



Appeal Decision

Site visit made on 18 June 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/T0355/W/19/3224752

**Land at Bears Copse, Plough Lane, Waltham St Lawrence, Reading
RG10 0NN**

- 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 Hall against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/02701, dated 18 September 2018, was refused by notice dated 13 November 2018.
 - The development proposed is the erection of 2 No. dwellings, garages, parking and associated landscaping following the demolition of existing buildings and removal of hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No. dwellings, garages, parking and associated landscaping following the demolition of existing buildings and removal of hardstanding at Land at Bears Copse, Plough Lane, Waltham St Lawrence, Reading RG10 0NN in accordance with the terms of the application, Ref 18/02701, dated 18 September 2018, subject to the conditions in the attached schedule.

Main Issue

2. 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 on the openness of the Green Belt, and;
 - If inappropriate, 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

Whether Inappropriate Development

3. Saved policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan (incorporating alterations) June 2003 (LP) indicates that development for new buildings in the Green Belt is limited to specified exceptions unless there are

very special circumstances. Policy GB2 of the LP states that permission will not be granted for new development if it would have a greater impact on the openness of the Green Belt or the purposes of including land in it, than an existing development on the site.

4. This approach is broadly in line with that set out in the National Planning Policy Framework (the Framework). However, where there are differences with the listed exceptions in paragraph 145 of the Framework, the Framework attracts more weight, given the age of policies GB1 and GB2. In any event, it is not part of the appellant's case that the proposal to erect 2 dwellings would fall within any of the exceptions listed in policy GB1 of the LP, or the Framework. I have no basis to consider otherwise, and it therefore follows, that the proposal constitutes inappropriate development in the Green Belt.

Openness

5. Although there are residential dwellings adjacent to, and opposite the appeal site, it comprises predominantly open grass land with a large barn and hardstanding located in the northern portion. The introduction of 2 semi-detached dwellings, associated garages, gardens and hardstanding onto the portion of the site where almost no built form currently exists, would markedly reduce the openness of the Green Belt. In addition, given the location of the site adjacent to Plough Lane, with a public footpath to the western boundary, glimpses of the development would be possible.
6. Accordingly, the proposal would have an adverse spatial and visual impact on the openness of the Green Belt. However, given the relatively minor scale of the proposal, which would be located within a row of dwellings fronting onto Plough Lane, this would result in moderate harm to the openness of the Green Belt.

Other Matters

7. There is no dispute between the parties that the proposal would be an acceptable design, and one that does not result in harm to highway safety or the living conditions of nearby residents. Whilst some concerns are raised in relation to the capacity of the sewerage system to cater for additional development, there is little robust evidence to substantiate this. Furthermore, this was not an issue raised by the Council and as such, I have no basis to disagree. Overall, these matters are neutral factors in the green belt balancing exercise.

Other Considerations

8. The appellant contends that the permission¹ for the conversion of the existing barn to 2 dwellings would have a greater impact on the openness of the Green Belt than the appeal proposal and proposes the demolition of the barn building in the event of the scheme before me being allowed. In light of the existence of the prior approval scheme, and the statement of the appellant, I accept that there is a realistic possibility of the prior approval conversion being implemented in the absence of any other scheme. Therefore, the fallback position is a consideration of significant weight in this case.

¹ Prior approval reference 18/02665 dated 8 November 2018

9. I am referred to appeal examples² where Inspectors have given weight to a fallback position. However, there is no dispute between the parties that the fallback position is a relevant consideration, essentially the parties disagree as to whether it has greater merit than the appeal proposal or not.
10. The appeal proposal would result in several advantages over the prior approval scheme in terms of the impact on the openness of the Green Belt. Firstly, the location of the built form would align more closely with the existing row of dwellings along Plough Lane. The barn building is located further to the north, and as such encroaches more markedly into the open countryside. Therefore, although the appeal proposal would result in building on land that is presently free from built form, it is something of an enclave with other buildings present in all directions. The removal of the barn and hardstanding would result in a greater concentration of development within the established linear pattern, that would keep the northern edge open, thereby improving the openness of the Green Belt across the appeal site when it is seen in the surrounding context.
11. Furthermore, notwithstanding that the footprint would occupy a greater width of the site, due to the reduced height and domestic scale of the purpose-built dwellings, the development would result in a lower volume of built form overall. The use of gables, roof lights and pitched roof dormer windows would keep the roof ridge and eaves level low, thereby considerably reducing the overall height and massing of the dwellings in comparison to the barn conversion.
12. Design cues for the development are taken from nearby cottages that would result in a rural domestic appearance, more in-keeping with the character of the surrounding area. I acknowledge that the design of the prior approval scheme was considered acceptable within the restricted parameters of the permitted development allowances. Nevertheless, this does not prevent the appeal proposal representing an aesthetic improvement, not simply in terms of the detailing and form but also in terms of the location and volume.
13. By contrast, the barn conversion would retain a modern, utilitarian appearance. Whilst its scale and form would be commensurate with its original agricultural purpose, there would be significant amounts of glazing introduced and the curtilage would be likely to have a domestic appearance. Consequently, it would not have a character and appearance that would normally be associated with the countryside as the Council suggest. Moreover, the layout of the barn conversion would not perform as well as the appeal proposal in terms of the levels of privacy, comfort and suitability of the garden areas for future residential occupants.
14. I accept that there is likely to be some associated domestic paraphernalia for the proposed dwellings. Nevertheless, this would also be the case for the dwellings in the barn conversion. Furthermore, the restricted nature of garden areas available for the barn conversion and their proximity to the footpath to the west, is likely to result in a greater intensification of such paraphernalia, and it being more visible.
15. The barn building is prominent in some views from sections of the adjacent public footpath north west of the appeal site. Consequently, the concentration of development into a linear form and removal of the barn building, would allow for a more distinct edge to the settlement that would result in an

² Reference APP/Z1510/W/17/3189624 & APP/J1535/W/18/3200087

improvement to the sense of openness experienced by walkers using the public footpath.

16. The appeal proposal would contribute 2 additional dwellings to overall housing supply in the area. However, as this would also be the case for the fallback position, it presents no advantage. As such, this is a neutral factor in the overall green belt balance.

Green Belt balancing exercise

17. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances to allow inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and moderate harm would also be caused to the openness of the Green Belt. These factors attract substantial weight.
18. Nevertheless, the appellant has an alternative fallback position which is considerably more harmful to the openness of the Green Belt than the appeal proposal. Furthermore, when compared to the scheme before me, the fallback position would not contribute as positively to the character and appearance of the area and would provide less satisfactory living conditions. In addition, I am satisfied that by using conditions the fallback position can be prevented, and the openness of the Green Belt improved.
19. I have not seen firm evidence to suggest that it is probable that additional agricultural buildings would be built on the northern part of the appeal site in the future, which limits the weight I can give to it. The Council points out that permitted development is a common occurrence. However, I am not aware that other considerations must be rare or uncommon in order to be special, rather it is the resultant impact upon the openness of the Green Belt that is determinative in this case.
20. Accordingly, I find that the other considerations clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. On that basis, the proposed development would accord with policies GB1 and GB2 of the LP, whose principal objective is to protect the Green Belt from inappropriate development, save in the case where very special circumstances are shown.

Conditions

21. In addition to the standard time period for the commencement of development, it is necessary in the interests of certainty to list the approved plans.
22. Given the significant weight given to the fallback position as an alternative to the appeal proposal, it is necessary and reasonable to prevent the fallback scheme proceeding in addition to the appeal proposal. Although the Council suggest a legal agreement may be necessary to achieve this objective, paragraph 54 of the Framework advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. I have not seen substantive evidence as to why conditions could not adequately secure this objective. Therefore, in order to protect the

openness of the Green Belt, a condition to ensure that the existing barn building is removed prior to the occupation of the dwellings is also imposed.

23. Similarly, given that the reduction in volume over the fallback position attracted weight, as the dwellings permitted by the fallback position would not have benefitted from permitted development rights normally enjoyed by householders, there are exceptional circumstances to limit the ability to extend the permitted development rights for the proposed dwellings. This would allow for the specific consideration of the impact on the openness of the Green Belt from those classes of permitted development that would otherwise allow an enlargement of the dwellings or outbuildings.
24. It is reasonable in the interests of highway safety to secure the provision and retention of sufficient off-street parking and visibility for the access. In recognition of the demolition, proposed landscaping belt and proximity of the public right of way, a condition to agree and implement a landscaping scheme across the site is considered necessary. However, there is no need to have a separate condition dealing with the means of enclosure, nor is it shown why the details must be agreed prior to the commencement of development. Therefore, I have adjusted the wording of the conditions accordingly.
25. Finally, to protect the character and appearance of the area samples of materials for external surfaces should be agreed. However, this need only be done before the relevant part of the development and I have amended the wording to reflect this.

Conclusion

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

Helen O'Connor

Inspector

Schedule of Conditions (9 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 plans: Site Location Plan As Existing 348-02-00 P; Proposed Site Plan 318-02-20 P3; New Dwellings Ground Floor Plans 318-03-20 P4; New Dwellings First Floor Plans 318-03-21 P4; Garage Block Plot 1 318-03-23 P; Garage Block Plot 2 318-03-24 P; New Dwellings Elevations sheet 1 318-05-20 P4; New Dwellings Elevations sheet 2 318-05-21 P4; Proposed Street Scenes 318-05-22 P3; Existing Barn Elevations 348-05-01; Block Plan As Existing 348-02-01 P1.
- 3) The development to which this planning permission relates shall not commence if any part of the development for which planning permission was granted on 8 November 2018 pursuant to prior approval application reference no. 18/02665 is already commenced.
- 4) Prior to the first occupation of either dwelling hereby permitted the barn, hardstanding and bin store shown on drawings numbered 348-02-01 P1 & 318-02-20 P3 shall be demolished and removed from the site, with the land restored in accordance with a scheme previously agreed in writing with the local planning authority.
- 5) Irrespective of the provisions of Classes A, B, C, D and E of Part 1, 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 enlargement, improvement or any other alteration (including the erection of any ancillary buildings within the curtilage) of or to any dwelling house the subject of this permission shall be carried out without planning permission having first been obtained from the local planning authority.
- 6) No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with drawing 318-02-20 P3. The space approved shall be kept available for parking and turning in association with the development.
- 7) No part of the development shall be occupied until visibility splays of 25 metres to the left by 16 metres to the right, set back 2.4 metres from the edge of the carriageway have been provided, and thereafter retained. The areas within these splays shall be kept free of all obstructions to visibility over a height of 0.6 metres above carriageway level.
- 8) Prior to the first occupation of either dwelling hereby approved there shall have been submitted to and approved in writing by the local planning authority a scheme of both soft and hard landscaping. The scheme shall include indications of all existing trees and hedgerows on the land and proposed planting; and the siting and design of all walls, fencing or other means of enclosure. It shall also include a timetable for implementation. Thereafter, the development shall proceed in accordance with the agreed scheme and timetable.
- 9) Prior to the relevant part of the development taking place, samples of the materials to be used on the external surfaces of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.