
Appeal Decisions

Site visit made on 10 March 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2020

Appeal A Ref: APP/P0240/W/19/3242765

Abbey Farm, Abbey Lane, Maulden MK45 2UP

- 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 V Dellicolli (Trafalgar Transport Ltd) against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/00279/FULL, dated 29 January 2019, was refused by notice dated 24 July 2019.
 - The development proposed is the change of use of the existing building to residential use and the demolition of the existing stables and replacement with a dwelling.
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Appeal B Ref: APP/P0240/W/19/3242770

Abbey Farm, Abbey Lane, Maulden MK45 2UP

- 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 V Dellicolli (Trafalgar Transport Ltd) against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/00278/FULL, dated 29 January 2019, was refused by notice dated 24 June 2019.
 - The development proposed is the construction of a new building to provide a dog training facility, together with associated car parking.
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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement (ES) is therefore not required.
4. The emerging Central Bedfordshire Local Plan 2035 (eLP) has reached examination stage but has not yet been adopted. Accordingly, the policies within it can be afforded only limited weight at the present time.

Main Issues

Appeal A

5. The main issues are:

- (i) Whether or not the proposals would be inappropriate development in the Green Belt
- (ii) The effect of the proposed development on the character and appearance of the area
- (iii) Whether occupants of the proposed development would have a choice of modes of travel to day to day services
- (iv) If the proposal is inappropriate development, whether the 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 the development

Appeal B

6. The main issues are:

- (i) Whether or not the proposals would be inappropriate development in the Green Belt
- (ii) The effect of the proposed development on the character and appearance of the area
- (iii) If the proposal is inappropriate development, whether the 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 the development

Reasons

Whether inappropriate development

7. Paragraph 145 of the National Planning Policy Framework (The Framework) says that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. It does, however, list certain exceptions to this, which I shall turn to below. Paragraph 146 of The Framework further sets out that certain other forms of development are also not inappropriate within the Green Belt, providing they preserve its openness and do not conflict with the purposes of including land within it.

Appeal A

Change of use of the existing dog training building to a dwelling

8. Paragraph 146d) of The Framework states that the re-use of buildings of permanent and substantial construction is not inappropriate in the Green Belt, provided that the development preserves its openness and does not conflict with the purposes of including land within it. The proposed change of use of the existing dog training building to a residential dwelling would represent the re-use of a building that is of a permanent and substantial construction, it being a brick built building with a tiled roof. The building would remain of the same

scale, with only its appearance changed to facilitate its intended new use as a dwelling.

9. Whilst the proposed conversion to a residential use would inevitably require the creation of a defined curtilage for the dwelling and associated domestication of the land, the area that would be used for such purposes is roughly equivalent to that which appears to be utilised as an informal outdoor area in conjunction with the existing use and is enclosed to the prominent Abbey Lane frontage of the site. The comparative impact of the proposed residential curtilage as opposed to the existing use would mean that this element of the proposal would preserve the openness of the Green Belt and would not represent inappropriate development.

Replacement of existing stable building with a new dwelling

10. Paragraph 145 of The Framework sets out that new buildings are inappropriate in the Green Belt, with the exception of development that falls within one of six stated categories. Paragraph 145g) allows for the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
11. The existing development on the site consists of the current dog training building, which would remain, and a stable block, which would be demolished. The proposed new dwelling would be positioned forward of the site of the stable building, on an area which is currently hard surfaced. Whereas the existing stable building is of a modest scale with a shallow roof structure, the proposed new dwelling would have a greater footprint than the stable building and it would have a more substantial roof structure, including an increased ridge height. It would also require the establishment of a residential curtilage and associated domestic paraphernalia.
12. The appellant has made reference to the existing characteristics of the site. This includes the presence of hard-surfaced areas and in terms of how visible the proposed residential development would be due to the presence of existing landscaping, which could be supplemented to add further screening. Reference is also made to the fact that the proposed new dwelling would be clustered closer to the existing dog training building than the existing stable and that permitted development rights could be removed from the proposed dwellings.
13. However, the proposed residential development would still have a visual impact on views taken from outside the site and the presence of the screening would not overcome the actual increase of physical development. Neither would the fact that the new building would be close to the existing dog training building nor that there are already hard surfaced areas on the existing site or that permitted development rights could be removed.
14. The plans submitted show that a detached garage would be provided and shared between the two proposed dwellings. Although the appellant has advised that this could be removed from the scheme and has suggested that this could be achieved by way of a planning condition, it is nonetheless shown on the plans that have been submitted. This element of the scheme would add to the footprint of the overall development and to its visual impact and the impact upon openness, contributing further to the harm that the proposed new dwelling would cause.

15. The above factors mean that the proposed new dwelling would have a greater impact on openness than the existing development. It would have a greater impact on the openness of the Green Belt and therefore would not fall under the exception of paragraph 145g).

Appeal B

16. The parties have drawn my attention to Paragraph 145b) of The Framework which allows for the provision of appropriate facilities for outdoor sport and outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
17. However, the proposed building would be located on an area of the site which is currently devoid of buildings and it would be of a substantial scale with associated car parking areas. It would therefore lead to a loss of openness and its presence would represent an encroachment into an area where there is not currently any substantial built development. Landscaping could not overcome the physical presence of the building and consequent loss of openness. This would both fail to preserve openness and run contrary to the purpose of the Green Belt which seeks to prevent encroachment. Therefore, the proposal would not represent an exception under Paragraph 145b).

Conclusion on whether or not the proposals would be inappropriate

18. Consequently, in not complying with any of the listed exceptions, the proposed new dwelling which forms part of Appeal A and the proposed development under Appeal B would be inappropriate development in the Green Belt, which Paragraph 143 of The Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of The Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt. The change of use of the existing dog training building to a dwelling which forms part of Appeal A would however not be inappropriate development in the Green Belt.

Character and appearance

19. The proposed dwellings would sit in a position remote from the edge of Ampthill and from any other of the nearby settlements. Whilst the existing dog training building is already in place, neither it nor the modest existing stable building are features that appear as out of character within a rural setting. The proposed dwellings would change the character and appearance of the site, not only due to their domestic visual appearance, but due to their associated residential curtilages and the general domestication of the site.
20. The physical separation of the site from the confines of Ampthill would accentuate the impact of the development on the character and appearance of the area and would render it as a visually isolated feature within the predominantly rural landscape that immediately surrounds the appeal site. This would cause significant harm to the character and appearance of the area.
21. The appellant has referred to measures that could be undertaken to reduce the impact of the proposed dwellings, including landscaping and the removal of permitted development rights for extensions, together with the proposed use of timber as an external facing material. However, whilst these considerations

offer some mitigation, they would not adequately overcome the significant harm that would arise to the character and appearance of the area.

22. The proposed dog training facility would consist of a large building with a number of openings and substantial parking areas, on an area of land within the countryside that is currently open and free from built development. Its visual impact would not be akin to that of developments typically found in rural areas and its presence would jar with the rural setting in which it would be located, causing significant harm to the character and appearance of the surrounding area. Again, the impact could not be overcome by landscaping or by the external facing materials used.
23. I conclude therefore that the proposed residential development would harm the character and appearance of the area. Consequently, it would conflict with Policy DM3 of the Central Bedfordshire Core Strategy and Development Management Policies 2009 (CS) which seeks to promote high quality development. The Council has referred to Policy DM4, but it does not refer to matters relating to character and appearance.
24. The Central Bedfordshire Design Guide is also referenced but this is technical guidance and I have not been provided with any details of its status in relation to the development plan. I can therefore give only limited weight to the conflict with its objectives that would arise. With regard to the eLP there would be conflict with Policies DC1, EE5 and HQ1 where they seek to ensure that new developments safeguard character and appearance, but I can give these policies only limited weight too. There would also be conflict with The Framework which seeks to recognise the intrinsic character and beauty of the countryside.
25. I also conclude that the proposed dog training facility would harm the character and appearance of the surrounding area and that this too would conflict with Policy DM3 of the CS and with The Framework, together with emerging Policies EE5 and HQ1 of the eLP.

Choice of modes of travel

26. This issue only relates to Appeal A. The nearest settlement to the site is Ampthill which is accessed by Abbey Lane, a national speed limit road along which there is no pedestrian footway. As a result, and due to the distance to the central amenities of Ampthill, there is no reasonable prospect that access to such services could be achieved on foot from the appeal site. Furthermore, I have not been provided with any substantive evidence to suggest that there would be alternative modes of transport, other than private motor vehicles, available. This would be the case regardless of the age of the occupants of the dwellings.
27. The Council relies on Policy DM4 of the CS which directs new development to existing settlement envelopes. However, the appellant has drawn my attention to other appeal decisions¹ where Policy DM4 of the CS has been considered out of date by the determining Inspector. That said, the reasons given in those appeals were because the Inspectors found the policy to give protection to the countryside for its own sake rather than recognising its intrinsic character and beauty in line with paragraph 170 of The Framework. However, Policy DM4 is

¹ APP/P0240/W/17/3176387 & APP/P0240/W/17/3190584

not inconsistent with paragraph 103 of The Framework which says that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Furthermore, paragraph 20 of The Framework says that strategic policies should set out an overall strategy for the pattern, scale and quality of development. Policy DM4 arises from CS Policy CS1 which directs growth to existing settlements. Therefore, in so far as this main issue is concerned, I have no substantive evidence to persuade me that Policy DM4 is inconsistent with The Framework and therefore it remains a relevant policy in the determination of this appeal and is not out-of-date for the purposes of this decision.

28. The residential element of the appeal proposal would itself conflict with the aims of The Framework. These include seeking to ensure that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities and promoting sustainable transport opportunities such as walking, cycling and public transport. The site is not close to other rural communities and it is highly likely that residents of the proposed dwellings would seek out services and amenities in existing urban areas such as Ampthill. Accordingly, the proposal would not enhance or maintain the vitality of rural communities. For the reasons I have already outlined, due to the location of the appeal site, the development proposed would also fail to promote sustainable transport opportunities.
29. For these reasons, I conclude that the occupants of the proposed development would not have an adequate choice of modes of travel to day to day services. In principle there would be conflict with Policies DM4 and CS1 of the CS, both of which direct growth to existing settlements. Furthermore, the proposal fails to accord with The Framework, in particular paragraph 78 which seeks to direct new housing in rural areas to locations where it will enhance or maintain the vitality of rural communities and paragraph 102 which seeks to identify and pursue opportunities to promote walking, cycling and public transport use.
30. The appellant has drawn attention to Policies SP2 and DC1 of the eLP. Policy SP2 follows the presumption in favour of sustainable development set out by Paragraph 11 of The Framework whereas Policy DC1 sets out criteria with regard to the re-use of buildings in the countryside. Whilst I can give these policies only limited weight, their objectives are generally consistent with those of The Framework. However, for the reasons I have already set out in this decision, the proposed development would conflict with both Policies SP2 and DC1 of the eLP.

Other considerations

31. The appellant has alluded to some possible benefits in their submissions, including that the proposal would provide two additional dwellings and reuse previously developed land. However, as only two dwellings are proposed, it would make only a very limited contribution to boosting the supply of housing. Furthermore, the economic, environmental and social benefits arising would also be limited due to the small scale of the proposal. I have no substantive evidence before me to demonstrate that the site is, or would become, disused if this appeal is not successful, or that its continued use could not be achieved by alternative means. Collectively, I therefore give these considerations limited weight.

32. With respect to the proposed dog training facility, the appellant has stated that the purpose of the development is to grow and expand the established rural business from the site, whilst enhancing the facilities available by providing a purpose built, modern and spacious facility that can be used all year round. This would create new employment opportunities and ensure the retention of the existing employees, as the existing building is outdated and has become inadequate for the business' needs and capacity. It would contribute to the availability and quality of facilities for outdoor sport/recreation in the district and bring social and economic benefits. These considerations collectively weigh in support of the proposed development, but no substantive evidence has been provided to demonstrate that the appeal development is the only way in which these outcomes could be achieved. Accordingly, I give these considerations limited weight.
33. The appellant also draws attention to the fact that the proposed dog training facility would be in close proximity to the existing buildings on the site and that it would not appear isolated as a result. Furthermore, they consider that the design and appearance of the building would be consistent with the other buildings in the surrounding area, such as modern agricultural barns. However, its proximity to existing buildings and the presence of other buildings in the locality offers little in mitigation against the visual impact a building the size of the proposed dog training facility would have. Furthermore, by reason of the number and scale of its openings and due to its associated large car parking areas, the proposed dog training facility would not be of an agricultural character and appearance. Taken together, I give these considerations minimal weight.
34. I have had regard to the information that the appellant has provided with respect to previous Council decisions and appeal decisions. These do not however alter my findings on the main issues relating to this case. In any event, I am required to determine the appeal based primarily upon its own merits, and I have therefore proceeded on that basis.

Green Belt Balance and Conclusion

35. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
36. The proposed new dwelling which forms part of Appeal A and the proposed development which forms Appeal B would be inappropriate development in the Green Belt. The proposed developments would also result in harm to the character and appearance of the area and Appeal A would represent rural housing development that would not enhance the vitality of rural communities or promote sustainable transport opportunities. Having regard to the reasons I have set out, I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt and the other harm that I have identified. Consequently, the very special circumstances necessary to justify the developments do not exist.

37. For the reasons given above, I conclude that the proposals conflict with the objectives of the Framework and Policy SP4 of the eLP, both of which seek to protect the Green Belt, and that the appeals should be dismissed.

Graham Wraight

INSPECTOR