



Appeal Decision

Site visit made on 29 October 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/W1525/W/19/3234487

Baddow Park Farmhouse, Brook Lane, Great Baddow, Chelmsford CM2 7SX

- 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 Donna & Marcus Long (All Season Day Care) against the decision of Chelmsford City Council.
 - The application Ref 19/00830/FUL, dated 26 April 2019, was refused by notice dated 24 July 2019.
 - The development proposed is the construction of an outbuilding that will be used for Sui Generis Use. The bespoke use of the building and existing house is for a Canine day care which will be in action throughout the year.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the address from the Council's decision notice rather than that on the application form as it more closely corresponds with the information on the plans. I note the site is on The Chase, a drive which leads off Brook Lane.
3. The description of development above has been taken from the planning application form. In Part E of the appeal form it is stated that the description has not changed but, nevertheless, a different wording has been entered. I have received no written confirmation that a revised description has been agreed and so I have used the one given on the original application form.
4. On my visit, I saw that the external walls and roof of the building have been completed. Internal works were on-going and I saw no evidence that the canine care business had started in the building.
5. The Council's appeal submission refers to policies within the emerging Chelmsford Local Plan. These policies have not been formally adopted and emerging policy CO2 is subject to proposed modifications. As such, I have attached limited weight to these policies in my assessment.

Main Issues

6. The appeal site is located within the Green Belt and so the main issues are:
 - whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and development plan policy; and

- the effect on the character and appearance of the area; and
- the effect on the area by reason of noise; and
- if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in the Green Belt

7. Policy DC1 of the Core Strategy and Development Control Policies Development Plan Document 2008 (CSDCP) states that the aim of Green Belt is to prevent urban sprawl by keeping land permanently open. The Framework states the essential characteristics of Green Belts are their openness and permanence¹.
8. Policy DC1 looks to refuse permission for new buildings in the Green Belt except where they are of a type within a specified list. Limited infilling or partial redevelopment of previously developed sites is permissible provided it would have no greater impact on the openness of the Green Belt. In this respect, Policy DC1 is broadly consistent with paragraph 145 of the Framework.
9. The appeal building is on a previously open part of the garden and parking area to the house. Its erection represents partial redevelopment and, by virtue of being within the curtilage of the house and outside of a built-up area, it lies on previously developed land. However, by reason of its height, length and breadth, the appeal building spatially reduces the openness of the Green Belt. Also, as it is clearly seen from a nearby footpath to the north and east and from fields to the south, the building reduces the visual openness of the site. Parked cars associated with the proposed business would also affect visual openness, albeit for short periods of time. As such, the scheme has a greater impact on the openness of the Green Belt than the pre-development situation.
10. Under the terms of paragraph 145 of the Framework, buildings for agriculture or proportionate extensions to buildings are not inappropriate development in the Green Belt. However, the proposed canine care and incidental residential uses do not fall within the legal definition of agriculture² and so the appeal scheme is not an agricultural building. Also, it is detached and therefore not an extension to an existing building. In any case, the appeal building is of a significant size and no measurements have been provided to inform a judgement on whether or not the building is a disproportionate addition over and above the size of the original house.
11. For the above reasons, I find the appeal scheme does not fall within the exceptions listed at paragraph 145 of the Framework and so represents inappropriate development in the Green Belt.

Character and appearance

12. Despite the upper part of the house being seen from the adjacent land over a close boarded boundary fence, the area is predominantly rural in character.

¹ See paragraph 133 of the Framework

² Section 336(1) of the Town and Country Planning Act 1990

13. The appeal building is positioned close to the southern boundary and is seen above the fence from the field with little scope to provide screen planting. As it is single storey and timber clad, the building bears some resemblance to the stables on the site and has a rural appearance. However, by reason of its size and prominent positioning on the edge of the site, the appeal building adversely impacts on the intrinsic character and appearance of the rural area. Given the likely number of customers, I am not persuaded the proposed use would lead to an unacceptable urbanising effect, but the lack of harm in this respect fails to overcome the visual impact I have identified.
14. For these reasons I conclude the proposal would be contrary to the Framework, which aims, amongst other things, to ensure that planning decisions recognise the intrinsic character and beauty of the countryside.

Noise

15. Despite being in a rural location, the appeal site lies close to the A12 road and the sound of traffic can be heard on the appeal site and nearby public footpath. The proposed canine care use has the potential to generate barking noise that may affect the surrounding area. Whilst such noise would be different in nature, the tranquillity of the area around the site is already impacted upon by the relatively constant sound of traffic on the A12. Furthermore, I saw dog walking is popular near to the appeal site, so barking is already heard to a degree in the area. The Council identify no residences that may be affected by noise and there are none that appear to be sufficiently close to the site.
16. Given the context to the appeal site, I am satisfied that the implementation of management procedures would avoid barking noise unduly affecting the character of the area or the living conditions of the occupiers of any residential property. Such measures could be secured through the imposition of a planning condition requiring the submission and approval of a noise action plan.
17. For the reasons outlined above, I conclude that the development, once brought into use, would not have a harmful effect on the area by reason of noise. Consequently, and in this regard, it would be in accordance with policy DC4 of the CSDCP and the Framework, which aim, amongst other things to avoid harm being caused by noise to living conditions of residents and to tranquil areas.

Other considerations

18. The appellant contends that, as the appeal site lies on the outer edge of the Green Belt, the proposal would not contribute to urban sprawl. However, local and national Green Belt policies make no distinction between sites close to or away from settlements, but instead emphasise the aim to retain the openness of all Green Belt land. I also note the appellants' views on the adverse effects and inconsistencies of Green Belt policy. However, paragraph 133 of the Framework states that the Government places great importance to Green Belts and so I attach very limited weight to the appellants' comments in this regard.
19. I note other buildings in the area, including on the nearby industrial estate. I have no information on the circumstances that resulted in these developments being permitted and I am required to assess this appeal on its own merits. As such, other nearby developments have no bearing on my assessment.
20. Reference has been made to permitted development rights relating to development within the curtilage of a dwelling house. The issue as to whether

the appeal scheme requires planning permission is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. However, as the appeal building is described as having a sui generis, rather than incidental use, it would appear not to constitute permitted development, regardless as to its size or proximity to the house. As such, I attach only limited weight to this matter in my consideration of the appeal. I also attach limited weight to the fact the appeal building has been constructed from locally sourced materials and provides good energy efficiency.

21. Paragraph 83 of the Framework states that planning decisions should enable sustainable growth of all types of businesses in rural areas. The appeal development will provide jobs for Mrs Long and her 2 daughters and therefore brings economic benefits. Also, whilst canine care businesses are not uncommon, the proposal provides a service to local residents. Such factors attract significant positive weight in my assessment of the appeal.

Whether very special circumstances exist

22. The appeal scheme represents inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances only exist where the harm by reason of any inappropriateness and any other harm is clearly outweighed by other considerations. Government policy dictates that, in carrying out the balancing exercise, substantial weight is to be given to any harm caused to the Green Belt³.
23. As well as harm by reason of inappropriateness, the development causes a loss of spatial and visual openness, thereby adversely impacting on one of the essential characteristics of the Green Belt. The building also harms the character and appearance of the countryside to which I attach moderate weight. The proposal is acceptable in terms of noise effects, but this is a neutral factor that fails to overcome or override the identified harm.
24. On considering all the relevant matters, I conclude that the benefits of the appeal scheme and all other considerations do not clearly outweigh the totality of harm the development causes to the Green Belt and the other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the development conflicts with the Framework and Policy DC1 of the CSDCP which, amongst other things, seeks to preserve the openness of the Green Belt.

Conclusion

25. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

³ See paragraphs 143 and 144 of the Framework.