
Appeal Decision

Site visit made on 4 December 2017

by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2018

Appeal Ref: APP/N0410/W/17/3179562

Plum Tree Cottage, East Burnham Lane, Burnham SL2 3TL

- 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 P Uppal against the decision of South Bucks District Council.
 - The application Ref 16/02337/FUL, dated 8 December 2016, was refused by notice dated 3 February 2017.
 - The development proposed is described as to resume human habitation.
-

Decision

1. The appeal is allowed and planning permission is granted to resume human habitation of Plum Tree Cottage, East Burnham Lane, Burnham SL2 3TL in accordance with the terms of application Ref 16/02337/FUL, dated 8 December 2016, and in accordance with the following 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 plan: Drawing No 44-16-02.
 - 3) Notwithstanding the provisions of Article 3 and Classes A, B, C, D and E of Part 1 of Schedule 2, and Part 2, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling hereby permitted, including to its roof shall be erected, and no buildings, or structures shall be erected within the curtilage.

Costs Application

2. An application for costs was made by the appellant against South Bucks District Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the appeal I sought the views of the main parties in respect of a revised description of development. Whilst the Council accepted that the 'use of the building as a dwelling' was a clearer description of development to that indicated on the planning application form, the appellant did not, considering that the building was already a dwelling. In light of this disagreement, I have considered the proposal as submitted by the appellant.

4. I also sought the views in respect of the representations made concerning the scheme's impact on Burnham Beeches, a Site of Special Scientific Interest (SSSI), National Nature Reserve (NNR) and Special Area of Conservation (SAC). The comments received are considered below.

Main Issues

5. The appeal site is located within the Metropolitan Green Belt. Accordingly the main issues in this case are:
- whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

6. The existing building is single storey with a part pitched and part flat roof. It is set within large grounds, enclosed on all sides by tall boundary treatments. Vehicular and pedestrian access is taken off East Burnham Lane through tall entrance gates. It has the appearance of a small house, comprising basic accommodation including a small kitchen/living space, beyond which is a small room which is shown on the application drawing to be a bedroom, and a shower room and toilet.
7. In 2004 a 'personal' planning permission was granted for the occupation of the building as a dwelling by a named occupier. A planning condition was used to secure this restriction. A previous appeal¹ seeking to remove that condition was dismissed at appeal in November 2013. The present appeal effectively seeks permission again for it to be occupied as a dwelling without any such limitation.

Whether Inappropriate Development

8. The proposed development represents the re-use of a building in the Green Belt as a dwelling. The Framework is clear that certain forms of development are not inappropriate in the Green Belt, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The re-use of buildings, provided that they are of permanent and substantial construction is one such form of development. Saved Policies GB1 and GB2 of the South Bucks District Local Plan (LP) are broadly consistent with the Framework in this regard. I consider each of these factors below.

Whether the Building is of Permanent and Substantial Construction

9. On my site visit I saw that the appeal building was in a decent state of repair and is not dilapidated or particularly run-down in any way. Nor would its occupation require any major or complete re-construction. Given the building materials used and its condition, I consider the building to be of permanent and substantial construction.
10. I note that the Inspector in the previous appeal found that the building was in poor physical condition and, taken with its limited size was consequently not suitable for re-use. However, the Council says that the building has been the

¹ Ref APP/N0410/A/13/2190790

subject of improvements and renovations since then and that it has been brought up to an acceptable standard. Whilst I have not been provided with specific details of the works undertaken, I agree with the Council's point that this represents a clear change in circumstances. Indeed, in my view, it is a material one. The size of the building has no bearing on the question of whether or not its re-use would be inappropriate.

Openness of the Green Belt

11. Openness is an essential characteristic of Green Belt. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
12. The appeal building already exists. Its occupation by people would not alter the effect of the building itself on openness.
13. I agree with the point raised that extensions to the building and certain forms of development within the grounds allowed under 'permitted development rights' could reduce openness to an unacceptable degree. However, notwithstanding the previous Inspector's view, to ensure that openness is not materially harmed, I consider it is both reasonable and necessary to remove those rights relating to extensions and alterations to the building, including its roof, and development within its curtilage, through planning condition. I have imposed such a condition accordingly.
14. It is possible that applications to extend the building may be submitted to the Council in the future, and I note that some building work appears to have commenced. But extending the building forms no part of the proposal before me. The acceptability or otherwise of doing so is not for my judgement. Any such proposals would be a matter for the Council in the first instance, and the Council would retain the ability to refuse those that it considered to be unacceptable.
15. The appeal proposal may lead to a greater level of domestic paraphernalia within the grounds than previously, when the building's habitation was restricted to a single person. However, given the size of the building, its occupation by more than a few people would be unlikely. Given this, notwithstanding the view of the Inspector in the previous appeal, I consider it unlikely that the outdoor keeping of domestic items would be excessive or beyond that normally found within the garden of a small dwelling. I am not persuaded that this factor would erode the openness of the Green Belt to any significant or materially harmful extent. The openness of the Green Belt would be generally preserved.

Purpose of the Green Belt

16. Green Belt serves five purposes as set out in paragraph 80 of the Framework, including to assist in safeguarding the countryside from encroachment. The appeal site is located in the countryside. However, this appeal proposal seeks to re-use an existing building and no alterations, extensions or outbuildings are proposed. Consequently, I find that there would be no encroachment into the countryside. The proposal would not conflict with the other four purposes of including land within the Green Belt either.

Conclusion on Inappropriateness

17. I therefore conclude that, with the condition I have imposed removing certain 'permitted development rights', the proposal would not be inappropriate development in the Green Belt. As such, it would not conflict with the Framework. Neither would it be at odds with LP Policies GB1 or GB2. These policies permit the re-use of buildings in the Green Belt provided that the building is of permanent and substantial construction and is capable of conversion without major or complete re-construction, and provided that the new use and associated new uses of land surrounding the building to be re-used, does not detract from the open and undeveloped character of the Green Belt.

Character and Appearance

18. The appeal site is in the open countryside. Whilst there are no other dwellings immediately adjacent to it, there are other houses nearby, scattered across the rural area. In this context, the appeal building is not isolated. Rather, it is one of a number of buildings dispersed around the locality. Re-using it as a dwelling would not alter this. Indeed its use as a dwelling would reflect the prevailing pattern of uses in the surrounding area.
19. I recognise that the proposal would result in a dwelling smaller than others in the locality. But the building already exists and forms part of the character and appearance of the area. Its re-use as a dwelling would be unlikely to have any greater impact on the character and appearance of the area than that previously permitted. Whilst a future occupier may use the site more intensively than the previous occupier of the building, I see no particular reason why this should be a problem. It would add to the building's legibility as one dwelling among others scattered around this area of countryside.
20. In light of my findings, I conclude that the proposal would preserve the character and appearance of the area. There would be no conflict with the aims of LP Policy EP3 which requires development to be compatible with the character and amenities of the site itself, adjoining development and the locality in general.

Other Matters

21. The appeal building would provide a dwelling of very modest size and I note the previous Inspector's comments in this respect. But it seems to me that it would provide accommodation that would be satisfactory. There is nothing to suggest that the previous occupant found shortcomings in this respect, and anyone inhabiting the dwelling would do so in the knowledge of the space offered. In my view, this factor alone should not lead to the appeal being dismissed.
22. I note the concerns that the proposal would place recreational pressure on Burnham Beeches which is approximately 500 metres from the appeal site. This is designated as a SAC, a SSSI and a NNR. SAC are afforded protection under the EU Habitats Directive (92/43/EEC) and the Conservation of Habitats and Species Regulations 2010. SSSI are afforded protection under the Wildlife and Countryside Act 1981 (as amended).
23. Allowing the appeal would lead to the occupation of one modestly sized dwelling, a use which has previously been permitted by the Council. In this

context, and in the absence of substantive evidence to demonstrate otherwise, I am not convinced that additional pressure would be placed on Burnham Beeches to any material extent. Accordingly, I find that the proposal would not have an adverse impact on designated sites in the area or adversely affect biodiversity. The proposal would not unacceptably impact on the conservation value of the Burnham Beeches SAC, SSSI or NNR. As such the statutory tests would be met.

24. I note the concerns that allowing the appeal would result in a precedent for similar development in the Green Belt. I am not aware of similar proposals nearby and as such I attach limited weight to these submissions in my consideration of this case. I also acknowledge the comments about development having taken place on the site without planning permission and that an orchard has been removed. However, it is for the Council to consider breaches of planning control, and these matters cannot have, and have not had, any bearing on my conclusions in this appeal.

Conditions

25. The Council has suggested a number of conditions that it would wish to see imposed in the event that the appeal was allowed. To ensure that the development is carried out as approved, a condition requiring that it is undertaken in accordance with the approved drawing is necessary.
26. For the reasons explained above, a condition is necessary removing certain 'permitted development rights'. The Council has also suggested that 'permitted development rights' are removed for hardsurfacing, means of access, chimneys/flues and antenna. I am not convinced that the removal of such rights is necessary to protect the Green Belt and the character and appearance of the area. Accordingly I have not removed these 'permitted development rights'.

Conclusion

27. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

R C Kirby

INSPECTOR