



Appeal Decision

Site Visit made on 24 August 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/K0425/W/21/3276263

2 Margarets Cottages, Speen Road, North Dean, Buckinghamshire HP14 4NH

- 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 Leslie Hall against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref 20/07975/FUL, dated 27 October 2020, was refused by notice dated 1 April 2021.
 - The development proposed is described as 'retrospective planning application for the erection of a timber building including the demolition of the garage and slight increase in the garden curtilage to accommodate the timber building'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council amended the description of development from that originally stated on the planning application form to 'erection of timber log cabin building and incorporation of land outside of residential curtilage to accommodate log cabin (retrospective)'. However, I have no confirmation that the appellant agreed to the change, and I have therefore used the original description in the banner heading above.
3. The application form indicates that the development applied for was completed in February 2020. At my visit, I saw a timber building on the site. Nevertheless, I have determined the appeal on the basis of the submitted plans and details.
4. The description of development includes reference to an increase in the curtilage of the appeal dwelling to accommodate the timber building. The appellant comments that the indicated land has been used as garden for a significant period of time and formerly accommodated a caravan. However, it is not for me within the context of an appeal under section 78 of the Town and Country Planning Act 1990 ('the Act') to determine whether or not a use or development has subsisted for sufficient time to become lawful. Such provisions exist under sections 191/192 of the Act, and to that end it is open to the appellant to apply for a determination under those provisions. I have considered the appeal before me on the basis of the development as applied for, but regardless of the outcome, my determination of this appeal under section 78 does not affect the issuing of a determination pursuant to section 191/192 of the Act.
5. Since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I have had regard to the representations made.

Main Issues

6. The appeal site is within the Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB). Accordingly, the main issues are:
- i) whether or not the proposal would be inappropriate development in the Green Belt, including with regard to the effect of the proposal on the openness and purposes of the Green Belt;
 - ii) the effect of the proposal on the character and appearance of the Chilterns AONB;
 - iii) the effect of the proposal on biodiversity; and
 - iv) if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate Development and Green Belt Openness and Purposes

7. The appeal site includes a semi-detached dwelling located between Speen Road and Piggots Hill. To the front of the dwelling as it faces Piggots Hill is a single-storey garage, while to the side is a garden which includes a variety of plants in pots and an area of mown lawn set within a border of vegetation. The border is not entirely continuous, with some gaps in the foliage that afford access to land beyond where the outbuilding subject of this appeal is positioned, facing away from the dwelling. At my visit, I saw part of an electric fenceline set beyond the outbuilding a little way from the vegetated border to the appeal dwelling's lawn and I note that the appellant suggests this marks the extent of adjacent land described as an orchard. Nevertheless, the appeal proposal includes extension of the curtilage of the appeal dwelling to include part of the adjacent land closest to the garden, as well as the outbuilding on this land.
8. Policy DM42 of the Wycombe District Local Plan 2019 (LP) advises that development in the Green Belt is inappropriate, but that exceptions include development that the Framework classifies as not inappropriate. These exceptions include material changes in the use of land provided that the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
9. From the evidence before me, I am unable to reach any firm conclusions as to whether the section of land that is proposed to be incorporated within the residential curtilage was formerly orchard. Even so, the higher level vegetation along the edge of the lawn serves to separate it from the dwelling both physically and visually. At the time of my visit, the part of the site between the outbuilding and Speen Road was predominantly grass and included a few plant pots, but this area did not look to be maintained as lawn or mown, and the part of the site between the outbuilding and Piggots Hill comprised an area of fairly dense vegetation and tree cover. These factors lend this part of the site a discrete and less formal appearance than the garden within the curtilage marked on the submitted site plan.
10. The change of use of land to residential curtilage as proposed in this appeal does not fall within the examples given by the Framework of material changes

of use that may be exceptions to inappropriate development in the Green Belt. I acknowledge the appellant's comments that the proposal would not alter how this part of the site was used in practice. However, planning permission would run with the land, and whether or not it has in the past been used as garden, formalising the residential use of this part of the site could lead to a more overtly domestic quality through its maintenance as such, with provision of fencing or domestic paraphernalia further resulting in a loss of openness. The site is also part of a large undeveloped gap between Margarets Cottages and the next dwelling to this side of Speen Road at Barnscroft. Despite other buildings in the vicinity, the incursion of residential curtilage further into this gap which includes woodland and an open field would also conflict with one of the purposes of including land in the Green Belt; namely to assist in safeguarding the countryside from encroachment. Accordingly, I find that the proposed change of use of land to residential curtilage would be inappropriate development in the Green Belt.

11. With regard to the outbuilding itself, there is no dispute between the parties that, subject to the indicated removal of the garage, it would comply with the requirements at part 2 of Policy DM43 of the LP which outlines circumstances under which residential outbuildings may be acceptable in the Green Belt.
12. However, part 3 of Policy DM43 additionally requires that development including outbuildings respects the open character of the Green Belt and appears proportionate to the original dwelling, taking particular account of visual impact. The Council indicates that the volume of the outbuilding is around 94m³, a reduction in comparison to the garage to be removed which is said to be around 157m³. It is also set below the surrounding ground level and of relatively modest height, and it is set in from the boundaries of the site where there is vegetation providing screening. These factors reduce its prominence somewhat in comparison to the existing garage which is closer to, and accordingly more readily visible from Piggots Hill.
13. Nevertheless, it was apparent at my visit that there are some, albeit I accept limited, views of the outbuilding from outside of the site where boundary screening is incomplete. In these views, the position of the outbuilding further from the dwelling than the existing garage results in a greater spread of development away from the appeal dwelling into an existing open area which would be detrimental to the openness of the Green Belt. In combination with its position outside of the existing residential curtilage, I consider that this outweighs the benefit to openness through the removal of the existing garage.
14. For these reasons, I conclude that the proposal would comprise inappropriate development as defined by the Framework. Inappropriate development is, by definition, harmful to the Green Belt. There would also be some harm overall to openness which the Framework identifies as one of the essential characteristics of Green Belt, as well as conflict with one of the stated purposes of Green Belt. As a consequence, there is conflict with Policies DM42 and DM43 of the LP insofar as they seek to protect Green Belt openness.

Character and Appearance

15. Development near to the appeal site is relatively sparse, comprising individual buildings or small clusters of buildings set within a surrounding rolling landscape of open fields and wooded areas. As a result, there is a significant

openness and an attractive rural and scenic quality to the area in keeping with the rural landscape of this part of the AONB.

16. The scale and general appearance of the outbuilding is not out of keeping with other structures that I observed to dwellings in the vicinity of the site. Vegetation also provides for significant screening, but partial views of the outbuilding are possible from outside of the site. This allows for some appreciation of the spread of built development further from the appeal dwelling onto open land beyond the existing residential curtilage. In addition to the overall loss of openness that I have already identified would occur, the more formal domestic appearance and condition of the site associated with the outbuilding and enlargement of the residential curtilage would be urbanising.
17. Accordingly, I find that the proposal would erode the generally open and rural character and appearance of the area and detract from the natural beauty and landscape quality of this part of the AONB. Given the small scale of the development and that views are localised, the impact would be modest, but nevertheless conflicts with Policies DM30 and DM32 of the LP. Amongst other things, these policies require that development conserves and where possible enhances the natural beauty of the AONB, and seek the highest quality design which enhances the sense of place and local character within the AONB. Similarly, it would be contrary to the Framework which advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's which have the highest status of protection in relation to these issues.

Biodiversity

18. The appellant has not disputed the Council's assertion that the outbuilding is located on land which is designated as a 'Priority Habitat/Traditional Orchard'. Priority habitats are one of the areas where Policy DM13 of the Delivery and Site Allocations Plan 2013 (DSAP) requires that development proposals are accompanied by reports relevant to the impact of development on species or features of interest on the site.
19. No such report is before me as part of this appeal. The development has resulted in excavation and clearance of part of the site where surrounding vegetation cover remains fairly significant. From the evidence before me, it seems likely that these works and the outbuilding itself could have some impact on biodiversity. Moreover, while the garage is a modern structure, protected species including bats could be present in the area and I cannot be certain that they would not be adversely affected by its removal.
20. In the absence of a robust assessment, I am unable to conclude that the development would not harm priority habitat and any protected species either formerly or currently on the site. Nor has it been demonstrated that any harm caused could be adequately mitigated or compensated to achieve a net overall gain in biodiversity; that there is no suitable alternative site; and that the benefits of development outweigh any harm to biodiversity in accordance with the requirements of Policy DM13.
21. I am not therefore satisfied that biodiversity at the site has been suitably protected, far less enhanced, and I conclude on this main issue that the proposal conflicts with Policy DM13 of the DSAP and Policy DM34 of the LP.

Broadly, these policies require consideration for important habitats and protected species, and the conservation and enhancement of biodiversity.

Other Considerations

22. The appellant's evidence includes photographs of a static caravan that I am advised occupied the area where the outbuilding is now located. However, there is no firm evidence before me to demonstrate that the caravan was lawful. Nor has compelling evidence been provided as part of this appeal to substantiate assertions that the part of the site that it occupied comprised residential curtilage. I also do not have full details of this structure to be able to draw direct comparison with the appeal development, including in terms of its visual impact and any effect on openness, and irrespective of the former condition of the caravan, it is no longer present on the site. Moreover, even if I were to find that the removal of the caravan and of the garage would result in some improvement to the appearance of the site, the visual impact would be limited in extent. The benefit would not in my judgement overcome the inappropriateness of the development in the Green Belt and the overall harm to the openness and purposes of Green Belt through the development including the extension of the residential curtilage. In this context, I do not find the caravan, its removal, or the removal of the garage to be factors that weigh significantly in favour of the appeal proposal as a whole.
23. I am sympathetic to the appellant's desire for accommodation on the site and the benefit that it would offer in providing additional space, including during modernisation works to the dwelling to make it more suitable for continued occupation by residents on the site. However, there is little information before me to show that the appeal proposal would be the only means by which any needs could reasonably be met, and the development would remain long after the current personal circumstances cease to be material. I therefore afford modest weight to this matter.
24. In support of the appeal, I have been referred to an example of an extension of a garden within the Green Belt in the East Hertfordshire District Council area. However, from the very limited information provided I do not know the circumstances that led to this proposal being accepted and so cannot be sure that it represents a direct parallel to the appeal proposal. Furthermore, the site is within a different Council area where development plan policy is likely to vary. I also note comments regarding other developments in the vicinity of the site including HS2 which the appellant suggests have a greater impact including on the Green Belt, but the circumstances and relevant considerations are also likely to be different to the appeal before me which I have in any event determined on its own merits.
25. That the site is screened by vegetation and that views of the development would be limited are not benefits arising from the proposal, and do not alter the harm that I have identified above. Similarly, while I appreciate that the appellant acted in good faith and has sought to engage with the Council, this is not a factor which alters my consideration of the planning merits of the proposal.

Planning Balance and Conclusion

26. In accordance with the Framework, I give substantial weight to the harm that the proposal causes to the Green Belt by virtue of inappropriateness, harm to

openness and conflict with one of the purposes of Green Belt, and I give great weight to the harm caused to the landscape and scenic beauty of the AONB. I am also unable to determine that there would not be further harm to biodiversity. Against this harm, the other considerations advanced in support of the scheme carry comparatively little weight, and I conclude that even taken together they do not in this case clearly outweigh the harm that I have identified so as to amount to the very special circumstances necessary to justify the development in the Green Belt.

27. The proposal would conflict with Policies DM30, DM32, DM34, DM42 and DM43 of the LP and Policy DM13 of the DSAP, and I find that it would conflict with the development plan when it is read as a whole. Material considerations do not indicate that a decision contrary to the development plan should be reached, and I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR