



Appeal Decision

Site visit made on 21 May 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal Ref: APP/K0425/W/19/3222559

High Hedges, Cryers Hill Road, Cryers Hill, High Wycombe, Bucks HP15 6JP

- 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 Martyn Wallen against the decision of Wycombe District Council.
 - The application Ref 18/08131/FUL, dated 6 November 2018, was refused by notice dated 4 February 2019.
 - The development proposed is described as, demolition of existing dwelling; proposed construction of two dwellings, one with integral car-port, the other with detached garage.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision refers to the Wycombe District Local Plan Submission Version 2018 (the WDLP). Since then the WDLP has been subject to modifications set out in the Proposed Main Modifications to the Wycombe District Local Plan (February 2019). Given the advanced stage of plan preparation I have given the WDLP significant weight in my reasons below, taking into account modifications to the quoted policies.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt;
 - the effect of the development on protected species;
 - the effect of the development on flood risk;
 - the effect of the development on the Chilterns Area of Outstanding Natural Beauty (the AONB); and
 - if the development is inappropriate, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether the development would be inappropriate

4. The site lies within the Metropolitan Green Belt and consists of a single dwelling on a large garden plot which is chiefly laid to grass, which has a field-like appearance. With the exception of outlying elements of the adjacent school, the plot is located to the rear of existing development fronting Cryers Hill Road. Playing fields are located to either side, and paddocks beyond. As a whole therefore, the plot appreciably lies beyond the principle built-up area of the settlement. The definition of previously developed land set out in the Glossary of the National Planning Policy Framework (the Framework) does not exclude residential gardens outside built-up areas. The plot can as such be considered as previously developed land.
5. Paragraph 145(g) of the Framework states that the complete redevelopment of previously developed land would be 'not inappropriate' where it would not have a greater impact on the openness of the Green Belt than the existing development.
6. The proposed development would entail the construction of 2 substantial detached dwellings in place of one. The total amount of built form on the site, as too its distribution across it, would each increase, and one of the dwellings would be constructed within what is currently open space. It is therefore clear that the spatial impact of the proposed development on the openness of the Green Belt would be considerably greater than that of the existing development.
7. Though the site is enclosed by tall hedges on either side, given the patchy nature of these hedges partial views of the development would be possible from the adjacent playing fields. It is likely that views would also be possible from existing development fronting Cryers Hill Road, and clear views would be provided from the paddocks beyond. Notwithstanding the fact that visibility could be reduced over time by improved planting and management of the boundary hedges, the increased spatial impact of the development on the openness of the Green Belt would therefore be perceptible visually from within the immediate setting of the site. The adverse effect on the openness of the Green Belt would nonetheless be limited.
8. In both spatial and visual terms therefore, the development would have a greater impact on the openness of the Green Belt than the existing development. Consequently, the development would not be in accordance with the exception set out in the first bullet of paragraph 145(g) of the Framework.
9. The appellant has also described the development as involving 'infill', and more particularly applied this term to the dwelling proposed within what is currently garden space. Paragraph 145(e) of the Framework sets out that limited infilling in villages is 'not inappropriate' development.
10. Notwithstanding the fact that the site is excluded from the area of the defined settlement, it clearly forms part of the village. As the site as a whole lies outside the built-up area of the settlement however, and given that the scheme would involve the complete redevelopment of the site, not simply the addition of a dwelling within the garden, the development cannot be considered as

'infill'. Consequently, the appeal scheme would not be in accordance with the exception set out within the first bullet of paragraph 145(e) of the Framework.

11. Though the appellant additionally describes one of dwellings as a replacement for that currently on site, the Council's assertion that this replacement would be materially larger than the existing dwelling has not been contested. As such it would not demonstrably meet the exception for replacement buildings set out in paragraph 145(d) of the Framework.
12. For the reasons outlined above I conclude that the proposal would represent inappropriate development, which is by definition harmful to the Green Belt. The proposal would as such conflict with Policy GB2 of the Wycombe District Local Plan to 2011 adopted January 2004 (as saved and extended September 2007) and replaced by the Adopted Core Strategy July 2008 and Adopted Delivery and Site Allocations Plan July 2013) (the LP), Policy CS9 of the Adopted Core Strategy Development Plan Document 2008 (the CS), and Policy DM42 of the WDLP, which each seek to prevent inappropriate development in the Green Belt. I attach substantial weight to the harm that would be caused.

