
Appeal Decisions

Site visit made on 10 July 2017

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/P0240/W/17/3168068

Land south of St Leonards Church, Leighton Road, Heath and Reach, Leighton Buzzard LU7 0AA

- 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 Jebech Developments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/02810/FULL, dated 27 June 2016, was refused by notice dated 5 September 2016.
 - The development proposed is the erection of 1 dwelling and garage with cycle store and off-road parking for St Leonards Church.
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Appeal Ref: APP/P0240/Y/17/3168079

Land south of St Leonards Church, Leighton Road, Heath and Reach, Leighton Buzzard LU7 0AA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Jebech Developments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/02811/LB, dated 27 June 2016, was refused by notice dated 5 September 2016.
 - The works proposed are the erection of 1 dwelling and garage with cycle store and off-road parking for St Leonards Church.
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Decisions

1. The appeals are both dismissed.

Main Issues

2. The main issues in these appeal are;
 - Whether the proposal constitutes inappropriate development in the Green Belt
 - The effects of the proposal in the Conservation Area and nearby Listed Buildings
 - The effects of the proposal on protected wildlife.

Reasons

Whether the proposal constitutes inappropriate development in the Green Belt

3. The appeal site is within the Green Belt in a narrow section which separates the nearby town of Leighton Buzzard from the village of Heath and Reach. The appeal site is on the west side of Leighton Road sitting immediately to the south of St Leonards Church, a grade II listed building. The site fronts onto Leighton Road and is otherwise abutted by open land. On the opposite side of the road is Heath Manor, a grade II* listed building, which is also otherwise surrounded by open land. The site is within the Heath and Reach Conservation Area, at its southern extremity.
4. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate and then sets out a number of exceptions. The fifth exception includes "*limited infilling in villages...*", although none of the terms are defined. The appeal site sits roughly in the middle of this narrow section of Green Belt, said to be about 240m in width at this point. Open land sits to the south and west and the Church is immediately to the north. The Church itself is bounded by open land including the wide and open church yard to the north. As a result of the open land and the separation from the consolidated built form of the village to the north I consider that the appeal site does not form part of the village of Heath and Reach, but sits quite separate from it.
5. I acknowledge the point made by the appellant that in order for a scheme to be considered under the above paragraph of the Framework, a site does not necessarily have to be located within a defined settlement boundary; a site may be within the Green Belt but also be considered to be part of a settlement. However, in the case which is the subject of this appeal, I consider that the appeal site does not form part of the village.
6. Although now partially academic, the question arises as to whether the proposal represents limited infilling. In my consideration it is notable that whilst the proposed house would sit next to the existing Church, there would then be a sizeable open area separating the proposed house from any other properties to the west and south. Furthermore, the Church itself stands in relative isolation on this side of Leighton Road. In my consideration, this would mean that the proposal could not be seen as 'limited infilling' as it would represent only a small part of a much larger open area.
7. Furthermore, the addition of a new detached house and garage would have a negative effect on the openness of the Green Belt which adds to the harm. I also consider that it would conflict with the purposes of the Green Belt by encroaching into open land and eroding the gap between the settlements of Leighton Buzzard and Heath and Reach.
8. In relation to the proposed 12 parking spaces for use by the Church, the Framework advises at paragraph 90 that certain other forms of development may be considered as not inappropriate, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of the Green Belt. The proposed car park would be hard-surfaced and obviously designed to accommodate cars. It would be sited at the front of the site on the side nearest to the Church. In my judgement it would be an obvious addition to the

area and would have a negative effect on the openness of the land by virtue of the hard-surfacing, the proposed boundary treatment and the cars that it is designed to accommodate. It would have a negative and urbanising effect which would encroach on the countryside. Therefore, I find that this aspect of the proposal represents inappropriate development which is harmful to the Green Belt, contrary to the advice in the Framework. I give substantial weight to the harm to the Green Belt in this proposal.

