage use ancillary to Woodyers with residential accommodation, albeit also ancillary to the main dwelling.
6. Although both the existing barn and its proposed replacement in this appeal comprise ancillary buildings to the host dwelling Woodyers, the latter's detachment from the host building and its substantial size and proposed use for living accommodation as opposed to storage together comprise circumstances that preclude compliance with the proviso in the fourth bullet point in paragraph 89 of the Framework for the new building to be 'in the same use' as the existing.
7. Accordingly, in respect of issue (i), I conclude that the appeal scheme is inappropriate development, which paragraph 87 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Issue (ii) Effect on the Openness of the Green Belt

8. On this issue the Council states in the officer's report that as the proposed building would be the same size as the existing barn it would not '*generate any additional harm to the openness*'. In my view this is clearly the case and the effect of this is that the harm to the Green Belt from the appeal scheme is confined to that arising from my conclusion on issue (i) above.

Other Considerations

9. The officer's report raises an issue of the effect of the proposal on the visual amenity of the Green Belt and the character and appearance of the Area of Outstanding Natural Beauty (AONB) and the Area of Great Landscape Value (AGLV). However because the new building would essentially be a replica of the existing barn it is not considered that there would be any harm caused to visual amenity, the AONB and the AGLV. I share this view.
10. Despite this conclusion, this assessment still leaves the question of whether the overtly residential appearance of the replacement building in contrast to the more utilitarian and 'rustic' storage barn would have an adverse effect on the character and appearance of the site. However, because the appeal site comprises extensive grounds and is already perceived as a residential use and curtilage, I formed the view on my visit that the altered appearance of the barn and its ancillary residential use would not fundamentally change Woodyers from

its existing role as one of a number of the substantial country houses in this part of the AONB / AGLV. I therefore see no objection on this issue.

11. For the appellant a number of other considerations are raised in the grounds of appeal. These include arguments firstly that the last bullet point exception to inappropriate development in paragraph 89 of the Framework and secondly paragraph 111 could be said to apply to the proposal. Both of these provisions apply to the re-use of previously developed (brownfield) land. However, in terms of either a common sense interpretation or an informed planning judgement, neither provides a particularly good fit with the circumstances of this case, especially as the fourth bullet point replacement building exception in paragraph 89 does accurately describe the development now proposed.
12. The other main consideration advanced for the appellant is the fallback position of the permission granted under reference MO/2015/2003 in conjunction with the non-material amendment approved under MO/2016/2003/1. This was for the conversion of the existing barn to ancillary accommodation in a form very similar to the appeal scheme, particularly in respect of the sole reason for refusal relating to the Green Belt (the officer's report accepts that *'the proposed building would be the same size as the existing barn'*).
13. The Council argues that from previous discussions with the appellant it has become apparent that the extant permission for the conversion of the existing barn cannot be implemented without its demolition or at least a major reconstruction. This is precluded by proviso 1 of saved Policy RUD19: 'Re-use and adaptation of rural buildings' of the Mole Valley Local Plan 2000 which says that buildings must be of permanent and substantial construction and capable of conversion without major or complete reconstruction. The Council's view is that because the extant permission cannot be carried out, the fallback in this case is negated.
14. However, whilst I have noted that position, there is nothing that I have read in this case that amounts to an admission from the appellant or his agent that the extant consent cannot be implemented. This notwithstanding, I cannot be entirely sure that the comment was not made, or perhaps in a discussion of the practical difficulties of conversion and its higher costs compared with a re-build there was a misunderstanding by the Council to the effect that the approved scheme could not be implemented.
15. Conversely, it is clear from an extract in the officer's report on application MO/2015/2003 that the view was taken that proviso 1 of saved Policy RUD19 was satisfied: *'Criterion 1 – as was apparent from the site visit that (sic) the barn is of permanent and substantial construction and capable of conversion without major or complete construction'*. From my own visit to Woodyers I concur with that view and do not consider in this case that a structural survey or similar technical report from a suitably qualified person is necessary. In the event, an email was sent from a firm of Consulting Civil & Structural Engineers to the appellant's agent after the decision to refuse permission and is before me as an appeal document. This confirms that the building, although clearly not without deficiencies, is structurally sound and nothing I have seen and read runs counter to that assessment.

16. I therefore conclude that the permission reference MO/2015/2003 for the conversion of the Barn is capable of being implemented and as such it should be given weight as a significant material consideration. Furthermore, whilst the main benefits of the current appeal scheme being carried out as opposed to a conversion would be practical and financial advantages for the appellant, there are also likely to be planning benefits in the public interest, in the form of a more energy efficient and therefore sustainable building. This should be weighed in the balance whilst at the same time recognising that there is agreement between the parties that a re-build as opposed to a conversion would not lead to additional harm as regards the Green Belt or other issues.
17. Overall, I find that the other considerations in this case in the form of the appellant's fallback position clearly outweigh the harm that in this case is confined to the harm by definition referred to in paragraph 87 of the Framework. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. I shall therefore allow the appeal.
18. In respect of conditions, a condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt. An external materials condition will safeguard the visual amenity of the site and thereby the character and appearance of the AONB designated countryside. A condition stipulating that demolition of the existing building includes the recommendations of a Bat Survey will ensure the precautionary approach needed to safeguard a protected species. Finally, a condition limiting the use of the accommodation will preclude the severance of the site at Woodyers into two independent dwellings with its possibility of adverse implications for the countryside.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision;
- 2) The development shall be carried out in accordance with the following approved plans: Drawing Nos. 1408-PA-001; 1408-PA-003 Rev. D; 1408-PA-004 Rev. D; 1408-PA-005 Rev. D;
- 3) No development shall commence until details and samples of the external materials to be used have been submitted in writing for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details;
- 4) The demolition of the existing barn shall be carried out in accordance with the recommendations in paragraphs 6.2 and 6.3 of the 'Bat Survey' Report by Drummond Ecology dated 21 November 2015.
- 5) The replacement building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Woodyers, Broomehall Road, Coldharbour, Dorking.