



Appeal Decision

Hearing Held on 23 November 2017

Site visit made on 23 November 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 9 January 2018

Appeal Ref: APP/X0415/W/17/3179939

Owl Meadow, Hog Lane, Ashley Green HP5 3PY

- 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 & Mrs John and Liz Nassari against the decision of Chiltern District Council.
 - The application Ref CH/2016/2416/FA, dated 23 December 2016, was refused by notice dated 21 February 2017.
 - The development proposed is conversion and extension of existing barn to provide single accessible dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An alternative drawing was submitted with the appeal that suggested different window sizes and positions to seek to overcome the Council's reason for refusal relating to the character and appearance of the area. The Council raised no objections to considering this revised scheme as part of the appeal, so I have taken this into account in coming to my decision.
3. The use of the existing building and surrounding land was discussed at the hearing and it was suggested that it is used as part of the garden of Owl Meadow and that this may have become lawful through the passage of time. However, it is not for me, under a section 78 appeal, to determine whether or not that use has become lawful. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Town and Country Planning Act 1990 regardless of the outcome of the appeal.
4. The Council's decision notice includes a reason for refusal relating to highway safety at the vehicle access point due to the visibility splays. However, further information was submitted following that decision and the Council accepted that the visibility splays proposed were sufficient subject to an appropriate condition should I allow the appeal.
5. I drew the parties attention to *Smith v The Secretary of State for Communities and Local Government* [2017] EWHC 2562 (Admin) prior to the hearing and *John Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466 was brought to my attention during the hearing. I have taken these into account in coming to my decision.

Main Issues

6. In light of the above, the main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the existing building and surrounding area;
- Whether there are other considerations weighing in favour of the proposal; and
- 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

7. The proposal would extend and convert the former piggery building adjacent to Owl Meadow along with the adjacent silo into residential use. The extensions would result in two of the four walls of the building being removed and the building extending outwards on those sides. In doing so, it would be necessary to remove and replace the roof with a taller roof. Openings would be created in the remaining two walls in different locations to the existing openings in order to provide windows and doors into the building, including access to the silo that would be converted into a bathroom, even in the revised scheme. New floors would need to be created throughout, and the silo would be removed and replaced to enable new footings to be created.
8. Although the existing building is of permanent and substantial construction, it is clear that very great alterations would take place to the building in order to provide the amount of accommodation proposed, with little of the original building remaining following the works. Given those changes, I consider that so little of the original building would be retained that the resulting building would, effectively, be a new building. As the last lawful use of the building was for agricultural purposes, it cannot be considered previously developed land as defined by the National Planning Policy Framework (the Framework).
9. Policy GB2 of the Chiltern District Local Plan (LP) confirms that most development in the Green Belt is inappropriate and that there is a presumption against such development. This reflects the Framework that confirms new buildings should be considered inappropriate within the Green Belt. Both of those policies provide a number of exceptions. These include extensions that do not result in disproportionate additions over and above the size of the original building, although Policy GB2 of the LP limits this to dwellings, and the re-use of buildings that are of permanent and substantial construction, subject to detailed criteria in Policy GB11 of the LP. Rebuilding, providing the new building is in the same use and not materially larger than that it replaces is also an exception, although limited to dwellings in Policy GB2 of the LP. In addition, the Framework includes an exception relating to the redevelopment of

previously developed sites that 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.

10. As I have concluded that the proposed development would comprise a new building, I do not consider it is necessary to consider the proposal against policies relating to the extension or re-use of buildings within the Green Belt as set out in Policies GB2 and GB11 of the LP, or the Framework. As the replacement building would be in a new use, it cannot comply with the exception relating to replacement buildings. The site does not comprise previously developed land, so it cannot benefit from the provision within the Framework in relation to the redevelopment of previously developed sites.
11. Consequently, I conclude that the proposed development would comprise inappropriate development within the Green Belt which is, by definition, harmful to the Green Belt. It would result in encroachment into the countryside, one of the five purposes of the Green Belt. As a result, the proposed development would conflict with Policies GB2 and GB11 of the LP as well as the Framework.

Openness

12. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, openness is one of the essential characteristics of Green Belts.
13. Whilst there is some disagreement as to the increase in size of the building, the floor space would be over 40% larger than the existing building and the ridge height of the roof would be increased. This would result in a significant increase in the size of the building that would affect the openness of the Green Belt in this location.
14. To the rear of the dwelling it is proposed to construct a substantial amount of decking to provide accessible outside amenity space, along with a substantial driveway to the front of the dwelling. In addition, there would be a variety of domestic paraphernalia associated with the use of the dwelling. I note that the amount of decking could be reduced or the deck deleted by condition should I consider that necessary. Nevertheless, the extent of the decking and driveway, in addition to that domestic paraphernalia, would further contribute to the harm to the openness of the Green Belt.
15. The building is located within a small opening surrounded by mature trees and hedges. As a result the building, along with the decking, driveway and other domestic paraphernalia, would not be readily visible from outside the site, particularly when leaves are on the trees, except through the existing access. In addition, the proposed extensions would be to the rear of the building and to the side furthest from the existing access and the driveway and decking would be at ground level. No changes are proposed to the means of enclosure of the property. As a result, the visual impact of the proposed development would be modest.
16. The openness of the Green Belt, however, has a spatial as well as a visual aspect and I conclude that the extent of the combined extensions, decking, driveway and domestic paraphernalia would reduce the openness of the Green

Belt in this location. As a result, it would be contrary to Policy GB2 of the LP and the Framework that seek to protect the openness of the Green Belt.

Character and appearance

17. Hog Lane is a rural lane through the countryside, with a number of buildings spread out along the road of a variety of styles and appearance. Most of these are of a traditional design that reflect the rural area, and a number of former farm buildings have been converted to residential use whilst retaining their rural character. There is a mix of materials used in the construction of these buildings, including brick and timber weatherboarding.
18. The existing barn at Owl Meadow is a utilitarian brick building with low eaves and ridge that reflects its original use as a piggery discretely located surrounded by mature trees and hedgerows. Although the essential shape of the building would remain, the appearance of the alterations proposed to the building would result in a significantly altered external appearance.
19. The additional windows proposed include substantial new glazing in a different location to the existing windows and doors. Much of the new glazing proposed would be full height windows and doors. The revised drawing submitted with the appeal reduces the amount and size of glazing. Nevertheless, the amount of glazing proposed would result in a significantly more domestic appearance to the building that would considerably alter its character.
20. The driveway would be constructed of materials that reflect this rural area. Nevertheless its extent, along with the decking and other domestic paraphernalia, would further contribute to the domestic character and appearance of the proposed development.
21. In addition, the walls and roof would be clad in charred cedar. This would reflect the weatherboarding on a number of surrounding buildings and, although different from the existing brick, would not appear out of place in this rural area. However, that would not materially reduce the domestic appearance arising from the extent of glazing proposed and the decking, driveway and other domestic paraphernalia that contrasts with the more rural appearance of the existing building and the character and appearance of the surrounding area.
22. For these reasons, I conclude that the proposed development would harm the character and appearance of the existing building and surrounding area. As such, it would be contrary to Policy CS20 of the Core Strategy (CS) and Policy GC1 of the LP that require a high standard of design that relates well to the characteristics of the site and reflects and respects the character of the surrounding area.

Other considerations

23. A number of other matters have been drawn to my attention, including relating to the personal circumstances of the appellant. I confirmed at the hearing that I would not be referring in detail to this information in my decision. Suffice to say that the requirements of the appellants include access throughout the dwelling for multiple wheelchair users. This includes considerations relating to the height of windows and storage, and the width of openings and passageways. Owl Meadow is occupied by close family members and was also

designed to meet the needs of multiple wheelchair users, such that this location would enable a degree of mutual care.

24. The dwelling would be custom built, designed to meet the present and future needs of the appellants and their family, and would be the minimum size necessary to meet those needs. The appellants' evidence at the hearing was that the proposed dwelling would meet their requirements in a convenient location and may reduce their potential burden in terms of needing care in the future. They have been searching for a suitable property for some time in the surrounding area, but homes to meet their requirements are unusual. Consequently, whilst I am sympathetic to the benefits of the mutual support available in this location, it has not been demonstrated that such close proximity is essential, and this affects the weight I am able to attach to this factor.
25. Local and national policies support people to remain in their own homes and be cared for there for their whole lifetime. Planning Practice Guidance promotes access and inclusion, including accessibility and wheelchair housing standards. The proposed development would exceed the Nationally Described Space Standard, which acknowledges that the minimum size is not adequate for wheelchair housing as additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households. The dwelling would have an energy efficient construction and has been designed to provide an energy efficient home. These matters would result in this dwelling contributing to the choice of high quality housing in the vicinity.

Conclusion

26. I have found that the proposed extension and conversion of the barn at Owl Meadow would be inappropriate development that harms the openness of the Green Belt and it would harm the character and appearance of the existing building and surrounding area. The proposed development would meet the specific needs of the appellants and their family and be energy efficient such that this provision, especially given the lack of suitable specialist housing in the locality, would contribute to choice in the district. Those matters carry considerable weight in the planning process. However, that needs to be balanced with the substantial harm to the Green Belt by reason of inappropriateness, and the significant harm to the character and appearance of the area. The Framework confirms that the fundamental aim of Green Belt policy includes keeping land permanently open and the purposes of the Green Belt include safeguarding the countryside from encroachment.
27. Taking those factors into account, I conclude that the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policies GB2 and GB11 of the LP and the Framework that seek to protect the Green Belt from inappropriate development.
28. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philippa Jarvis	PJPC Ltd
John Nassari	Appellant
Liz Nassari	Appellant
Andri White	

FOR THE LOCAL PLANNING AUTHORITY:

Jo Richards MSc	Chiltern District Council
Ian Severn	Planning Officer, Chiltern District Council

DOCUMENTS SUBMITTED AT THE HEARING:

- Document 1: *John Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466
- Document 2: Department for Communities and Local Government Technical Housing Standards – nationally described space standard