



Appeal Decision

Site visit made on 6 June 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2022

Appeal Ref: APP/T0355/W/21/3285134

Land To The North West of Cedar House, Coombe Lane, Ascot SL5 7AS.

- 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 Mrs Jenny Garner against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/00835, dated 17 March 2021, was refused by notice dated 18 June 2021.
 - The development proposed is erection of 6 small-scale agricultural structures (1 shed, 3 greenhouses, 2 netted fruit cages) on agricultural land.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 6 small-scale agricultural structures (1 shed, 3 greenhouses, 2 netted fruit cages) on agricultural land at land to the North West of Cedar House, Coombe Lane, Ascot SL5 7AS, in accordance with the terms of the application, Ref 21/00835, dated 17 March 2021, subject to the following conditions: -
 - a) The development hereby permitted shall begin no later than three years from the date of this decision.
 - b) The materials to be used on the external surfaces of the development shall be in accordance with those specified/detailed in the planning application.
 - c) The development shall be carried out in accordance with the approved plans listed: location plan without structures, location plan with structures, and photograph details showing netted fruit cages, greenhouses and shed that were submitted in support of the planning application (relevant date 17 March 2021).
 - d) Prior to the commencement of the development above slab level, details of biodiversity enhancements, to include installation of wildlife boxes, planting of 150m of native hedgerow and creation of wildflower, nectar rich and grassland areas, including a timeframe for planting and installation, shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall thereafter be installed as approved and a letter confirming the planting and that the boxes have been installed, including a plan showing their location and photographs of the enhancements in situ, shall be submitted to the local planning authority and be approved in writing by the Council.

Application for costs

2. An application for costs has been made by Mrs Jenny Garner against Royal Borough of Windsor and Maidenhead. That application is the subject of a separate decision.

Preliminary Matters

3. Policies GB1, GB2 and GB3 of The Royal Borough of Windsor and Maidenhead Local Plan adopted in 2003 referred to in the Council's first reason for refusal have been superseded by Policy QP5 of the Royal Borough of Windsor and Maidenhead Local Plan 2013 – 2033 (the Local Plan) which has been adopted since the Council made its determination. Both main parties have been given the opportunity to comment on the relevance of the new Plan policies.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was determined by the Council. I have had regard to the revised Framework in reaching my decision.
5. The appeal site may contain priority habitat and habitats that are suitable for use by protected and priority species. The Council has raised concern over the proposed development as it could impact these habitats. This has resulted in the Council imposing refusal reason two relating to the lack of evidence that would indicate that the development would not detrimentally impact habitats or species. A desktop study (Arbor Vitae, October 2021) has been submitted by the appellant in support of the appeal. This report has addressed the Council's concerns. The Council's Arboricultural Officer comments that there is no further objection on ecological grounds, subject to the imposition of a planning condition relating to biodiversity enhancements at the site if planning permission were to be forthcoming and confirms refusal reason two has been overcome.

Main Issues

6. The main issues raised in respect of this appeal are: -
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - b) The effect of the proposal on gaps between villages.

Reasons

Inappropriate development

7. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts being their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework sets out exceptions in which development can take place in the Green Belt.
8. The appellant has put forward that the site has historically been used for agricultural purposes and that the proposal would fall under the exceptions under paragraph 149(a) of the Framework. However, the site comprises a

parcel of land which is designated as 'non agricultural land' on the Council's mapping system.

9. Section 336 of the Town and Country Planning Act 1990 (The Act) provides a definition of agriculture. This includes "*horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly*". This is reflected within the definition provide for agriculture at paragraph U010 of the Land Use Definitions (the National Land Use Database).
10. The appellant has provided historical map evidence. This shows that in 1910 an Ordnance Survey (OS) map the appeal site formed part of field no. 603. The name given to the land is shown to be Coombe Meadows. A later OS map from 1933 remains to show the field number and name of land. A National Grid Map from 1961 shows field boundaries. Although this does not provide a field number, the name Coombe Meadows is still present.
11. Despite the information presented by the appellant the Council has not explained how its 'non-agricultural land' designation has been arrived at. The appellant points out that this term is not used as a land class use that appears in The Act or the National Land Use Database. It appears to come under DEFRA's agricultural classification scheme to grade land quality. However, this does not necessary mean that such land would be anything other than agricultural land unless there has been a clear change in use. Although land around the appeal site has been planted with trees, the appeal site is open and undeveloped. Indeed, the Council in their Statement of Case comment that the land to have either an agriculture or nil use. The Council has not suggested that any other intervening land uses have taken place since 1961 that would indicate there to have been a clear change in use of the site. On the available evidence that is before me the site appears to be an agricultural site that would fit The Act's definition of agricultural land.
12. The proposal relates to structures that are required for growing fruit and vegetables that is indicated by the appellant to have an essential agricultural purpose and is intended to be used for private subsistence small scale food production. The fruit cages are essential to protect plants and the shed would store tools and equipment associated with the agricultural activities.
13. The Council contends that the use would be for private/domestic purposes, and as such, this would result in the change of use of the land. The Act's definition of agricultural land does not differentiate between private or business use of agricultural activity. The Appellant identifies herself as a small scale semi-subsistence farmer who grows her own food, not as a hobby, but as her livelihood on a full-time basis and who is registered with DEFRA as a farmer.
14. I have been directed to a High Court case (Crowborough Parish Council v. Secretary of State for the Environment (1980)). Although that case related to allotments it was determined that allotments are specifically agricultural if they are used for the purposes of agriculture, that is not primarily for leisure. The appellant is not acting in a domestic capacity but rather as a small scale farmer. Consequently, the evidence leads me to conclude that the structures

proposed would be associated with the agricultural use of the land and would be used for the purposes of agriculture. As such, the proposal would conform with paragraph 149(a) of the Framework that allows for buildings for agriculture and forestry.

15. Springhill & Ascot Parish Council advises that the site forms part of natural woodland which has been used for recreational purposes by local residents for amenity. However, the appeal site is not part of the land that has been transformed to woodland. A local Councillor contends this to be amenity land rather than agricultural. A land registry plan has been provided. Although it includes the appeal site, it shows a wider area that would include the areas of woodland. It is said that the land has been open to public access for more than 20 years and has been used by dog walkers and young people to ride bicycles and play. There are paths that crisscross the area, but I have not been directed to any that have traversed the appeal site. Consequently, I have not been directed to any specific or substantive amenity use to which the appeal site may have been used that might alter my above considerations.
16. For the above reasons, I conclude that the proposal would not be inappropriate development within the Green Belt or conflict with the purposes of including land within it as it would fall within the paragraph 149(a) exception of the Framework. The proposal would not conflict with Policy QP5 of the Local Plan as the proposal would not be inappropriate development under the Framework.

Gaps between villages

17. Separation between villages is critical to protecting the semi-rural, non-urban character of the area. Criterion (a) of Policy EN1 of the Ascot, Sunninghill & Sunningdale Neighbourhood Plan 2011 – 2026 (the Neighbourhood Plan) states that any new structures should be located where they will be viewed against the existing built form. The shed, greenhouses and netted fruit cages would be positioned close to the garden of Cedar House. This, to some extent, would form the backdrop for the proposal. The proposal would not conflict with the other criteria set out in this policy. Policy EN5 of the Neighbourhood Plan seeks to maintain and enhance the connectivity of all green corridors. The proposal would maintain agricultural use of the land. Consequently, I do not find conflict with Policies EN1 and EN5 of the Neighbourhood Plan.

Other Matters

18. It is understood from a third party that land in the wider area has been sold, separated into 18 plots and marketed as freehold parcels of land. I have also been directed to other uses within the Green Belt not far from the appeal site and concern has been raised to the potential precedent allowing this appeal might set. These matters do not alter my above considerations. I have considered this appeal on its own individual merits, as would be required for each individual proposal.

Conditions

19. I have considered the planning conditions suggested by the authority in light of paragraph 56 of the Framework and the advice in the Planning Practice Guidance. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there are conditions requiring that the

development is carried out in accordance with the approved materials and plans.

20. The Council's Arboricultural Officer has requested the imposition of a planning condition relating to biodiversity enhancements at the site if planning permission were to be forthcoming. I consider this necessary to accord with Policy EN4 of the Neighbourhood Plan that requires proposals to enhance biodiversity wherever possible.

Conclusion

21. For the reasons set out above, the appeal should be allowed.

Nicola Davies

INSPECTOR