



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: 31 March 2021

Appeal Ref: APP/X0415/W/20/3263934

Marylands, Weedon Hill, Hyde Heath HP6 5RN

- 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 & Mrs T Phillips against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/20/2381/FA, dated 24 July 2020, was refused by notice dated 2 October 2020.
 - The development proposed is part demolition of existing dwelling house and demolition of triple garage and outbuilding; part two storey rear and side extension with loft conversion, part single storey rear extension; replacement fenestration throughout and rendered walls; subdivision of land and construction of new dwelling house; construction of one detached garage block to front and one garden outbuilding to rear with associated new hard and soft landscaping to each dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.

Main Issues

3. 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 of the proposal on the openness of the Green Belt.
- (iii) The effect of the proposal on the character and appearance of the area including the Chilterns Area of Outstanding Natural Beauty (AONB).
- (iv) The effect of the proposal on the living conditions of occupiers of Sunnymede with particular regard to outlook.
- (v) 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

4. 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 National Planning Policy Framework (the Framework).
5. Policies GB2, GB4 and GB5 of the Chiltern District Local Plan (1997) (LP) set out amongst other things an exception for limited infilling in specific areas within the Green Belt, including Hyde Heath, where limited infilling will be accepted in line with the definition in Policy GB4. The exceptions in the Framework include at Paragraph 145 e) 'limited infilling in villages'. Taken together Policies GB2, GB5 and GB4 of the LP are more prescriptive than the Framework and therefore not entirely consistent with it. This therefore limits the weight I can attach to these policies.
6. However, the Framework does not define what is meant by 'limited infilling'. In that particular regard, the criteria for 'limited infilling' under Policy GB4 include considerations relating to the nature and size of the development and its relationship to other existing development. In those respects I am mindful of the Court of Appeal judgement¹ which confirms that whether a development constitutes "limited infill" is a matter of planning judgement and that such matters are likely to be pertinent to an assessment of this.
7. The development would result in one additional dwelling within a small gap in an existing row of dwellings and would retain plots with comparable proportions to others on this section of Weedon Hill. However, whilst I acknowledge that the proposed garage would be a separate building, to passers-by, the combined depth and mass of the new dwelling and garage would be seen as a homogenous block of development which would be perceived to have a greater mass of built form and deeper layout than other buildings in the row. The position of the neighbouring dwelling at Sunnymede forward of other dwellings in the row does not persuade me otherwise given the comparatively shallow layout of this dwelling relative to the buildings in the proposal. Consequently, the development would not read as limited infilling given it would not reflect the prevailing development pattern to this part of Weedon Hill.
8. With regards to the partial demolition and extension of the existing dwelling, I do not have any calculations before me showing a comparison of the size of the original building with the size of the resultant extended dwelling. However, the Council considers that the floorspace and possibly also the volume of the dwelling following the proposed alterations would generally match that of the existing building. On the basis of the evidence before me I find no reason to reach a different conclusion in this particular respect. On this basis, the proposals would not result in disproportionate additions over and above the original size of the building and would meet the exception under Paragraph 145 c) of the Framework.
9. Notwithstanding the above, I must assess the development as a whole and for the reasons set out, the development would constitute inappropriate

¹ R (Tate) v Northumberland County Council [2018] EWCA Civ 1519).

development in the Green Belt having regard to the development plan and the Framework.

The effect on the openness of the Green Belt

10. 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.
11. The increase in built form on the site would be visible to by passers-by on Weedon Hill and from neighbouring properties. The footprint, height and volume of the new buildings would also undoubtedly affect openness from a spatial perspective when compared with the existing situation. Overall, taking into account the size of the development and its position between other residential properties within the built envelope of the village, there would be some moderate harm to openness.
12. 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 would be any other harm - Character and appearance including the AONB

13. The site is located within the Chilterns AONB and as such forms part of a landscape recognised for its scenic beauty. Travelling into Hyde Heath from the east, residential properties are situated on one side of Weedon Hill with a mature landscaped belt opposite which generally screens views of the open countryside beyond. The dwellings to this section of Weedon Hill are varied in design, mainly two-storey and are set well back from the road. There is broad consistency to the size of plots, depth of built form and the alignment of buildings in this row. Wide grassed verges that contain sporadic mature tree planting extend across the frontages of these properties before reaching the large front gardens at the appeal site and Sunnymede which extend closer to the boundary with the road. These factors combine to give a prevailing spacious and verdant soft landscaped suburban character to this section of Weedon Hill.
14. In finding that the development would not amount to limited infilling, I have already found that the combined mass and depth of the proposed dwelling and its garage would not reflect the prevailing development pattern of other dwellings in the row. In addition, the alterations to the host dwelling would also include the provision of an identical detached garage which would be similarly at odds with the predominant layout of buildings to this section of Weedon Hill. The bulk, mass and scale of the garage buildings and their close positioning in relation to each other would combine to further detract from the spacious characteristics of the streetscene.
15. Furthermore, dormer windows within roof slopes facing the street are not a common feature to this section of Weedon Hill. In that regard, the proposed dormer to the front elevation of the existing dwelling would appear over intensive relative to the prevailing two-storey appearance of other dwellings in the row.

16. I concur with the Inspector for the appeal at Great Missenden² that Policy LSQI (Chilterns Area of Outstanding Natural Beauty as Defined on the Proposals Map) is inconsistent with the Framework insofar as it requires that it sets a higher bar of very exceptional circumstances needing to be present where development does not conserve or enhance the AONB. The intervening vegetation on the opposite side of Weedon Hill would limit appreciation of the development in more distant views. Even if the wider landscape and scenic beauty of the AONB would be conserved in accordance with the Framework and Policy CS22 the Core Strategy for Chiltern District (2011) (CS), this does not overcome the harm I have identified to the character and appearance of the immediate locality on Weedon Hill.
17. My attention has been drawn to a detached garage building within the frontage of Cherry Tree Cottage which sits within the same row of properties and in close proximity to the appeal site. I noted on my site visit that this building is orientated with the angle of its roof pitches appreciable from the street and does not incorporate accommodation within its roofspace. Consequently, this neighbouring garage is not as bulky as the proposed garages. In any case, this single example is not reflective of the prevailing pattern of development to this section of Weedon Hill and does not persuade me that the proposals would be acceptable.
18. I have also seen the appeal decision relating to 'Land at Rosemead'³. However, the Inspector in that case observed that the siting, scale and appearance of the proposal would complement neighbouring buildings which would not be the case in this instance.
19. I conclude that the development would result in significant harm to the character and appearance of the area. In that particular regard, the development would conflict with Policies GC1 (Design of Development Throughout the District) of the LP, Policy CS20 (Design and Environmental Quality) of the CS and the Framework which amongst other things require a high standard of design and for developments to reflect the character of the surrounding area.

Whether or not there would be any other harm – Living conditions of occupiers of Sunnymede

20. The neighbouring dwelling at Sunnymede has a principal elevation with several ground and first floor windows facing the boundary with the appeal site. Even so, the angles and distance between these windows and the new dwelling and garages, would be sufficient to ensure sufficient levels of outlook would be retained from these neighbouring windows.
21. However, the bulk and mass of the new dwelling, its position entirely set back from the dwelling at Sunnymede and its close proximity to the shared boundary would be overbearing for occupiers of Sunnymede. This would be particularly the case when experienced from the part of the rear garden closest to the rear of this neighbouring dwelling where it sits in close proximity to the boundary.
22. The appellant suggests that the lawn closest to the boundary with the appeal site does not form part of the principally used private amenity space serving

² APP/X0415/W/18/3202026

³ APP/X0415/A/07/2047162

Sunnymede. However, I have no substantive evidence before me to persuade me that this part of the neighbouring garden is not used. Given its close proximity to the house, it is reasonable to expect that occupiers of Sunnymede would want to utilise this area for their private enjoyment. Therefore, I am not persuaded that the living conditions of occupiers of Sunnymede should be compromised even if overall this harm would be limited given the overall size of the neighbouring garden.

23. I conclude that the development would result in some limited harm to the living conditions of occupiers of Sunnymede with particular regards to outlook. In that particular regard, the development would conflict with the aims to protect neighbouring amenity in Policy GC3 (Protection of Amenities Throughout the District) of the Chiltern Local Plan (1997) and the Framework.

Other considerations

24. 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.
25. The proposal would make a relatively small but important contribution towards meeting the Council's housing requirements. 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.

Planning Balance and Conclusion

26. Policies GB2, GB4 and GB5 of the LP are inconsistent with the NPPF and are therefore out of date, albeit I have found there would be conflict with them given the development would not amount to limited infilling. However, I afford the conflict with these policies only limited weight in determining the appeal. Nonetheless, I have also found the development is not limited infilling when considered against the Framework. In addition, the proposal would result in moderate harm 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.
27. 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.
28. 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 Sunnymede. In those regards there would be conflict with Policies GC1 and GC3 of the LP and CS20 of the CS which are consistent with the Framework insofar as it seeks amongst other things for development to add to the overall quality of an area and create places with a high standard of amenity for existing and future users. These are matters which add further weight against the proposal.

29. 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 in the Green Belt land is kept permanently open, and this provides a clear reason for refusing the development proposed in line with paragraph 11(d) (i) of the Framework.
30. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR