
Appeal Decision

Site visit made on 9 September 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 16 October 2020

Appeal Ref: APP/P0240/W/20/3247168

Tilsworth Stud Farm, Stanbridge Road, Tilsworth, Leighton Buzzard, LU7 9PS

- 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 Michael Ng against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/02837/FULL, dated 30 August 2019, was refused by notice dated 11 November 2019.
 - The development is retrospective application for change of use of stables and foaling pens to two flats and erection of garage.
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Procedural Matter

1. The change of use of the stables and foaling pens to two flats and the construction of the garage has already taken place. I have therefore used a slightly amended description of development in the formal decision below that removes references to acts which are not development.

Decision

2. The appeal is dismissed insofar as it relates to the garage. The appeal is allowed insofar as it relates to the change of use of the stables and foaling pens to two flats and planning permission is granted for the change of use of the stables and foaling pens to two flats at Tilsworth Stud Farm, Stanbridge Road, Tilsworth, Leighton Buzzard, LU7 9PS in accordance with the terms of the application Ref CB/19/02837/FULL, dated 11 November 2019 and plans number 3106-PL-001 REV.P2, 3106-PL-002 REV.P2, 3106-PL-006 REV.P3, CBC/01 and location plan, so far as relevant to that part of the development hereby permitted, and subject to the following conditions:
 1. Unless within 3 months of the date of this decision a landscaping scheme containing details of the hard and soft landscaping to be used for the amenity areas for the flats (including details of the means of enclosure) is submitted to the local planning authority for approval and unless the approved scheme is implemented within 12 months of the local planning authority's approval, the occupation of the flats shall cease. Upon implementation of the approved landscaping scheme specified in this condition that landscaping scheme shall thereafter be retained.

Main Issues

3. The main issues are:

- Whether the change of use of the stables and foaling pen to two flats and the erection of the garage is inappropriate development for the purposes of Section 13 - Protecting Green Belt land - of the National Planning Policy Framework and development plan policy;
- The effect of development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the area; and
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development and the effect of the development on the openness of the Green Belt

4. The National Planning Policy Framework (the Framework) states at paragraph 145 that the construction of new buildings should be regarded as inappropriate in the Green Belt unless specified exceptions apply.
5. In addition, the Framework in paragraph 146, makes clear 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. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.
6. The stables and foaling pens are constructed of blockwork, tiles and timber cladding and consequently are existing permanent buildings of substantial construction. Their conversion to residential use has also involved the subdivision of the existing courtyard to provide garden areas for the 2 flats. The garden areas are currently separated from the rest of the courtyard by a 1.8 m high close boarded fence, as described by the Council.
7. The development under this appeal includes a proposal to replace the fence with a hedgerow of native species. The Framework is specific in that it defines development and buildings as being inappropriate in the Green Belt. The planting of a native hedge is neither a building nor a development that would normally require planning permission. However, the use of part of the courtyard as a domestic garden, could affect the openness of the courtyard and therefore, in spatial terms the openness of the Green Belt.
8. However, under planning permission 14/04018/FULL, the approved use of the courtyard is for landscaping, activities incidental to its use for stabling and other business uses. These activities would by their nature have an effect on the openness of the courtyard and therefore on the openness of the Green Belt. As these activities are already permitted and take place within the courtyard, the use of part of the courtyard to provide gardens for the two flats surrounded

by a hedgerow, would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. This is because it would have no greater effect on the openness of the Green Belt in this location than the existing approved use. Therefore, its openness would be preserved.

Consequently none of the five purposes of Green Belt set out at paragraph 134 of the Framework would be harmed, as it would not represent unrestricted sprawl of a large built up area, it would not lead to neighbouring towns merging into one another, it would not encroach on the countryside, it would not harm the setting of a historic town nor would it prevent urban regeneration.

9. The development plan consists of the South Bedfordshire Local Plan Review (January 2004) (LPR). The LPR predates the Framework, however some of its policies have been 'saved' through a direction issued by the Secretary of State in September 2007.
10. Policy NE12 relates to the re-use of existing buildings within the Green Belt. It is a negatively worded policy and contains criteria which go beyond those set out in the Framework at paragraph 146. It is therefore inconsistent with the Framework and I therefore give it minimal weight in the determination of this appeal.
11. Therefore, having regard to the requirements of paragraph 146 of the Framework and the minimal weight I give to Policy NE12 of the LPR, I find that the conversion of the stables and foaling pen to 2 flats is not inappropriate development in the Green Belt, including the use of part of the existing courtyard as gardens. The buildings are of substantial and permanent construction and their conversion preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
12. Turning to consider the garage, paragraph 145 (c) of the Framework confirms as an exception to regarding the construction of new buildings in the Green Belt as inappropriate, the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building.
13. The appellant contends that the freestanding garage is an extension to the neighbouring dwelling. In my judgement, given its position within 2 m of the adjacent dwelling it falls to be considered in terms of sub paragraph (c) of paragraph 145 of the Framework.
14. It is evident from the planning history supplied in the Council's statement and from the plan at appendix 3 of the appellant's statement that the vet's dwelling is not the original building on the site. It forms part of an extension to the original stable buildings on the site and amounts to an increase in footprint I estimate to be greater than 50%. Therefore, when the garage is combined with the extensions to the original building, the garage constitutes a disproportionate addition to the original building. As a result, it cannot be considered as an exception to inappropriate development in the Green Belt in terms of sub paragraph (c) of paragraph 145 and is therefore inappropriate development.
15. Moreover, it would partly fill a gap between the existing residential development on the site and an adjacent agricultural building. This spatially affects the openness of the Green Belt in this location by introducing more

buildings into the area and creating a greater sense of enclosure. Visually, the area around the existing buildings would appear less open, especially when the site is viewed from across the fields to the west and from inside the site.

