



Appeal Decision

Site Visit made on 31 August 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/B1605/W/21/3275812

Church Court Cottages, Mill Street, Cheltenham GL52 3BG

- 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 Harald Dorum against the decision of Cheltenham Borough Council.
 - The application Ref 20/01711/FUL, dated 30 September 2020, was refused by notice dated 26 November 2020.
 - The development proposed is described as, "Repair and reinstatement of former outbuilding to the north of Church Court Cottages".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published, which replaced the 2019 version. The parties were provided with an opportunity to comment on its relevance to this appeal. I have taken the comments received into account in my decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, 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 it.

Reasons

Whether Inappropriate Development

4. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. There are however a limited number of exceptions to this, notably in paragraph 149 of the Framework. The relevant one to this proposal is d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

5. This principle is reflected in both Policy SD5 of the Core Strategy¹ which provides that, amongst other things, in the Green Belt development will be restricted to those limited types of development which are deemed appropriate by the Framework, unless very special circumstances can be demonstrated, and Policy GB2 of the Cheltenham Plan (adopted 2020) which provides that, amongst other things, the rebuilding or replacement of existing dwellings in the Green Belt will only be permitted where the new building is not materially larger than the one it replaces. These policies assist in safeguarding the 5 purposes of the Green Belt. Of particular relevance is the Green Belt's purpose in relation to its assistance in safeguarding the countryside from encroachment.
6. The appellant has referred to the nature of the surrounding area as being a cluster of development and has asserted that the proposed building would sit comfortably within both the site and its surrounding context. Nevertheless, the relevant assessment to be made under paragraph 149 d) of the Framework is whether the proposed new building would be materially larger than the one it replaces.
7. The proposal seeks to reinstate the original historic form of a Cider Press building, but the evidence before me indicates that this previous structure deteriorated into ruins some time ago. As such, although some of the building (including 3 external walls) has remained, due to the significant amount of time that has passed since the deterioration occurred, it would not be appropriate to use that historic structure as the baseline for the building that is proposed to be replaced, for the purposes of paragraph 149 d). Similarly, the building currently on site has been subject to unauthorised works and thus also cannot form the baseline.
8. Accordingly, for the purposes of paragraph 149 d) I have considered the structure as shown on the Existing Floor Plan & Elevations drawing as being the baseline. It is evident from the plans that the proposal would be much taller and wider, and of a far greater bulk than that building. Thus, as the new building would be materially larger than the one to be replaced, the proposal would conflict with paragraph 149 d). For the same reasons, the proposal would conflict with the purpose of the Green Belt in terms of its assistance in safeguarding the countryside from encroachment. Any lack of conflict with paragraph 149 d) with respect to the use of the replacement building when compared to the building to be replaced cannot change these findings.
9. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework and Policy SD5 of the Core Strategy and Policy GB2 of the Cheltenham Plan. Inappropriate development is, by definition, harmful to the Green Belt.

Openness

10. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm. I am also mindful of *Euro Garages Ltd v SSCLG & Anor*² which held that, amongst other things, the question of whether the

¹ Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (adopted 2017)

² [2018] EWHC 1753 (Admin)

openness of the Green Belt would be preserved will generally involve an assessment of the visual or perceived impact of a proposal.

11. For the same reasons as provided under the first main issue, the building as shown on the Existing Floor Plan & Elevations must be taken as the starting point for the assessment of the effect of the proposal on openness. In this respect, the proposal would increase the size of the existing building and it would result in a significant increase its mass, meaning that the openness of the Green Belt would, both visually and spatially, be reduced. The proposal would not be readily visible in wider views, but nevertheless, harm would result to the Green Belt. This would be in addition to the harm I have identified in regard to the first main issue.

Other considerations

12. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
13. The site is located within the Prestbury Conservation Area (conservation area). The significance of the conservation area, as a whole, as a designated heritage asset is detailed in the Character Appraisal³ which, amongst other things, mentions its distinctive village character, including historically and architecturally important buildings. The site's positive contribution to the conservation area derives in part from its green and largely undeveloped nature, which is congruent with the landscape setting of this edge-of-settlement location.
14. I am satisfied that the proposal would preserve the character and appearance of the conservation area, primarily by the reinstatement of an historic rural building which would add to the economic and social history of the area. Thus, there would be no harm to its significance as a designated heritage asset. Similarly, it is common ground that the proposal would not affect the settings or significance of The Hayes, St Mary's Church, or The Plough Inn, which are nearby listed buildings. I have no evidence before me that points to a different conclusion. These matters, which would serve to preserve the character and appearance of the conservation area, and the settings and significance of the listed buildings, are neutral factors, which do not weigh in favour of the proposal.
15. The proposal would ensure that part of the local heritage is reinstated and thereby protected for future generations. The proposal would also involve the considerable augmentation of structures which currently have little architectural merit. Moreover, appropriate materials are proposed. Considering the scale of the proposal and the fairly discrete location of the site, in these respects the proposal would provide a moderate positive contribution to local character and distinctiveness, as required by paragraph 197 c) of the Framework.
16. The proposal would provide a contribution to local economic vitality, in accordance with paragraph 197 b) of the Framework. Specifically, the proposal

³ Prestbury Conservation Area Character Appraisal and Management Plan (adopted 2009)

would provide construction-related economic benefits, which in turn would stimulate wider economic growth. However, due to the scale and proposed use of the scheme, these economic contributions would likely be fairly limited.

Balancing of considerations

17. The proposal would be inappropriate development in the Green Belt and would result in the loss of its openness. These matters carry substantial weight. Whilst the proposal would provide a moderate positive contribution to local character and distinctiveness, as well as contribute to the local economy, taken together, I find that these benefits do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would not comply with the Green Belt aims of both Policy SD5 of the Core Strategy and Policy GB2 of the Cheltenham Plan, or the Framework, and consequently would be unacceptable.

Conclusion

18. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR