



Appeal Decision

Site Visit made on 7 December 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2022

Appeal Ref: APP/N0410/W/21/3270680

Pitch 1, Alderbourne Cottage, Fulmer Lane, Fulmer SL9 7BL

- 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 Rooney against the decision of Buckinghamshire Council.
 - The application Ref PL/20/0207/FA, dated 20 January 2020, was refused by notice dated 15 February 2021.
 - The development proposed is conversion of existing outbuilding into a separate residential dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

The site

2. The site comprises an existing building and surrounding land set in woodland and which was formerly attached to Alderbourne Cottage. The Cottage is a dwellinghouse and a grade II listed building, having been built as a lodge house in the grounds of Alderbourne Manor. The woodland originally formed part of the Manor's parkland and grounds and is designated as Ancient Woodland.

Relevant planning history

3. In 2015, the Council issued enforcement notices in respect of the appeal site and other land to the south of Alderbourne Cottage. Appeals against the notices were dismissed in March 2017 (the enforcement appeals) and the notices were upheld with corrections¹.
4. The corrected notice which relates to the appeal site concerns the material change of use of the land to a residential caravan site, the use of the outbuilding as an incidental dayroom and associated works. Amongst other things, the notice requires the cessation of the unauthorised residential use as well as the removal of an infill extension to the outbuilding.
5. The Council has taken legal action by way of application to the high court for an injunction order against the appellants for non-compliance with the notices. A final injunction was made on 11 June 2021. It follows that the enforcement notice remains extant and the appeal site could not be used for the stationing of residential caravans or related purposes. However, neither the enforcement notice nor injunction would prevent me from granting planning permission for

¹ Appeal refs: APP/N0410/C/15/3078099, 3078100, 3129769 and 3129770

the proposed use. This decision is made without prejudice to any party to the injunction or any other proceedings.

6. In December 2019, planning permission was granted on appeal² for the conversion of the outbuilding to a residential annex ancillary to Alderbourne Cottage (the residential annex use). The appeal plans indicate the appellants do not own the Cottage and a boundary fence lies between that house and the appeal site. The residential annex use has not been commenced but the planning permission remains extant. The permission itself and the Inspector's decision letter are material considerations for this appeal.

The appeal development

7. The term "conversion" in the description of development is imprecise but in this case it means a material change of use of the building. Also, the appeal drawings show "additional floor space recently added to the original building". As such, it appears that planning permission is sought for the change of use and extension of an existing outbuilding to form a separate dwelling. The development has commenced as the extension is built.

Main Issues

8. The main issues are:-

- whether the proposed change of use and the extension represent inappropriate development in the Green Belt having regard to development plan policies and the National Planning Policy Framework (the Framework);
- whether the site would be a suitable location in terms of accessibility for the proposed dwelling;
- the effect of the development on the character and appearance of the area;
- its effect on the designated area of Ancient Woodland;
- its effect on biodiversity;
- whether the development would preserve the setting and significance of the grade II listed building (the LB);
- its effect on highway safety in terms of visibility at the access; and
- 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

Whether inappropriate development in the Green Belt

The proposed change of use

9. Policies GB1 and GB2 of the South Bucks District Local Plan 1999 (the LP) allow the re-use of buildings of permanent and substantial construction in the Green Belt subject to various requirements. These include that any associated new uses of land surrounding buildings do not detract from the open and

² Appeal ref: APP/N0410/W/19/3223043

undeveloped character of the Green Belt. The LP policies pre-date but are generally consistent with the Framework. This defines the re-use of buildings as not inappropriate development in the Green Belt, provided it preserves openness and does not conflict with the purposes of including land within it.

10. There is no dispute that the appeal building is of permanent and substantial construction. I am satisfied that the residential use of the interior of the building would have no effect on the openness of the Green Belt. A condition could be imposed to remove permitted development (PD) rights³ for extensions and external alterations to the dwelling, so as to prevent any future enlargement that would reduce the openness of the Green Belt.
11. However, the proposed dwelling would have three bedrooms and would be served by a private garden with drive and parking space. Given the size of the building and its location outside of any settlement, it is reasonable to expect that the dwelling would be occupied by a household who would own and rely upon at least one private car. Also, it is likely the change of use would result in the stationing of vehicles and other domestic items, such as bins, furniture, clothes drying equipment, barbeques and play features within the garden.
12. Parked vehicles and domestic paraphernalia are not permanent structures. However, in practice, I would expect at least one vehicle and standard household bins to be present on the land most of the time. Such items would be hidden from public vantage points and so they would cause limited visual loss of openness. However, the external items associated with the proposed use would have an adverse impact upon and not preserve the spatial openness of the Green Belt. As such, the development would go against the purpose of Green Belt policy to safeguard the countryside from encroachment.
13. Adding a little weight to that concern, the submitted plan shows an existing fence on the northern and western but not southern boundary of the site. While the erection of fences or walls could be controlled by condition, I consider that occupiers of any self-contained dwelling would have reasonable expectations of privacy and security. For that reason, a grant of permission for the proposed use would be liable to lead to pressure for extra means of enclosure which would further reduce the openness of the Green Belt.
14. The approved plans for the residential annex use show this development would provide self-contained accommodation consisting of three bedrooms, a kitchen and bathroom. Also, the annex would benefit from its own garden area and the 2019 Inspector noted that occupiers would park vehicles and place domestic paraphernalia on the site. He found it likely that such items would be transient and he concluded the annex use would not have any significant adverse effects on the openness of the Green Belt.
15. I am not bound to reach the same conclusion as the 2019 Inspector in respect of the current proposal. It would have a slightly larger garden than the annex and the proposed dwelling would be wholly independent of Alderbourne Cottage. As a matter of principle, I would expect a separate residence to be used more intensively or give rise to more activity over time than an annex. It is likely the proposed dwelling would more frequently result in domestic items

³ Granted under Article 3 and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)

- and vehicles being present across a greater extent of the site. Pressure for the enclosure of the site would likely be less if the building was used as an annex.
16. Where a building contains living accommodation and is used as an annex to another dwelling, the residential use of the annex will be considered part and parcel of the use of the main house. Even if the annex is self-contained and at a distance from the main house, the two buildings must be within the same planning unit and physically and/or functionally connected. The 2019 Inspector imposed no conditions to restrict the use of the annex. However, he plainly did not grant permission for the independent residential use of the outbuilding as now proposed and which I have found would not preserve the openness of the Green Belt.
 17. I would also question whether implementation of the 2019 permission is a realistic fallback position. The 2019 Inspector correctly noted that property ownership or occupation are not planning considerations and can easily change. However, when considering whether the annex use could be lawfully commenced, it is relevant that the appellants did not own Alderbourne Cottage in 2019 and the situation has not changed. In any event, even if the permission is implemented, I remain of the view that the proposed dwelling would be liable to reduce the openness of the Green Belt more than the residential annex use.
 18. I have noted that conditions could be imposed that withdraw PD rights for the construction of garden buildings. However, if this appeal is refused, and whether the outbuilding is used as an annex or not, such PD rights do not apply to land within the residential curtilage of listed buildings. Therefore, I find that the prospect of imposing conditions to withdraw PD rights would not give rise to any benefit in terms of Green Belt openness.
 19. The appellant has provided details of other planning permissions granted by the Council for a change of use of a building to a dwelling and which were found to be not inappropriate development in the Green Belt. It is apparent that the Council considered each of those cases on their individual merits and exercised its judgment on the facts and circumstances. I have taken the same approach but find that, in this instance, the proposed change of use would have an adverse impact upon and not preserve the openness of the Green Belt. It would also conflict with one of the purposes of Green Belt policy.

The extension

20. Under the terms of the Framework, the construction of an extension which does not result in a disproportionate addition to the size of the original building is not inappropriate development in the Green Belt. LP Policy GB1 is more restrictive as it allows only for the limited extension of dwellings. The LP is not consistent with the Framework in that regard but, in any event, 'dwellinghouse' is the proposed use of the building.
21. The enforcement appeals Inspector found that it was not excessive for the enforcement notice to require the removal of the infill extension. She reached that conclusion on the basis that, for the notice to remedy the breach of planning control, it was not excessive to require the removal of works that had facilitated the unauthorised change of use to a caravan site. The Inspector did not address the merits of the extension because it was not expressly described in the alleged breach.

22. The infill extension is small and does not go beyond the envelope of the building. I am satisfied that it is not a disproportionate addition to the building and not inappropriate development under paragraph 149c) of the Framework.

Conclusion

23. I conclude the infill extension is not inappropriate development in the Green Belt. However, the proposed change of use would have an adverse impact upon and so would not preserve the openness of the Green Belt. Also, it would conflict with the purposes of including land in Green Belts and so it would be inappropriate development.

Suitability of location

24. It is unlikely that occupants of the proposal would walk to the facilities and bus stops at Denham and Gerrards Cross given the separation distances and the lack of pavement and street lighting along Fulmer Road. As such, occupiers and visitors to the dwelling would be highly reliant on car travel.
25. However, the Framework recognises that there would be less opportunities to utilise sustainable modes of transport in rural areas than in towns and cities. Vehicular trips from the site to the nearest settlements would be short in terms of distance and time and would allow future residents reasonable access by car to facilities and public transport serving the wider area. Also, compared to the approved residential annex use, it is likely the proposed dwelling would result in only a small increase in journeys.
26. For these reasons, I conclude the appeal site would be suitable in accessibility terms for the proposed dwelling. In these respects, the development would accord with Core Policy 7 of the South Bucks Core Strategy 2011 (CS). Amongst other things, this looks to improve accessibility to services while recognising the car would be the primary mode of travel in rural areas.

Character and appearance

27. The site lies in a wooded area that forms part of the Colne Valley Park. The extent of mature tree coverage gives the locality a pleasant sense of nature.
28. The main visual effect of the development would relate to the introduction of domestic items and vehicles on the external parts of the site. I have found it likely that the proposed dwelling would result in more of such features compared to the residential annex use. Even so, the site is screened from the road by vegetation and Alderbourne Cottage. As such, the proposal would cause no meaningful detriment to the visual qualities and the sylvan feeling of the locality.
29. As such, I conclude the development would not cause harm to the character and appearance of the area. In these respects, it would accord with CS Core Policy 9 which, amongst other things, seeks to conserve landscape character.

Ancient Woodland

30. The Framework states that development which would result in the deterioration of Ancient Woodland should be refused unless there are wholly exceptional reasons. Concerns are raised over harm caused to trees as a result of the unauthorised use of the site, although that is not a matter for consideration

with this appeal. Therefore the clearance of trees already carried out provides no justification to refuse planning permission for the proposed house.

31. It is likely that future occupiers of the dwelling would want to properly maintain the garden to allow activities such as parking and outdoor domestic recreation. Such activities would hinder or prevent the natural regeneration of the trees and undergrowth.
32. However, only a small part of the woodland would be affected. Also, the parking and external activities associated with the residential annex use would have similar effects on the natural regeneration of the Ancient Woodland compared to the proposed dwelling. As such, the fallback position represents a wholly exceptional reason to justify the minor deterioration that would be caused by the proposal.
33. Therefore, I conclude the development would have an acceptable effect on the Ancient Woodland. It would not fully accord with CS Core Policy 9 which, amongst other things, looks to conserve Ancient Woodlands. However, for the above reasons there is sufficient justification to make a determination contrary to this policy. The refusal reasons refer to LP policy L10 although this is irrelevant as no direct works to trees are proposed.

Biodiversity

34. The site lies in a Biodiversity Opportunity Area where CS Core Policy 9 requires a net gain in biodiversity resources. There is little evidence to show the site has any particular ecological value except for the trees and the fact it forms part of an Ancient Woodland.
35. The proposal would have no direct effect on the existing trees and so it would preserve the current ecological value of the site. There is no information of any measures to enhance biodiversity but gain could be reasonably secured through the imposition of a planning condition. The minor detrimental effect on the natural regeneration of the woodland would not prevent biodiversity enhancements through other means.
36. The Inspector for the enforcement appeals found that mitigation would not offset the harm caused to biodiversity by the unauthorised Gypsy and Traveller site use. However, the Inspector was assessing a different type of development affecting a larger area compared to this appeal scheme. As such, I am not bound to follow the Inspector's views on this matter.
37. For the above reasons, I conclude the development would have an acceptable effect on biodiversity. In these regards it would accord with CS Core Policy 9.

The listed building

38. Alderbourne Cottage is a thatched house dating from the early nineteenth century. It gains its significance from its attractive appearance and architecture as well as its historic interest as a former lodge to Alderbourne Manor. Despite the boundary fence, there is a degree of visibility between the appeal site and the LB and so the proposed dwelling would be within its setting.
39. The introduction of parking and external paraphernalia associated with the dwelling could affect the way in which Alderbourne Cottage is seen. However, the LB has a garden containing parking and domestic items and so any features

associated with the development would be in keeping with its setting. Also, the infill extension and the proposal as a whole would not obstruct views of the main aspects of Alderbourne Cottage.

