

Appeal Decision

Site visit made on 10 September 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Appeal Ref: APP/K0425/D/19/3222888

The Pepper Boxes, Rignall Road, Little Hampden HP16 9PR

- 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 Nick Harley and Alesya Gorodnik against the decision of Wycombe District Council.
 - The application Ref 18/07289/FUL, dated 29 August 2018, was refused by notice dated 27 November 2018.
 - The development proposed is demolition of existing outbuildings and construction of a new detached ancillary building comprising a gymnasium and art studio.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues 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;
 - the effect on the openness of the Green Belt and on the character and appearance of this part of the Chilterns Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposed development on the setting of the Grade II listed flint towers and whether it would preserve or enhance the character or appearance of the Hampden House Conservation Area;
 - the effect on nearby trees; and
 - if the proposal would be inappropriate development, whether the harm to the Green Belt 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.

Preliminary Matters

3. The Council supports its reasons for refusal by reference to policies in its new Local Plan Submission Version March 2018. However, I am unaware of the current status of the new plan and whether there are outstanding objections to the policies referred to. Consequently, in the absence of any certainty about this matter I can give little weight to these policies for the purposes of
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determining this appeal¹. Therefore, I have relied on the policies referred to from the Council's adopted plans.

Reasons

4. The appeal property is a detached one and a half storey dwelling in an open, rural setting with little other development nearby. It is attached to one of a pair of listed, mid-eighteenth century lodges in the form of small octagonal flint towers. In front of the property to the west is The Glade, a wide landscape avenue leading to the Grade I listed Hampden House, a substantial country house visible in the distance. The appeal property is located in the Green Belt, the Chilterns AONB and the Hampden House Conservation Area.

Whether the Proposal is Inappropriate Development

5. The Framework makes clear that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions². None of these refers explicitly to domestic outbuildings as proposed in this case. However, the building would replace the existing outbuildings on the site, on part of the same footprint, and therefore 145 (d) is relevant. This allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. The Council refers to Policies GB2 and GB7 of its adopted Local Plan to 2011 and to Policy CS9 of its Core Strategy, adopted in 2008. Policies GB2 and CS9 are broadly-based policies concerning development in the Green Belt and, despite pre-dating the Framework, they are largely consistent with it. Accordingly, I have given them weight in considering the appeal proposal.
7. Policy GB7 concerns detached outbuildings in the Green Belt, as proposed in this case. Given that the proposed building would be a normal domestic adjunct to the dwelling, the outbuilding is capable in principle of being considered as an extension to the existing dwelling, in accordance with 145 (c) of the Framework. However, I note the appellants' contention that the supporting text to Policy GB7 refers to new or extended ancillary buildings. As the proposal in this case involves a replacement building, I accept that the principal tests should be those included in 145 (d) of the Framework, concerning the building being in the same use and not materially larger than the one it replaces.
8. The proposed new outbuilding would replace three existing buildings: a garage, a summerhouse and a greenhouse. The building would include a gymnasium and art studio, but its overall use would be the same as the use of the existing outbuildings as it would be incidental to the established residential use of The Pepper Boxes.
9. The appellants indicate that the three existing buildings have a combined floor area of 80m², while the proposed building would have a marginally larger area of 84m². However, as the Framework requires a comparative assessment based on size, floor area is not the only possible measure. It is also instructive to compare any changes to physical size and scale between the existing and proposed buildings.

¹ In accordance with paragraph 48 of the Framework.

² Paragraph 145.

10. The single building replacing three existing buildings would result in a less dispersed form of development. However, one of these structures is a greenhouse, which is of limited height, bulk and substance. The central building of the three is relatively large for a domestic outbuilding, but in common with the other two is still of a scale that results in it being subordinate in appearance to the host dwelling.
11. By contrast, the proposed building would be of substantively greater height than any of the three buildings. Indeed, its roof would not be much lower than the roof ridge of the host dwelling. Moreover, it would be of this height across most of its built form, unlike the variable and lower heights of the three existing buildings. Despite the similar floor area, its greater height would result in it displaying considerable bulk and mass across a building that would be considerably larger than any of the existing buildings, individually or in combination. Consequently, for these reasons, unlike the existing buildings it would not appear subordinate to the host dwelling.
12. Therefore, taking these findings as a whole, it is clear that due to its additional height, bulk and mass the proposed building would be materially larger than those it would replace. Accordingly, I conclude that the proposal would not satisfy the requirements of paragraph 145 (d) of the Framework or Policies GB2 and CS9 described above, and so it would be inappropriate development in the Green Belt, which is, by definition harmful and should not be approved except in very special circumstances.

Effect on Openness and AONB

13. The Framework states that the essential characteristics of Green Belts are their openness and their permanence³. I have found above that the proposal would result in a building of considerable height, bulk and mass compared to the existing situation. The additional height and bulk would inevitably have some effect spatially on the openness of the Green Belt, particularly as the appeal site is surrounded by open land and not contained by any other neighbouring built development.
14. The appeal property is not readily visible from the road frontage and the position of the proposed building from these views would also largely be obstructed by the host dwelling in front of it. However, there is a direct visual relationship maintained between the appeal site and Hampden House through the open landscape avenue known as The Glade. Seen from in front of the existing dwelling in this open setting, the proposed building would be a substantive presence that would infill the area to the side of the dwelling and the adjacent woodland. As such, it would materially affect the openness of the Green Belt visually in this location. Consequently, for these reasons, I conclude that the proposal would have a harmful effect on the openness of the Green Belt and it would, therefore, be contrary to the Framework and to Policy GB2 of the Local Plan insofar as it concerns the effect of development on the openness of the Green Belt.
15. The Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, amongst other designated

³ Paragraph 133.

areas⁴. Policy L1 of the Local Plan reflects this national guidance, specifically with regard to development proposals in the Chilterns AONB.

