
Appeal Decision

Site visit made on 25 January 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 3rd March 2017

Appeal Ref: APP/P0240/W/16/3163175

Brick Kiln Farm, Chaul End Road, Caddington, Luton LU1 4AT

- 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 J Rooney & Mr R Gill against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/01529/FULL, dated 11 April 2016, was refused by notice dated 16 June 2016.
 - The development proposed is the conversion of 1 no dwelling into 2 no dwelling houses. Extension work to existing dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of 1 no dwelling into 2 no dwelling houses. Extension work to existing dwelling at Brick Kiln Farm, Chaul End Road, Caddington, Luton LU1 4AT in accordance with the terms of the application, Ref CB/16/01529/FULL, dated 11 April 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. Works in accordance with the plans were partially complete at the time of my visit. The Council determined the application as part retrospective and I considered the appeal on this basis.
 3. I note that the address of the development on the original application form differs to that on the appellant's appeal form and the Council's decision notice. The Council's officer report refers to 'Restcott', which is the name of the dwelling used on the application form, as being the neighbouring property to the appeal site. For the avoidance of any doubt, I have used the address as set out on the appeal form and decision notice.
 4. The appellant has drawn my attention to a discrepancy on the submitted plans with regard to the red line of the application. The appellant has confirmed that I should consider that shown on the 1:1250 plan to be the correct interpretation. The Council have raised no objection to this and, as I do not consider there would be any injustice caused to interested parties, I have considered the appeal on this basis.
 5. The appellant has also submitted a revised plan with the appeal. This shows an alternative parking and access arrangement to that shown on the plans submitted with the application. The revised plan shows the parking spaces located to the side of the building with access to the site from the existing farm
-

access. The original plans identified off-street parking spaces on the forecourt of the dwellings.

6. There is no indication that the revised plan has been subject to any public consultation. However, the Council have not raised any objections to the consideration of the plan and have provided comments on it. The relocation of the parking spaces is a relatively minor alteration to the original proposal and the existing access is within the red line of the application. The change does not, therefore, have a significant effect on the nature of the development. I consider that there would not be any injustice caused to interested parties by my acceptance of the plan. As such, I have considered the appeal on the basis of the revised plan.

Main Issues

7. The main issues are:

- (a) 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; and
- (b) The effect of the development on the safety and convenience of users of the adjacent highway network, with particular regard to visibility.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

8. Saved Policy H13 of the South Bedfordshire Local Plan Review (LP) (2004) relates to extensions to dwellings within the Green Belt. This seeks to limit extensions to those that would be modest in scale and not result in disproportionate cumulative addition over and above the size of the original building¹, having regard to the need to maintain the openness and protect the visual amenity of the Green Belt. The policy also seeks to resist extensions that would result in the creation of an additional dwelling. In all cases, it states that extensions will be considered against Policy H8. The Council raised no concerns in relation to this policy.
9. Policy H13 predates the publication of the National Planning Policy Framework (the Framework). Paragraph 89 of this states that the extension or alteration of an existing building would be not inappropriate development in the Green Belt if it does not result in a disproportionate addition over and above the size of the original building. There is some consistency, therefore, between national and local policy in this regard. There is, however, no provision within the Framework for the specific restriction on extensions creating additional dwellings. The Council have recognised this element is not consistent with the Framework and have not objected to the development on these grounds. Having regard to paragraph 215 of the Framework, I have therefore given Policy H13 only limited weight in my decision and assessed the proposal primarily against the policies in the Framework.
10. The Framework does not specify what is meant by a disproportionate extension. The Central Bedfordshire Design Guide (CBDG) (2014) is helpful here and suggests that, as a guiding principle, to be considered as

¹ A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally (Annex 2 of the Framework).

proportionate, the original building should not be added to by more than 60%. This is not categorical about what aspect of size the 60% refers to, but does state floorspace, volume, massing and design will be part of the consideration.

11. Both parties accept the extension would lead to a cumulative increase in the footprint of the original building of around 75% and an approximate 59% increase in floorspace. The Council have not referred to any other aspect of the size of the extension other than the footprint. While I recognise this is an important factor, I am also mindful that the Council's own guidance indicates that other factors would be considered, including the increase in floorspace. As such, there is some consistency between the development and the CBDG.
12. I consider that floorspace provides a useful guide. For example, much of the development would be single storey only. This would serve to minimise the overall increase in the physical size of the building. I have not been provided with data on the volume of the building, but the single storey elements would also help ensure the increase would not be excessive. These factors are not accounted for when only the footprint of the development is considered. The Council's guidance also states that the design of the extension would be a consideration. The front porch and single storey elements to the rear would not appear as physically large extensions and, by breaking up the mass of the development, would help to ensure it would not appear disproportionate in size.
13. Therefore, while I have had regard to the footprint of the extension, I am satisfied that when the increase in floorspace, mass and design of the extension are taken together, the development would not constitute a disproportionate addition over and above the size of the original building. As a result of this, the extension would be not inappropriate development in the Green Belt and thus would result in no significant impact on the openness of the Green Belt.
14. Notwithstanding the limited weight I have given to Policy H13, the scale of development would be also consistent its requirements, and those of the CBDG, regarding the scale of extensions within the Green Belt.

Highway Safety

15. The revised access would utilise the existing farm access, though the appellant has also indicated further alterations would be made to increase the width and radius of the access to enable two cars to pass each other and access and egress the site in a forward gear. These details can be agreed by condition.
16. There is some dispute between parties over what stopping sight distances (SSDs) should be used to determine the length of the visibility splays. The evidence provided by the appellant indicates that the 85th percentile average speeds of vehicles passing by the site are 38 mph (approximately 61 kph) northbound and 39 mph (approximately 63 kph) southbound. The appellant has pointed to the Manual for Street 2 (MfS2) document. This states that on rural roads where speeds are less than 40 mph, SSDs from the Manual for Streets (MfS) document should be used. However, the Council state that the MfS itself suggests the Design Manual for Roads and Bridges (DMRB) is used for roads where the speeds are higher than 60 kph.

17. It is clear that the average speed of vehicles passing the site lies very much on the border between the use of guidance within the MfS and DMRB. Taking account of all of the data provided, the guidance within MfS2, and the degree to which the average speeds are over the supposed 60 kph threshold, I am satisfied that the SSD figures from the MfS would be appropriate in this circumstance. As such, the level of visibility that can be achieved to the south of the site would meet the MfS standards and should give no cause for significant concerns over safety. However, the approximate 29-30m of visibility to the north would not meet the distances set out in either the MfS or DMRB. The question, however, is whether this is likely to lead to an unsafe situation for highway users.
18. The appeal site forms part of an existing row of terraced dwellings. To the north of this row is a small housing estate with what appears to be a single point of access serving a number of dwellings. There is also the farm. As such, local residents and regular users of the road will be familiar with the potential for vehicles leaving these dwellings and the access associated with the farm. Non-regular users approaching from this direction would also see the estate before the appeal site and be aware of the need for proper care and attention near to dwellings.
19. The appellant has suggested that removing vehicles from in front of the dwelling would be an improvement to the existing situation, where existing off-street parking requires occupants to reverse out into the road. The Council have disputed this, referencing images on the internet that purportedly do not show any parking on the frontage. They have not indicated how recently these images were taken and I saw for myself that spaces in front of the dwelling were available that could be used for parking. I consider, therefore, that limited weight should be given to the benefit of removing any potential for parking or access to the front of the building and removing the option of reversing into the carriageway.
20. I am also mindful that the intention is to use an existing vehicular access and that there is already one dwelling in place that has the potential to generate a number of trips. The addition of one extra dwelling would not lead to a significant increase in trips from this location. There is nothing before me to suggest that the existing situation has led to any accidents or other transport related issues. The small potential increase in the use of the access would be unlikely, therefore, to lead to a material increase in risk to users of the highway or future occupants.
21. In terms of parking spaces, the Council have suggested that an additional space should be provided to the side of the dwellings for visitors. The appellant has accepted this could be achieved.
22. In conclusion, visibility to the south of the site would be satisfactory and, while this would be more restricted to the north, the use of an existing access and small potential increase in vehicular movements would not result in a material increase in risk to the safety or convenience of users of the adjacent highway network. The Council have referred to LP policies BE9 and H9 in their decision which make reference to providing access for disabled people (BE9) and ensuring that satisfactory provision is made for parking (H9). While these policies make no specific reference to highway safety, I consider there would be no conflict with either policy. It is also not clear from the Council's

statement where the conflict with the CBDG lies with regard to highway safety, though I see no conflict with its requirements in terms of access or parking requirements.

23. I also see no conflict with section 4 of the Framework which seeks, amongst other things, to ensure safe and suitable access to the site can be achieved for all people.

Other matters

24. The Parish Council have raised concerns over whether the living and garden spaces provided would be acceptable. They have also indicated concerns over the impact of the development on existing residents, though they have not explained what those concerns are in any detail. I saw nothing to suggest that an acceptable level of living space could not be provided with the dwellings. Moreover, I am satisfied that while the gardens would not be large, they would be adequate in terms of being able to sit and dry clothing. As such, I have no concerns over the scale or quality of accommodation provided.
25. The Parish Council have also mentioned the impact on existing septic tanks, but have not given any indication as to the specific nature of their concerns. The Council have not addressed this in their evidence and, as such, there is nothing before me which suggests there would be any material harm in this respect.

Conditions

26. I have considered the suggested conditions from the Council, and the comments on these from the appellant, in accordance with the guidance contained in the Planning Practice Guidance (PPG). I have not imposed the standard time condition given that development has already started. I have, however, imposed one requiring development to be carried out in accordance with the approved plans to ensure the proper implementation of the development in accordance with the submitted details. I have amended this to exclude the off-street parking spaces shown on the original plans, as this would not be consistent with the revised plan.
27. I have imposed conditions requiring the materials to match the existing building in the interests of the character and appearance of the area. I have amended the suggested wording to improve the clarity and precision of the condition.
28. As there have been a number of extensions and alterations to the building over time, I consider it necessary and reasonable to remove permitted development rights over further extensions. This will ensure that any further alterations can be considered in the context of Green Belt policies. I have amended the suggested wording to refer to the Town and Country Planning (General Permitted Development) Order 2015 and to improve precision.
29. I have imposed conditions relating to the approval of the details and implementation of the access in the interests of highway safety. Here I have amended and combined the suggested conditions on the details of the junction and details of surfacing and drainage for simplicity and to remove some of the mainly informative text that would form part of the agreed details. This is particularly the case in relation to drainage. I have also included a clause in this condition limiting the access to that which would be agreed with the

Council. This would ensure that vehicles would not be able reverse into the carriageway from forecourt parking.

30. Also in the interests of highway safety, I have imposed a condition relating to visibility splays. I have amended the suggested wording reflect the revised plan and address the omission in the suggestion relating to the northbound splay. In this regard, I have used the distance data provided by the appellant. In addition to this, I have also imposed a condition requiring the details of the parking and turning areas to be agreed to ensure sufficient parking is provided in the interests of highway safety.

31. I have not imposed the suggested condition relating to the demolition of the outbuildings, as this has already taken place and is no longer necessary.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: DDBP-2016-0089 and 1635/3 except in respect of the off-street parking spaces shown on plan DDBP-2016-0089 and other than as required by conditions 4 and 5.
- 2) The external materials to be used in the development hereby permitted shall match those of the existing building.
- 3) Notwithstanding the provisions of Part 1, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwellings hereby permitted shall be carried out without the grant of planning permission from the local planning authority.
- 4) The dwellings hereby permitted shall not be occupied until details of the construction, surfacing and drainage of the junction of the proposed vehicular access with the highway have been submitted to and approved in writing by the local planning authority, and the junction has been constructed in accordance with the approved details. The junction shall be thereafter retained. There shall be no means of vehicular access to the site other than that to be agreed under this condition.
- 5) The dwellings hereby permitted shall not be occupied until details for the parking and turning of vehicles associated with the development has been submitted and approved in writing by the local planning authority. The approved parking and turning areas shall thereafter be retained and kept available for the parking and turning of vehicles associated with the development.
- 6) The dwellings hereby permitted shall not be occupied until vehicular visibility splays of 2.4m x 59m in a southerly direction and 2.4m x 29m in a northerly direction, as measured along the centre line of the approved access from its junction with the channel of the public highway, have been provided. The required vision splays shall be retained thereafter and free of any obstruction to visibility.