40. As such, I conclude the development would preserve the setting and significance of the LB. In these respects, it would accord with CS Core Policy 8 and its aim to avoid harm to the setting of a listed building.

Highway safety

41. The occupants and visitors to the proposed dwelling are likely to travel to and from the site by car given the absence of realistic alternatives. The level of traffic generated would be limited as only a single house is proposed. However, it is likely the introduction of a new household would lead to a small increase in vehicular trips, even when compared to the approved residential annex use.
42. The proposed dwelling would be served by an existing drive that runs from Fulmer Road. The highway is subject to the national speed limit of 60mph and so Manual for Streets requires visibility splays measuring at least 154m. Views to the right of the drive are generally clear but a hedge restricts visibility to the left to about 23m.
43. However, to the left of the access, Fulmer Road is narrow, poorly surfaced and with hedgerows on either side. My visit can only provide a snapshot in time but due to the nature of the road I saw traffic generally travels slowly. There is no reason to find that my observations are untypical of vehicular speeds. As such, a visibility splay of 154m would not be necessary to ensure drivers have adequate sight of on-coming traffic.
44. Also, the road is quite straight and so approaching drivers see the front of cars waiting to enter the highway for a significant distance before the site access. In light of low traffic speeds and good forward visibility, I am satisfied vehicles leaving the access would not cause an inappropriate risk to other road users.
45. As such, I conclude the development would not unacceptably harm highway safety due to visibility at the access. In these regards, it would accord with LP policy TR5 which, amongst other things, seeks to ensure the generation of additional traffic has regard to its effect on safety.

Other considerations

46. The subject building is a permanent structure and the proposed dwelling would be a permanent use. As such, the development would not facilitate a nomadic way of life. Accordingly, it cannot be considered as a proposed Gypsy or Traveller site, although the appellants are Romany Gypsies and they have described the site as "pitch 1". There is no indication that the proposed dwelling would be lived in by the appellants and their family or that it would be required to address any general need for Gypsy or Traveller accommodation.
47. Moreover, while they were matters considered under the enforcement appeals, I am provided with no information on the appellants which supports a case for the development on the grounds of personal circumstances. As such, there is no evidence to suggest my decision would interfere with any right to respect for their home or that it would be contrary to the interests of any child. In the absence of such evidence, these factors do not affect my conclusion.

48. Nonetheless, the development would add to the general housing stock. This benefit attracts modest weight as only a single unit is proposed and there is no indication of a shortage of housing land.

Planning balance

49. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These would only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In carrying out the balancing exercise, the Framework dictates substantial weight is afforded to any harm caused to the Green Belt.
50. As well as harm by reason of inappropriateness, the proposed dwelling would have an adverse impact on openness, thereby adversely impacting on one of the essential characteristics of the Green Belt. Also, it would prejudice the purpose of Green Belt policy to safeguard the countryside from encroachment. I attribute limited weight to the harm caused in these respects. The development would be acceptable in terms of accessibility and its effects on character and appearance, the Ancient Woodland, biodiversity, the LB and highway safety. Acceptability in these regards is a neutral factor.
51. On considering all the relevant matters, I conclude that the benefits of the proposal and all other factors attract modest weight. They would not clearly outweigh the harm the proposed dwelling would cause to the Green Belt, which in total is attributed substantial weight. Therefore, very special circumstances necessary to justify the development do not exist. The development as a whole would not accord with the Framework and LP policies GB1 and GB2. CS Core Policy 4 is referred to but this contains no Green Belt provisions.
52. As the appellants have Gypsy status as defined under the Planning Policy for Traveller Sites, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance equality of opportunity between people who share a protected characteristic and those who do not. However, the appellants' protected characteristics do not bear on the development which is not designed to meet the needs of Gypsy and Travellers.
53. I have found that the infill extension would not be inappropriate development and so it would accord with the LP's and Framework's Green Belt policies. I have considered whether a split decision should be made to allow this part of the scheme. However, the extension is not referred to in the description of development and is shown to facilitate a change of use which I have found to be unacceptable. As such, a split decision would be inappropriate.

Conclusion

54. For the above reasons, the proposal would not accord with the LP and CS policies when read as a whole. There is no justification to make a decision other than in accordance with the development plan and so I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR