
Appeal Decision

Site visit made on 10 March 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2020

Appeal Ref: APP/J0405/W/20/3244166
Malting Barn, Malting Lane, Dagnall HP4 1QX

- 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 Mrs C Carr against the decision of Buckinghamshire Council - Aylesbury Area.
 - The application Ref 18/04585/APP, dated 20 December 2018, was refused by notice dated 9 October 2019.
 - The development proposed is the conversion of existing commercial building to 4 no. residential flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the appeal the Council who originally determined the planning application, Aylesbury Vale District Council, merged with a number of other Local Planning Authorities into a single Unitary Authority called Buckinghamshire Council. Therefore, the Council name in the above banner heading, has been amended to reflect this change.
3. Reference has been made to the Council's emerging Vale of Aylesbury Local Plan (VALP). In the Council's officer report weight was not attributed to individual policies at the time of the decision. However, since the determination of the planning application, the Plan has progressed to main modifications stage. The Council is now giving weight to individual policies, where appropriate, with the weighting derived from the status of the policies and whether main modifications have been requested by the Inspector conducting the examination to make them sound. Therefore, I have considered the relevant policies of the VALP that have been modified and are deemed to be resolved as part of the decision. However, as they are not yet adopted, I have only given them limited weight in the determination of the appeal.
4. As part of the appeal process the appellant submitted revised plans, Nos. 2518 – P4F and 2518-P6, to address one of the Council's reasons for refusal. Drawing No. 2518 – P4F revised the positioning of the proposed windows as the appellant stated that the previous plan submitted with the planning application was an error. Drawing No. 2518-P6 provided a section drawing for the rooflights. The Council has accepted that, subject to a condition, this would overcome the concerns regarding overlooking, however, the Council maintains that these rooflights would still give rise to the

perception of overlooking from the neighbouring properties, as set out in the case officer report.

5. To avoid the risk of prejudicing interested parties it would only be appropriate for me to take the amended plans into account if all interested parties had been given an opportunity of making further representations. The amended plans were submitted with the appeal and interested parties would have been notified of the appeal. The Council has also provided a response to the amended plans within its Statement of Case, therefore, it is clear they have had a chance to consider the amended plans. Having regard to the Wheatcroft principles¹ and guidance², I am satisfied that there is no risk of prejudice if I was to take the amended plans into account. I have therefore determined the appeal on this basis.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development, for the purposes of the development plan and the National Planning Policy Framework (the Framework), having regard to including the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- whether the proposal would preserve the special landscape beauty of the Chilterns Area of Outstanding Natural Beauty (AONB);
- whether the proposal would result in the unacceptable loss of an employment site;
- whether the proposal would be provided with adequate provision of parking;
- the effect of the proposal on the living conditions of the occupiers of No 17 Main Road South, with particular reference to privacy; and
- if the proposal constitutes inappropriate development in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development, openness and purposes of Green Belt.

7. Policy RA.6 of the Aylesbury Vale District Plan (AVDP) (2004) states that within the Green Belt, there is a presumption against new building development except for the purposes of agriculture or forestry, essential facilities for outdoor sport and outdoor recreation, cemeteries and other uses of land which preserve the openness of the Green Belt.
8. It also states that the re-use of buildings of permanent and substantial construction may be permitted where there is no greater impact on the

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

² 'Procedural Guide Planning Appeals – England'

- openness of the Green Belt and the form, bulk and design of any conversion is in keeping with the surroundings and does not involve major or complete reconstruction.
9. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
 10. Paragraph 146 of the Framework states that certain forms of development are not inappropriate in the Green Belt, provided they preserve its openness, and do not conflict with the purposes of including land within it. These include the re-use of buildings, provided that the buildings are of permanent and substantial construction.
 11. Although the principles of Policy RA.6 are broadly similar to the Green Belt objectives within the Framework, the Framework states that the re-use of buildings should preserve the openness of the Green Belt, whereas Policy RA.6 says there should be no greater impact on the openness. As the Framework was published more recently, I am also utilising the test set out in paragraph 146, to determine whether the proposal would be inappropriate.
 12. The building on the appeal site is of substantial and permanent construction and is capable of conversion, accordingly, it would meet this element of the test. However, to determine whether or not the proposal is inappropriate development, it is also necessary to determine whether it would preserve the openness of the Green Belt, and whether or not it would conflict with the purposes of including land within it.
 13. Paragraph 133 of the Framework states that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
 14. The existing hardstanding to the front of the building would be retained to create parking for the flats. The submitted site plan indicates that each flat would benefit from 2 spaces. There would also be a space provided for a neighbouring property.
 15. I acknowledge that this area could already be used for the parking of vehicles. However, given the proposed change of use, it is likely that there would be an increase in the presence of private motor vehicles utilising the parking area, particularly at the weekend and evenings. Whilst motor vehicles are not permanent structures, they have a solidity and mass. In addition, they could be parked for lengthy periods of time, thus, having an impact on openness. Consequently, it would not preserve the openness of the Green Belt.
 16. The appellant has stated that the proposal would provide a net increase in the openness of the Green Belt. This is due to part of the building being demolished to allow a setback at ground and first floor level, in the north-western elevation. Whilst one of the elevations would be altered, the main dimensions of the building, including the four corners and the roof, would be retained. Therefore, I consider that this would not result in an improvement or enhancement to the openness of the Green Belt in this location.
 17. I note that the yard area is surrounded by existing dwellings and Maltings Lane, and would not extend the built-up area of the site or be readily visible

from the open parts of the surrounding Green Belt and that the existing planting around the site would be retained. However, whilst I acknowledge the existing context of the site, these factors do not mean that the openness would not be affected by the proposal.

18. The appellant has highlighted that a nearby development also within the Green Belt, has been granted permission³ and that in that case, it was not deemed that the site was important to the openness of the Green Belt. Nevertheless, the granting of permission at this nearby site does not necessarily make this proposal acceptable, which is a different scheme. In any case, I have determined this proposal on its own planning merits and context.
19. There are five purposes for the Green Belt set out at Paragraph 134 of the Framework, these are of a strategic nature, which in brief, seek to check unrestricted sprawl, prevent neighbouring towns merging, safeguard the countryside from encroachment, preserve the setting and special character of historic town and assist in urban regeneration. Given the nature of the proposal and its location, the development would not conflict with the purposes of designating land inside the Green Belt.
20. I find that although the proposal would re-use a building that is of a permanent and substantial construction, and would not harm the purposes of including land within the Green Belt, it would have a greater impact on the openness of the Green Belt. Consequently, the proposal would represent an inappropriate form of development within the Green Belt and would result in a loss of openness of the Green Belt. Therefore, it would be contrary to Policy RA.6 of the AVDP, the objectives of the Edlesborough Parish Neighbourhood Plan identified in Chapter 6, and Section 13 of the Framework. These policies and guidance, amongst other matters, seek to protect the Green Belt and to preserve its openness.

The Chilterns Area of Outstanding Natural Beauty

21. In determining the appeal, I have had regard to the duty under section 85(1) of the Countryside and Rights of Way Act 2000. This requires that decisions have to have regard to the purpose of conserving and enhancing the special qualities, distinctive character and key features of the AONB.
22. The Council has suggested that the proposal would not preserve the special landscape beauty of the AONB. However, given the location of the proposal and its surrounding residential context, combined with the minor changes proposed to the building, the proposal would not harm the landscape of the AONB or interrupt any key views of the surrounding landscape. Thereby, it would preserve the special landscape beauty of the AONB.
23. Consequently, it would accord with paragraph 172 of the Framework, which gives great weight to conserving and enhancing landscape and scenic beauty of AONBs.

The loss of an employment site

24. Policy GP.17 of the AVDP seeks to retain existing employment sites and uses. There are three criterion which outline when a change of use or redevelopment may be acceptable.

³ Planning application reference 17/0070/AOP

25. Whilst I acknowledge the proposed benefits of the change of use, there is no substantive evidence before me to suggest that the existing use has had an adverse impact on the amenity of neighbours. The appellant has highlighted that the lack of conditions on the site would be likely to result in complaints by neighbouring residents were the building to be occupied. Although the building is not currently occupied, I do not have any evidence of complaints from when the building was occupied. Accordingly, I consider that the proposal would not accord with criterion (a).
26. Criteria (b) and (c) require the proposal to demonstrate that there are appropriate alternative employment opportunities or that there are opportunities in larger settlements of a more advantageous land-use arrangement. I acknowledge that residential properties could allow the occupiers to work from home, however, there are no appropriate means to secure this as part of the development. Moreover, the proposal is not specifically for live-work units. I note that no alternative B1 and B8 sites in the village have been put forward, with the nearest employment site at Sparrow Hall Business Park, approximately 4 kms away. Given the size of the village, the opportunity for additional employment sites is likely to be limited, however, this is the requirement set out within the Policy.
27. Whilst the site is small and its impact on the economy of the wider district would be limited, this does not necessarily mean that its loss would be insignificant. The site has the opportunity to provide jobs and support the economy in the local area. Consequently, the proposal would not accord with criteria (b) and (c).
28. The appellant has stated that the building has been empty since 26 March 2017 and no interest has been expressed by any individual or company to rent the building. The appellant also suggests that the existing building is not suitable for the requirements of a modern B8/B1 user, due to issues with access and lack of space to manoeuvre. To demonstrate that there is no demand for the site, the Council has suggested that it would expect evidence of marketing exercises. However, there is no requirement in Policy GP.17 to undertake a marketing exercise. Therefore, whilst there is no substantive evidence before me to suggest what marketing exercises have been undertaken, it is not necessary to submit one for the purposes of this Policy.
29. Overall, I find that there is insufficient evidence to support the loss of the employment site. Therefore, the proposal would be contrary to Policy GP.17 of the AVDLP set out above.

Parking provision

30. The proposal, as submitted, would meet the current standards of parking provision, as set out in the Council's Residential Parking Standards SPG (RPS) (2002). However, some of the additional rooms which are denoted on the plans as media rooms, studies, gyms or storage areas, are of a size which could be amended to be additional bedrooms.
31. If these rooms were to be used as bedrooms, the scheme would then be for four 4-bedroomed flats. I note that it has been suggested that Flat 3 could only be a 3 bedroom flat. However, the plans show that it would have 3 bedrooms, therefore, if the study was converted, this would lead to the creation of a fourth bedroom. If rooms were used in this way, it would increase the overall

parking requirement to 12 spaces. Therefore, the proposal would have a deficit of 4 spaces and the vehicles of the future occupiers would be displaced to the surrounding area. I note that the appellant has stated that the conversion of these rooms would not be practicable due to the layout and lack of windows, lack of other storage space and location of the bathrooms. However, the Council would have little control over the internal aspect of the development were it to be approved.

32. In terms of on-street parking spaces, the relocation of the garage door would lead to the loss of one on-street parking space. The existing garage is intended to be used by the occupiers of No 15 Main Road South, therefore, the provision of this garage and the parking space in the yard area will provide this dwelling with two off-street parking spaces, where currently none are provided. Consequently, it would accord with the recommendations in the RPS, as it would not result in a net loss of on-street parking. Therefore, I find the proposal acceptable in this regard.
33. Notwithstanding this, overall, I find that the proposal would not provide adequate parking provision. Therefore, it would be contrary to Policy GP.24 of the AVDLP, the Council's RPS and Policy EP12 of the Edlesborough Parish Neighbourhood Plan (2017). These policies, amongst other things, require development to provide adequate parking provision.

Living conditions

34. The appellant has provided amended plans to address the Council's reasons for refusal in this regard. Drawing No. 2518-P4F shows the rooflight to serve the staircase/landing in Flat 4 in an amended position. The cross section on drawing No. 2518-P6 shows the position of the rooflight to light the staircase in Flat 4. The cill height would be 1.4 m above the second floor landing and the window would be of the fixed non-opening type and obscure glazed, which could be secured by the condition suggested by the appellant. Therefore, there would be no opportunity for looking out of this window towards No 17 Main Road South.
35. I note that the Council has suggested that these rooflights would give rise to the perception of overlooking from the neighbouring properties. However, given the height, positioning, obscure glazing and it being a fixed non-opening type window, it would be clear to the occupiers that direct views would not be possible. Therefore, the effect on the neighbouring occupiers would not be materially harmful.
36. I find that the proposal would not harm the living conditions of No 17 Main Road South, with particular reference to privacy. Therefore, it would accord with Policy GP.8 of the AVDLP. This policy seeks to protect the amenity of nearby residents.

Other considerations

37. The appeal site is also within the setting of a Grade II Listed Building, No. 18 Main Road South. I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the Listed Buildings and its setting. The building is also considered to be a non-designated heritage asset, therefore, paragraph 197 of the Framework also applies.

38. Given the nature of the proposal, the external alterations to the building would be limited and the proposed design would be appropriate to its setting. The proposed change of use would not adversely affect the setting of the nearby listed building. Consequently, the setting of the listed building would be preserved. In addition, the proposal would not result in harm to the significance of the non-designated heritage asset.
39. The appellant has suggested that the proposal would have a number of benefits and would meet the social and environmental objectives set out in the Framework. The benefits put forward are the provision of bat boxes, a reduction of vehicular trips from the site, less noise and pollution, the provision of high quality dwellings which are in high demand, it would contribute to the housing land supply and that it would make effective use of brownfield land which is under-utilised. However, the Council already has a 5 year housing land supply, and this is not a matter of dispute between the parties. The impact of the contribution of 4 dwellings to the supply would be limited, even in a small village where development sites are limited. The other benefits put forward by the appellant would not be substantial enough to overcome the harm that I have identified above.

Green Belt Balance and Conclusion

40. I have concluded that the proposed dwelling would be inappropriate development in the Green Belt, and it would therefore conflict with Policy RA.6 of the AVDP and the Framework. It would result in a loss of openness of the Green Belt. These matters attract substantial weight. There would also be harm in relation of the provision of parking and loss of an employment site. Whilst I found that proposal would preserve the AONB and not harm the living conditions of the neighbouring property, an absence of harm in these matters is a neutral factor.
41. Despite having regard to the other considerations, I consider that the factors cited in the scheme's favour, do not outweigh the harm it would cause to the Green Belt, by reason of inappropriateness and loss of openness. Therefore, the very special circumstances necessary to justify the proposal do not exist.
42. For the reasons set out above, and having regard to all other matters, the appeal is dismissed.

D Peppitt

INSPECTOR