Protected species

13. The appellant confirms that Glis Glis, otherwise known as the 'fat' or 'edible' dormouse, is resident in the roof of the existing dwelling. Glis Glis are protected under the Wildlife and Countryside Act 1981 (the WCA). Given the context, age, and construction of the dwelling and the character of the site, there is also a reasonable likelihood that bats are present within or make use of the site. Bats are also protected by the WCA, as well as being a European Protected Species (EPS) under the Conservation of Habitats and Species Regulations 2017.
14. No survey work has been undertaken in regard to the proposed development. As such the exact nature and extent of impact upon protected species is unknown, as too is the degree to which such impacts could be mitigated.
15. Given the effect on a EPS, I am required to have regard to the 3 tests set out for EPS Licensing, which are: whether the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest; there is no satisfactory alternative; and, the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
16. The development is not necessary for preserving public health, safety and no imperative reasons of overriding public interest have been identified. It is reasonable to consider that alternative options for development or use of the site exist to that proposed. In the absence of evidence however it is impossible to conclude what would represent a more or less satisfactory alternative to the appeal scheme. Similarly it is impossible to know what the relative effect of the development would be on the conservation status of bats. Lastly, no imperative reasons of overriding public interest have been identified that would justify the harm that could arise were the proposed development to proceed.
17. Though the appellant indicates that a survey would be undertaken in the event that the appeal was allowed, this would be too late to ensure that adverse effects on protected species would be avoided or mitigated. In this context paragraph 99 of Circular 6/2005 states that conditions used to secure surveys

should only be used in exceptional circumstances. No exceptional circumstances exist in this case.

18. For the reasons outlined above I conclude that it has not been demonstrated that the appeal scheme would avoid or mitigate unacceptable harm to protected species. This would conflict with Policies DM13 and DM14 of the Adopted Delivery and Site Allocations Plan for Town Centres and Managing Development 2013, and Policy DM34 of the WDLP which each seek to conserve and enhance biodiversity. Furthermore paragraph 175(a) of the Framework indicates that in the absence of avoidance or adequate mitigation of harm to biodiversity, planning permission should be refused.

Flood risk

19. The site is located within Flood Zone 1 which indicates that, in relative terms, it is at least risk of flooding. No evidence has been set before me which shows that the site otherwise suffers from critical drainage problems. Furthermore, ample open space would also remain within the site, providing scope to address sustainable drainage solutions as part of the development. I therefore see no reason to consider that the development would be likely to lead to surface water flooding, or that drainage could not be addressed by use of conditions.
20. I conclude therefore that the development would not have an unacceptably adverse effect with regard to flood risk. It would therefore comply with Policy CS18 of the CS, which amongst other things states that development is required to avoid increasing and where possible reduce risks of flooding; and Policy DM39 of the WDLP, which similarly states that development will be directed to areas at least risk of flooding, and will be required to reduce the causes and impacts of flooding both on and off site.

AONB

21. The site is located within the AONB. I have therefore had regard to the statutory purposes of the AONB's designation, most particularly to conserve and enhance the natural beauty of the area. In that regard paragraph 172 of the Framework, states that great weight should be given to conserving and enhancing landscape and scenic beauty within ANOBs.
22. As outlined above, the site is located close to other development, and is well enclosed. Limited views between the site and adjacent spaces exist, and it is not exposed within the broader landscape. Furthermore, though the appeal scheme would involve an increase in the amount and distribution of development across the site, the development would, as a whole, project little further into the open setting of the settlement than the existing development.
23. In terms of the more local impact, given that the plot is at present occupied by a domestic dwelling, 'paraphernalia' associated with domestic use is already present within it. Two dwellings may or may not generate a greater amount of such paraphernalia. Either way however, this would not be inconsistent with the existing use of the site, or therefore appear 'incongruous'.
24. For the above reasons I am satisfied that the size, siting, height, and the design of the development, including any associated paraphernalia, would have a negligible visual impact on the character of the landscape.

25. I conclude therefore that the development would not harm the natural, landscape or scenic beauty of the AONB. It would therefore comply with Policy L1 of the LP, Policy CS17 of the CS and Policy DM30 of the WDLP which each seek to conserve and enhance the AONB; and Policy G3 of the LP, Policy CS19 of the CS, and Policy DM35 of the WDLP which each seek to secure development designed with regard to its context.

Other considerations

26. The appellant states that the development would make more efficient use of the site. Whilst paragraph 122 of the Framework states that planning decisions should support such development, this does not override the objective of protecting Green Belt land otherwise set out in the Framework. As such I attach limited weight to this consideration.
27. The proposed dwellings would be prefabricated Huf Haus designs which the Council describes as 'not unattractive'. They would incorporate high levels of insulation and could potentially incorporate other features which would improve the environmental sustainability of the development. Against this must necessarily be set the 'cost' of demolishing the existing dwelling. As such I give this consideration limited weight.
28. In conclusion, the other considerations advanced by the appellant together attract limited weight as matters in favour of the proposal.

Whether there are very special circumstances

29. The proposal would involve inappropriate development in the Green Belt. In addition, the proposal could have an adverse impact on protected species. This is a point to which I have attached significant weight, in addition to the substantial weight I must afford harm to the Green Belt.
30. The other considerations referred to by the appellant carry limited weight in favour of the proposal, which is insufficient to outweigh the harm to the Green Belt, and any other harm considered in combination. As such, harm caused by the proposal would not be clearly outweighed by other considerations, and therefore the very special circumstances necessary to justify the development do not exist.

Conclusion

31. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR