



Appeal Decision

Site visit made on 27 January 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/N0410/W/19/3238152

Land at Lovehill Lane, Langley, Buckinghamshire SL3 6DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of planning permission.
 - The appeal is made by Mrs Jenny Brumby against the decision of South Bucks District Council.
 - The application Ref PL/19/1733/DE, dated 20 May 2019, sought approval of details pursuant to condition No 1 of a planning permission Ref 17/00347/OUT, granted on 23 June 2017.
 - The application was refused by notice dated 15 July 2019.
 - The development proposed is 'erection of dwelling to supervise a horticultural business at Cherry Orchard Nursery'.
 - The details for which approval is sought are: 'access', 'layout', 'scale', 'landscaping' and 'appearance'.
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Decision

1. The appeal is allowed, and the reserved matters submitted under application Ref: PL/19/1733DE, dated 20 May 2019, are approved. Namely details of 'access', 'layout', 'scale', 'landscaping' and 'appearance' submitted in pursuance of Condition No 1 of planning permission Ref: 17/00347/OUT, dated 23 June 2017.

Main Issues

2. The main issues in this appeal are: 1) The effect of the proposed development on the character and appearance of the area and the openness of the Green Belt: and 2) Whether the proposed dwelling would be commensurate to the size of the adjoining agricultural operation.

Reasons

The effect on the character and appearance of the area

3. The appeal site is a small paddock that is visually contiguous with an open, hedge bounded field to the east. Immediately to the south of the appeal site is Love Hill House Farm/Cherry Orchard Nursery, which encompasses a collection of agricultural buildings, areas of external storage and the remnants of a Victorian wall garden. To the immediate south of the farmyard is Love Hill House, which is a large building apparently split into four dwellings. There are other large houses nearby including Park Cottage and Parkstile House. These buildings are approached along Lovehill Lane, a narrow road flanked by hedging. Thus, the immediate setting is verdant and rural.

4. The proposed dwelling would be arranged over two storeys with additional attic and basement space. Part of the dwelling would be given over to an annex and garage. It would have a ridge height of around 9.7m and an overall floor area of about 328sqm. It would therefore be a large structure with a presence in the landscape. The Council have suggested that the proposed dwelling would be out of keeping with the general size of dwellings within the rural location, but it is unclear to which buildings it is referring.
5. The proposed dwelling would have a traditional appearance and a scale that would not appear out of place when viewed next to Park Cottage and Love Hill House, both of which are visible from Billet Lane in glimpsed views through the roadside hedge. Furthermore, the dwelling would appear as an extension of the farmyard cluster. Thus, the appeal scheme would have a similar visual impact in the landscape to nearby dwellings and would not appear isolated.
6. That said, both Park Cottage and Love Hill House sit in mature plots and are therefore softened by the presence of existing semi mature and mature landscaping. The appeal scheme could appear quite stark in views from the east if the eastern boundary is not carefully considered. The submissions do not include adequate details of landscaping even though this was advanced as a reserved matter for consideration. Nevertheless, the Council have recommended a condition requiring further details to be submitted. This is an unusual course of action because landscaping is a 'reserved matter'. That said, further details are essential and therefore this would be a pragmatic solution. Such landscaping details would need to include a comprehensive scheme of hedgerow planting along the eastern boundary of the appeal site, which would break up the silhouette and massing of the building in views from Billet Lane.
7. The new dwelling would be discretely located in views from Lovehill Lane being set back behind existing landscaping. The access drive would be the main visual indicator of the presence of the proposed building. It would require the existing hedge to be breached and the driveway would then bisect hedging and a small paddock. This was however, envisaged in the outline application due to the position of the red line site area. Precise details of the materials to be used in the driveway have not been submitted and nor have details of compensatory hedge planting along its route.
8. However, these details would fall within the scope of the landscaping condition suggested by the Council. If appropriately detailed, the driveway could have a rural, contextually appropriate appearance that would safeguard the setting of Parkstile Lodge, a Grade II Listed building, and the approach to Langley Country Park. Moreover, the driveway would be seen in the context of others nearby, including that serving Park Cottage. Thus, the access and driveway need not appear out of place or harmful to the rural setting of the area.
9. In conclusion, dwelling at the appeal site would have an inevitable impact on the rural landscape but the specific dwelling proposed would be of a scale and design that would not appear out of place in the context of nearby buildings. Thus, in this respect, the proposal would not be in conflict with Policy CP8 of the South Bucks District Core Strategy 2011 and Policies EP3 and H9 of the South Bucks Local Plan 1999 (LP).

The effect on the openness of the Green Belt

10. When considering the proposal at the outline stage the Council did not direct for details of scale and therefore it is unclear how it considered the impact on the openness of the Green Belt without this information. Nevertheless, the Council approved a dwelling. The erection of a dwelling at the appeal site would erode the openness of the Green Belt, but this would be an inevitable consequence of implementing the appeal scheme as granted.
11. When approving the dwelling, the Council placed no limitation on its scale. There is no occupancy condition or, more significantly, any condition providing a ceiling on the size of the dwelling or requiring it to be implemented in accordance with parameter plans. Accordingly, the appeal scheme is not outside the scope of what was permitted at the outline stage and therefore the effect on the openness of the Green Belt would not be excessive, as it would not be exceeding any limitation imposed by the Council. Ultimately, the Council approved a single dwelling, and this is what has been advanced at the reserved matters stage. I have already explained that the dwelling proposed would not appear relatively large in the local context.
12. In conclusion, the effect on the openness of the Green Belt would not exceed that inherent in the outline approval. As such, no additional conflict with Policy GB1 of the LP would occur beyond that already sanctioned by the Council when it approved a dwelling at the outline stage without any limitation upon its scale.

Whether the proposed dwelling would be commensurate to the size of the adjoining agricultural operation

13. The dwelling was originally advanced in the outline application as a rural worker's dwelling. The house now proposed may or may not be commensurate in size to the needs of the rural business at Cherry Orchard Nursery and may ultimately be larger than a worker at the business can afford. However, this is immaterial as the Council failed to impose any occupancy condition upon the house and therefore it was not approved as a rural worker's dwelling. Case law¹ referred to by the appellant suggests the Council cannot rely on the description of development alone to secure the occupation of the dwelling for a rural worker when a change of use is not proposed. Thus, in conclusion, the Council cannot reasonably seek to ensure the dwelling is commensurate to the size of the agricultural operation at Cherry Orchard Nursery. In any event, the Council has failed to define what a commensurately sized dwelling would be.

Other Matters

14. The proposed development would be located at the end of Lovehill Lane, a single-track cul-de-sac where conflicting vehicular movements will be minimal and speeds low. This would ensure the proposal would not harm highway safety. The dwelling has been sited to avoid an existing pipeline and BPA Pipelines have not objected to the proposal. Substantive evidence is not before me demonstrating the appellant does not have control over the land needed to undertake the development or that the existing telecom pole would present an unacceptable hazard if not moved.

¹ *I'm Your man Ltd V Secretary of State 1998*

Conditions

15. When considering the conditions suggested by the Council and the advice in the Planning Practice Guide, it is necessary in the interests of certainty to ensure the development is implemented in accordance with the submitted drawings. In the interests of safeguarding the character and appearance of the area it is necessary to impose conditions securing details of finishing materials and hard surfaces.
16. Inadequate landscaping details have been submitted so a condition requiring further details is a necessary and pragmatic solution in order to safeguard the character and appearance of the area. Additionally, it would be necessary to protect such landscaping. Given the size of the proposed dwelling, it is necessary to exceptionally remove permitted development rights in order to safeguard the character and appearance of the area and the openness of the Green Belt. The submitted reserved matters includes details of an annex. Therefore, it is necessary to ensure it is used as such in the interests of adhering to the spatial strategy for the area.
17. Through the outline planning permission, the Council has already permitted a dwelling at the appeal site, so it is unnecessary to secure details of a land contamination assessment. Moreover, such details would be outside the scope of the reserved matters so a condition along these lines would be unreasonable.

Conclusion

18. For the reasons given, I conclude that the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. The development to which this planning permission relates shall be undertaken in accordance with the following approved drawings: Drawing Numbers 200.01 Rev F, 17-114 E1 Rev F, 17-114 E2 Rev F, 17-114 R Rev F, 17-114 SEC Rev F, 17-114 SEC Rev F, 17-114 FF Rev F, 17-114 GF Rev F and 17-114 BF Rev F.
2. No development above ground level shall take place until a schedule of finishing materials to be used in the external elevations of the development hereby permitted have been submitted to and approved by the Local Planning Authority in writing. Thereafter the development shall be carried out in accordance with the approved details.
3. A schedule of all finishing materials to be used in any hard surfacing of the application site shall be submitted to and approved by the Local Planning Authority in writing prior to the laying of any hard surfacing. Thereafter the development shall be constructed using the approved materials.
4. Notwithstanding any indications illustrated on drawings already submitted, prior to the first occupation of the development hereby permitted, a scheme of existing and proposed landscaping shall be submitted to and approved in writing by the Local Planning Authority.
5. The details required by Condition 4 shall include indications of all existing trees, shrubs and hedgerows on the site and details, including crown spreads, of those to be retained. None of the trees, shrubs or hedgerows shown for retention shall be removed or felled, lopped or topped within a period of five years from the date of this permission, without the prior written permission of the District Planning Authority.
6. All planting, seeding or turfing approved as part of the landscaping scheme required by Condition 4 shall be carried out in the first planting and seeding season following the occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the occupation or substantial completion of the development, whichever is the later, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
7. Notwithstanding the provisions of Article 3 and Classes A, B & E of Part 1 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 (including the erection of a garage, stable, loosebox or coach-house within the curtilage) of or to the dwellinghouse the subject of this permission, shall be carried out nor shall any building or enclosure required for a purpose incidental to the enjoyment of any said dwellinghouse as such be constructed or placed on any part of the land covered by this permission.
8. The accommodation shown as an 'Annex' within the dwelling hereby permitted shall be occupied only by a relative of the occupier of the site, or, alternatively, solely in connection with the approved dwelling as a single-family dwelling unit and not as a separate unit of accommodation.