Effects on the Conservation Area and Listed Buildings

9. At the time of my site visit the appeal site appeared to have been recently cleared of ground covering vegetation, but still contained a number of plants and trees. These include a dense evergreen line of trees along the east and south boundaries, as well as the west. There is evidence that a building was present on the site but what remains is just a few courses of bricks above ground level. It would appear that this was demolished some time ago and reference is made to an appeal in the 1980s when it was apparently derelict.
10. Notwithstanding the detractions of the boundary trees, the openness and semi-natural state of the site complements the Church by emphasising its isolated position, set apart from the village, with only the important Heath Manor close by. The proposal would erode this openness and notwithstanding the proposed position of the house towards the rear of the site, it would detract from the Church and compete with it in some views. I accept that the removal of the existing trees in itself would have a positive effect on the setting of the Church and on Heath Manor, but the imposition of the new house, garage, car park and other urbanising features would represent overriding negative factors. Therefore, on balance, I consider that the proposal would fail to preserve the setting of either of these listed buildings.
11. The site also makes an important contribution to the character and appearance of the conservation area. For the same reasons as set out above, the proposal would erode its positive effects and so would fail to preserve or enhance the character and appearance of the conservation area.
12. I consider that the harm to these heritage assets can be described as 'less than substantial harm' as set out in the Framework. I have balanced this harm against any benefits that may arise from the proposal. I have acknowledged that the removal of the evergreen trees would be a benefit but this would be outweighed by the presence of the buildings and other features. The site would also be tidied up but in my view this would remove some of its rural character and bring urbanising factors with it. In my judgement, these and any other positive factors referred to by the appellant are insufficient to outweigh the harm. Therefore, the proposal is contrary to the advice in the Framework in this respect.

The effect on protected wildlife

13. The appellant has submitted an ecological assessment which, amongst other things, states that the site includes a suitable habitat for Great Crested Newts (GCN) due to the presence of the pond and proximity of others nearby. It states that there are habitats on and adjacent to the site which may provide suitable conditions for foraging, sheltering and hibernating. The pond was at a low water level when inspected for the ecological assessment but the assessment recommended a further survey as it is possible that it could

support a breeding population. It adds that any resultant mitigation would depend on the presence and size of the newt population. It concludes that the site has the potential to support GCN and recommends a survey in order to confirm this.

14. The appellant makes reference to paragraph 118 of the Framework and states that as the aim of the proposal is to conserve or enhance biodiversity then permission should be granted. However, the Framework actually states (in the 3rd bullet point of paragraph 118) that "development proposals where the primary objective is to conserve or enhance biodiversity should be permitted". In my view, this does not describe the current proposal and it cannot accurately be stated that the primary objective of the proposal to build a house, garage and car park is to conserve or enhance biodiversity.
15. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it *'...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'* (paragraph 99). Although the Circular states that surveys should only be required where there is a reasonable likelihood of species being present and affected by the development, it advises that surveys should be carried out before planning permission is granted. Consequently, it advises that surveys should only be required by condition in exceptional circumstances.
16. It should be born in mind that the proposal does not just include enhancement to the pond but it involves clearance of the site, construction of buildings and hard-surfacing all of which could have a negative effect on GCN. From the information submitted, it seems likely that protected species may be present on site and I find no exceptional circumstances which would indicate that surveys could not be undertaken prior to a decision being taken. In the absence of such information I cannot be assured to any extent that there would be no unacceptable effects on GCN. Therefore, the proposal is contrary to the advice in the Framework.

Other Matters and Overall Balance

17. The appellant makes reference to a number of matters that they think are positive consequences and which should weigh in favour of the scheme. I have dealt with a number of these in the balancing assessment of the effects on the heritage assets, set out above, and given my comments on them. As far as they are capable of influencing my overall decision and in relation to the Green Belt, those matters referred to above are not capable of clearly outweighing the Green Belt harm. In addition, the appellant refers to the public benefits of additional parking for the Church, local support for the scheme, the reinstatement of the pond, an alleged inability of the Council to demonstrate a 5 year housing land supply and the advice in paragraph 55 of the Framework in relation to isolated new homes in the countryside.
18. Taking the last point first, notwithstanding the lack of objection in relation to detailed design or sustainability, I do not consider that the proposal can claim special circumstances and it is not "truly outstanding or innovative" in these respects. I have no doubt that the additional parking for the Church would be

welcomed by some, but my view is that the harm to openness and the character of the area would outweigh such a benefit. I have noted the local support as well as the opposition to the scheme and I do not find that either is, in itself, sufficient to influence my decision on the planning merits of the case. Whilst the reinstatement of the pond is a matter that, taken in isolation may be welcomed, the proposal as a whole is unacceptable and in relation to the effects on GCN, the information is absent by which to make an informed judgement on mitigation. In relation to housing land supply, the appellant's comments are unsupported by evidence and the Council has made reference to a recent appeal decision which concludes that the Council can demonstrate a suitable supply of housing land. Therefore, I attach little weight to the appellant's comment in this respect.

19. Having taken account of all matters, I consider that there are no other matters which taken individually or together are capable of clearly outweighing the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify the development do not exist.
20. For the reasons given, the proposal would have an unacceptable effect on the Green Belt, adjacent listed buildings, the conservation area and GCN. Consequently, the appeals are dismissed.

S T Wood

INSPECTOR