16. I noted on my site visit that there appears to be a difference between the design of the garage shown on the plans and that which has been constructed. The principal difference I could see was that the garage as built had a ridge roof, whereas the garage shown on the plans proposes a pyramidal roof. In my judgement neither the garage as built, nor the slight variation of the design shown on the submitted plan would preserve the openness of the Green Belt. Therefore, this slight difference in design has no effect on the decision in this case.
17. I therefore find that the garage is inappropriate development in the Green Belt. The Framework states at paragraph 143 that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Character and appearance of the area

18. The courtyard is clearly part of the residential/business use of the site and has very little relationship, physically or visually, with the open countryside surrounding the development.
19. It currently has a domestic character with parked cars, manoeuvring areas and a large outdoor ornament. The proposal to remove the fencing surrounding the garden areas for the converted buildings and replace it with a hedge would be consistent with this domestic character.
20. I understand the Council's concern regarding the erosion of the business use of the site. However, the site already has a domestic character. The introduction of a hedgerow surrounding domestic gardens will not unduly affect the existing character of the area.
21. Policy BE8 of the LPR sets out a list of criteria that development proposals should meet in order to be acceptable. These criteria include the need to take full account of the need to reinforce the character and local distinctiveness of the area and to ensure that development harmonises with the local surroundings.
22. For the reasons given above I consider that the conversion of the existing stables and foaling pens to 2 flats is consistent with this policy of the LPR. Neither would it harm the character and appearance of the area, as it lies in an area which is closely surrounded by buildings and already has a developed character and appearance. This is consistent with the criteria attached to Policy BE8 of the LPR.

Other considerations - garage

23. The appellant has suggested that there is a 'fall back' position available as permitted development rights were not removed when the house adjacent to the garage was granted planning permission. It would therefore be open to him to reduce the height of the roof of the garage, so that it would be permitted development. The appellant further contends this would result in a building that would be 'squat' and less visually attractive than the building which has been constructed.

24. Whilst I have had regard to this argument, there is no dispute between the parties that the garage as applied for and as constructed requires the benefit of planning permission. I have therefore assessed the garage which has been constructed and has been applied for. I have no details before me of an alternative proposal for the garage. Moreover, it is not the design of the garage that is the main issue at this appeal it is the harm it causes to the Green Belt and its openness. I therefore give this argument limited weight in the determination of this appeal.
25. I note that the site of the garage was to be used as a parking area and that the parking of cars can have an effect on the openness of the Green Belt. However, any cars parked on this site would have less of an effect on the openness of the Green Belt than the garage, as they would generally be lower and less intrusive. There could also be circumstances when the land would be clear of cars, so they would not have a permanent effect on the openness of the Green Belt as does the garage. I therefore give the use of the land for parking minimal weight.
26. The appellant has argued that the garage is modest in scale and matches both in its style and materials the other buildings which are gathered around the courtyard. However, the garage is not of any significant architectural merit in itself. I therefore give this argument minimal weight in the determination of this appeal.
27. Taken together, the other considerations set out above attract limited weight in favour of the development. Whereas the harm arising from inappropriate development and the harm to the openness of the Green Belt is substantial. Against this background, other considerations in the case do not clearly outweigh the totality of harm that I have identified. Consequently, the very special circumstances necessary to justify the garage do not exist.

Conclusions

28. I have found, taking the development on its merits, that the re-use of the stables and foaling pens for 2 flats preserves the openness of the Green Belt and does not conflict with the purposes of including land within it, whereas the garage is inappropriate development within the Green Belt, which harmfully reduces its openness. In my judgement the re-use of the stables and foaling pens for 2 flats is clearly severable, as it is physically and functionally independent of the garage. I therefore propose to issue a split decision in this case. I shall attach conditions in relation to the re-use of the stables of foaling pens to 2 flats.
29. Given the development has taken place I have not applied the standard commencement condition and I have referenced the relevant plans relating to this part of the development in the decision given above.
30. Condition 1 is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is granted retrospectively, and so it is not possible to use a negatively worded condition to secure approval and implementation of the revised landscaping of the garden area provided for the flats before development takes place.

31. The condition will ensure that the development can be enforced against if the landscaping scheme for the garden area for the flats is not submitted for approval given by the condition, or if the details are approved and not implemented in accordance with the approved timetable.
32. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the conversion of the stables and foaling pens to 2 flats but dismissed insofar as it relates to the garage.

Peter Mark Sturgess

INSPECTOR