

Appeal Decision

Site Visit made on 9 March 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2021

Appeal Ref: APP/N0410/W/20/3263921

No 8 Pleasant Cottages, Uxbridge Road, Iver, Buckinghamshire SLO 0LR

- 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 Ravi Sagoo and family against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/20/2613/FA, dated 27 July 2020, was refused by notice dated 16 November 2020.
 - The development proposed was originally described as '4 affordable apartments plus store sheds and parking including 2 visitors. Proposed high energy efficient suitable starter home'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

(i) Whether or not the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

(ii) The effect on the openness of the Green Belt.

(iii) The effect of the proposal on the character and appearance of the area.

(iv) The effect of the proposal on the living conditions of occupiers of Beech Tree Cottage with regards to privacy and No 8 Pleasant Cottages with regards to outlook and provision of suitable private outdoor space.

(v) The effect of the proposal on highway safety.

(vi) The effect of the proposal on protected species.

(vii) If the proposal would be inappropriate, 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 or not inappropriate in the Green Belt

3. The Government attaches great importance to Green Belts and the construction of new buildings within the Green Belt should be regarded as inappropriate

development other than where it falls under any of the exceptions set out at paragraphs 145 and 146 of the Framework.

4. The Council's decision notice refers to conflict with Policy GB1 (Green Belt Boundaries and the Control Over Development in the Green Belt) of the South Bucks District Local Plan (LP) (1999). I have also been provided with a copy of Policy GB3 (Residential Infilling in Green Belt Settlements) of the LP. Taken together, these policies restrict residential infilling in the Green Belt to a specific list of settlements. They do not include exceptions for limited infilling in villages, limited affordable housing for local community needs under policies set out in the development plan, or limited infilling or the partial redevelopment of previously developed land. Policies GB1 and GB3 of the LP are therefore more restrictive than the Framework and are therefore out-of-date.
5. The settlement where the site is located does not have all the attributes often associated with a village. However, it does include amongst other things a fairly substantial number of dwellings, a petrol station and a public house. The Framework does not define what is meant by limited infilling. However, limited infilling is more commonly accepted as being the development of a small gap for 1 or 2 dwellings between buildings within a built-up frontage. In the case of the appeal proposal, the development would be for an apartment building to the rear of the existing dwelling at No 8 Pleasant Cottages and to the western edge of the settlement. A wooded area, playing field and parkland are situated beyond the western boundary of the site. Therefore, even if I were to accept that the settlement constituted a village, the layout of the development and the development pattern where the site is located persuade me that the proposal would not logically read as limited infilling under exception e) of Paragraph 145 of the Framework.
6. Given the appeal site sits within the built-up area of a settlement and relates to land forming part of the residential garden of No 8 Pleasant Cottages, it does not fall under the definition of previously developed land in the Framework. Even if it did, I have already found the development would not represent limited infilling and therefore the development would not meet that part of exception g) of Paragraph 145 of the Framework. Furthermore, there is no substantive evidence before me to suggest there is an identified local community need for affordable housing in the form of starter homes in the area. In any case, the terms of affordable housing could only be reasonably secured with precision and enforceability as part of a planning obligation. No legal agreement to secure this is before me. Therefore, the development would not meet the exceptions for affordable housing at parts f) or g) of Paragraph 145 of the Framework.
7. I conclude that the development would constitute inappropriate development in the Green Belt when assessed against national policy in the Framework.

The effect on the openness of the Green Belt

8. Paragraph 133 of the Framework sets out the essential characteristics of Green Belts, which are their openness and permanence. It has been held in the High Court that openness is epitomised by the lack of buildings or development. Openness is a separate issue from the effect of a development on the character and appearance of an area.

9. The apartment building would be evident in views into the site from the site entrance for passers-by on the public footpath on Uxbridge Road. The development would also be appreciable from the rear windows and garden serving the existing dwelling at No 8 Pleasant Cottages and from the neighbouring properties at Beech Tree Cottage and No 39 Wood Lane Close. However, its backland position and the screening provided by neighbouring buildings at the settlement as well as the wooded area to the west would ensure wider views of the development would be limited.
10. Visual impact is only part of an assessment of the impact of the proposal on openness. Even accounting for the removal of the single storey outbuildings on the site, the footprint, height and volume of the apartment building and the proposed shed stores in addition to the additional hard surfacing proposed to facilitate access and parking would undoubtedly affect openness from a spatial perspective when compared with the existing situation.
11. I conclude, the development would not preserve the openness of the Green Belt. In that regard it would conflict with the aims of including land within the Green Belt when assessed against the Framework.

Whether or not there is any other harm - Character and appearance

12. The section of Uxbridge Road where the appeal site is located consists of a mix of residential and commercial uses. The residential properties on Uxbridge Road and those on Wood Lane Close, predominantly consist of single dwellings which are traditional in design and mainly positioned towards the front of their respective plots. These dwellings are generally served by large rear gardens which often incorporate mature landscaping. There is a substantial commercial building located close to the rear garden of the neighbouring dwelling at Beech Tree Cottage. Even so, the general consistency in terms of the layout of residential buildings gives a prevailing spacious character to their plots which is complemented by the neighbouring wooded area, playing field and parkland for those properties located towards the west of the settlement.
13. The substantial scale, bulk and mass of the apartment building, combined with its position set behind the dwelling at No 8 and within the context of rear gardens would be at odds with the density and layout of neighbouring residential properties. The flat roofed design of the building and elongated windows would contrast considerably with the traditional detailing on neighbouring dwellings. The sub-division of the site would also introduce additional activity to the rear of existing dwellings which would emphasise the incongruity of the development within the established low-density residential garden setting. Overall, the development would be a visually obtrusive and over-intensive addition which would detract from the spacious characteristics of the area.
14. I conclude the development would result in harm to the character and appearance of the area. In that regard the development would conflict with the requirements which seek to protect character and appearance in Policies EP3 (The Use, Design and Layout of Development) And H9 (Residential Layout and Design) of the LP and the Framework.

Whether or not there is any other harm – Living conditions of neighbouring occupiers

15. The first-floor lounge and bedroom windows to the east facing elevation of the development would face the shared boundary with Beech Tree Cottage at relatively close proximity. The windows serving the lounges would also be served by Juliet balconies. The angle and distance between the development and the main windows and garden immediately to the rear of this neighbouring dwelling in combination with the intervening single storey building situated along the boundary of Beech Tree Cottage would partially reduce the potential for overlooking. However, there would be some limited harm to the privacy of occupiers of Beech Tree Cottage as a result of the direct line of sight afforded to future occupiers of the development towards the rear sections of this neighbouring garden.
16. The apartment building would partially sit parallel with the proposed rear boundary of the garden serving No 8 Pleasant Cottages. Even accounting for boundary treatments and neighbouring buildings a relatively open aspect would be retained directly to the south for occupiers of No 8. I am satisfied therefore that the development would retain acceptable levels of outlook for occupiers of No 8. Furthermore, whilst the rear garden serving No 8 would be curtailed somewhat, there would still be sufficient space to cater for usual day to day requirements including space to sit out and to hang out washing for example.
17. I conclude that the development would result in some limited harm to the living conditions of occupiers of Beech Tree Cottage with regards to privacy. In that particular regard the development would conflict with the aims to protect the amenities of nearby properties in Policies EP3 Policies EP3 (The Use, Design and Layout of Development) And H9 (Residential Layout and Design) of the LP. The development would also conflict with Paragraph 127 of the Framework which amongst other things requires that developments create places with a high standard of amenity for existing and future users.

Whether or not there is any other harm – Highway safety

18. The site is accessed off the A412 Uxbridge Road, a dual carriageway which has a 40mph speed limit where the appeal site is located. The speed limit increases to 60mph to the west of and in close proximity to the appeal site entrance. Whilst only a snapshot of the traffic conditions, at the time of my visit I noted the busy and high-speed nature of Uxbridge Road.
19. The evidence before me indicates that the width of the proposed access on the submitted drawings would be 4.1 metres (m) and therefore less than the 4.8 m requested by the Highway Authority. I have not been provided with an adopted document which sets out specific access width requirements. Even so, the width suggested by the Highway Authority seems reasonable given the potential that there would be occasions when there would be a necessity for the access point to cater for the two-way flow of vehicles as a result of the increased occupation of the site. Without this, there would be the possibility that vehicles arriving at the site would obstruct the highway in the event that a vehicle was exiting the site at the same time.
20. The appellant suggests that the layout could be adjusted to meet this requirement. I consider it likely that the requested width could be

accommodated within the appeal site with relatively minor adjustments to the layout plan. This could be secured by an appropriate condition.