16. I accept that the proposal would involve the removal of two outbuildings, which are in a poor condition and which, therefore, do not conserve or enhance the appearance of the AONB (I exclude the greenhouse in this regard as its removal would have minimal effect given the difference from the larger, more substantive buildings). Nonetheless, I have found above that the proposed building would be located in a largely undeveloped open setting, that it would add considerable bulk, mass and height and would not appear subordinate to the host dwelling; and that it would have a materially harmful visual effect seen from in front of the property. For these same reasons, I conclude that the proposal would not conserve the landscape and scenic beauty of this part of the Chilterns AONB. Therefore, it is contrary to the Framework and to Policy L1, as described.

Effect on Heritage Assets

17. The two lodges have Grade II listed status. As well as their architectural merit noted in the listing description, this also refers to the fact that the lodges are sited at the foot of The Glade, 'a long wide avenue leading to Hampden House', reflecting the historical association between the designated heritage assets. The Hampden House Conservation Area is a rural conservation area covering the Grade I listed house and grounds of the Hampden Estate.
18. The lodges are within the same residential curtilage as the site of the proposed building and the principal views of the two lodges together are from in front of the property at the end of The Glade. From this perspective, the site of the new building, the listed lodges and the main dwelling are visible together. For these reasons, the site of the proposed building forms part of the setting of the listed structures. The inclusion of the appeal site within the conservation area reflects the positive contribution that the listed lodges make in this location, particularly due to their historical association with the estate and listed house.
19. It has already been found that the proposal would introduce a building of substantively greater height, bulk and mass than those it would replace. It would, therefore, increase the extent of built development in what is otherwise a highly open setting for the listed lodges and which is characteristic of the conservation area as a whole. The scale and appearance of the new building would be more akin to a small dwelling in its own right rather than a domestic outbuilding. As such, it would be an incongruous and uncharacteristic form of development in this sensitive location.
20. The appellants refer to other examples of development that have been permitted in the conservation area. However, while I acknowledge these, I have considered the appeal proposal on its individual merits and have found that it would result in material harm to two designated heritage assets. Moreover, in reaching these findings I am particularly mindful of the statutory requirements for decision makers to have special regard to the desirability of preserving the setting of a listed building; and that in exercising planning

⁴ Paragraph 172.

functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area⁵.

21. Therefore, for all the above reasons, I conclude that the proposal would have an unacceptably harmful effect on the setting of the Grade II listed flint towers and would not preserve the character and appearance of the Hampden House Conservation Area. Consequently, the proposal is contrary to Policies HE3 and HE6 of the adopted Local Plan, which, respectively, concern the effect of development on the setting of listed buildings and in conservation areas; and to Policy CS17 of the adopted Core Strategy concerning environmental assets, which includes the requirement to preserve or enhance historic environments. These policies are consistent with the Framework.
22. Where there is a harmful effect on the significance of a designated heritage asset which is less than substantial harm, which would apply in this case, the Framework requires the harm to be weighed against the public benefits of the proposal⁶. I am unaware that any such benefits have been promoted by the appellants, particularly as the proposal involves a building for private residential use.

Effect on Trees

23. The proposed building would be sited close to the edge of the adjacent woodland and the Council's principal concern is that the building's position may give rise to future pressures to prune and/or remove trees.
24. The building would be located within the existing residential curtilage and would be on a broadly similar footprint to the existing buildings in terms of the relationship with the nearest trees. Its additional height means that there could be some effect on overhanging branches during its construction, although this is likely to be limited. I accept the appellants' argument that the principal outlook from the building is towards the front and sides and, therefore, any potential effects on outlook or natural light from the trees to the rear of the building would not result in pressure to prune them.
25. Taking these findings as a whole, I conclude that any effect on the adjacent trees would be minimal and would not result in unacceptable harm. As such, the proposal is not contrary in this regard to the following development plan policies: G3 of the adopted Local Plan, which concerns general design, including the need to have regard to existing trees amongst other matters; G11 also of the Local Plan, which concerns the effect of development on trees; and CS17 of the Core Strategy concerning environmental assets.

Other Considerations

26. I am not aware that any other considerations have been raised in support of the appeal.

Conclusion

27. The proposed development would represent inappropriate development in the Green Belt as well as harmfully reducing its openness. The Framework requires

⁵ Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

⁶ Paragraph 196.

that substantial weight must be attributed to harm to the Green Belt⁷. Moreover, I have found that the proposal would result in material harm to the character and appearance of the Chilterns AONB and to two designated heritage assets.

28. No other considerations are raised in support of the appeal. Consequently, very special circumstances do not exist and, despite my finding in the appellants' favour on the other main issue concerning the effect on trees, permission should not be granted as the proposal is contrary to the relevant development plan policies and to guidance in the Framework, as described above. Accordingly, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

⁷ Paragraph 144.