21. I conclude that subject to an appropriate condition requiring a plan showing a access point which accords with the Highway Authority's requirements, the development would have an acceptable relationship with the highway. In that regard the development would comply with the requirement to have regard to the effect of a development on highway safety under Policy TR5 (Accesses, Highway Works and Traffic Generation) of the LP.

Whether or not there is any other harm – Protected species

22. The Framework seeks amongst other things to avoid significant harm to biodiversity. Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it, "... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".
23. Given the close proximity of the development to a wooded area, there is the potential that protected species such as bats could frequent the site. Furthermore, the proposal would necessitate the removal of some of the existing outbuildings on the site which may for example provide roosting opportunities for bats. The proposals have not been accompanied by any substantive evidence such as a preliminary ecological appraisal to enable assessment of the site and its buildings. Without this information, I cannot be certain that there are no nature conservation constraints and if there are whether these can be appropriately mitigated. In the circumstances, a condition requiring post-decision survey work to be undertaken would be inappropriate and would conflict with the above guidance.
24. I conclude that it has not been demonstrated that the development would not result in harm to protected species. In that regard the proposals would conflict with the nature conservation aims of Core Policy 9 (Natural Environment) of the South Bucks District Council Core Strategy Development Plan Document (2011) (CS DPD) and the clear intentions of the Framework and Circular 06/2005 to avoid significant harm to biodiversity.

Other considerations

25. The Council acknowledges that it has a shortfall in terms of being able to demonstrate a 5-year housing land supply. In the circumstances the development plan is not up-to-date and paragraph 11d of the Framework is engaged. Permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The areas of particular importance protected by the policies in the Framework include Green Belts. I am also mindful of the Written Ministerial Statement of December 2015 which made clear that most development in the Green Belt is inappropriate and unmet need is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

26. The proposal would make a relatively small but important contribution towards meeting the Council's housing requirements albeit I am unable to attach any weight to the potential provision of starter homes given the absence of a legal agreement to secure them. A minor economic benefit would be generated through the development of the site and expenditure in local services by any future occupants. There would also be a modest social contribution if occupants were to use local facilities.
27. The appellant contends the Green Belt designation is an error. However, there is no substantive evidence to suggest this is the case and areas of Green Belt can often wash over settlements. In any case the appropriate method by which Green Belt boundaries are reviewed is through the development plan process and not as part of an appeal made under Section 78 of the Act.
28. The description of the development on the planning application form indicates that the development would be 'high energy efficient'. However, no substantive details have been provided to convince me that the development would incorporate measures that would achieve higher energy efficiency levels than might usually be expected by the building regulations.
29. The appellant suggests that in the event that planning permission were to be granted for the proposal, the dwelling at No 8 would be converted to two flats. However, I am unaware whether planning permission is in place for such a conversion and have therefore assessed the appeal based on the current situation and the evidence before me.
30. My attention has been drawn to a planning permission at Hollybush¹. However, from the evidence before me I am not persuaded that particular case was identical to the appeal proposal given it was not in a Green Belt location and the site-specific relationships with neighbouring dwellings and its respective highway would have been different. I have therefore assessed the appeal proposal on its own merits.

Planning Balance and Conclusion

31. The development constitutes inappropriate development in the Green Belt. Moreover, I have found that the proposal would be harmful to the openness of the Green Belt. This Green Belt harm is a matter to which I accord substantial weight in decision making terms in line with Paragraph 143 of the Framework.
32. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved 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, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
33. In addition to the harm to the Green Belt, I have also found that there would be other harm to the character and appearance of the area and the living conditions of occupiers of the neighbouring dwelling at Beech Tree Cottage. There would also be potential harm to protected species. These are matters which add further weight against the proposal.

¹ LPA Ref PL/19/0574/FA

34. For the reasons set out above, the other considerations advanced in favour of the proposal would collectively only carry modest weight in its favour. In conclusion and on balance, the substantial weight to be given to Green Belt harm in addition to the other harm identified is not clearly outweighed by other considerations and therefore the very special circumstances needed to justify the proposed development do not exist. Consequently, the proposed development would conflict with the Framework insofar as, amongst other things, it seeks to ensure that Green Belts are kept permanently open, and this provides a clear reason for refusing the development proposed in line with paragraph 11(d) (i) of the Framework.
35. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR