



Appeal Decision

Site visit made on 19 July 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2022

Appeal Ref: APP/P0240/W/21/3287663

Bennetts Cottage, The Green, Whipsnade LU6 2LG

- 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 Nichola Fletcher against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/01967/FULL, dated 27 April 2021, was refused by notice dated 16 September 2021.
 - The development proposed is the construction of detached carport.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposed development would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect on the character and appearance of the Chilterns Area of Outstanding Natural Beauty (AONB);
 - whether the proposed development would preserve or enhance the character or appearance of the Whipsnade Conservation Area (CA);
 - if the proposed development is inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

3. The National Planning Policy Framework (the Framework) makes clear at paragraph 149 that the construction of new buildings in the Green Belt should be regarded as inappropriate. Exceptions to this include, as specifically referred to in the appeal submissions by the Appellant and Council, c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building and g) limited infilling or the partial or complete redevelopment of previously developed land, subject to the development having no greater impact on the openness of the Green

Belt than the existing development. Policy SP4 of the Central Bedfordshire Local Plan 2015-2035 (adopted July 2021) (LP) is broadly consistent with the Framework in this regard.

4. The LP is silent on whether an outbuilding might form part of the dwelling. Therefore, I am required to take into account the proposal's distance from, and relationship with, the original building, and whether it is a 'normal domestic adjunct', before determining whether the proposed development could reasonably be considered as an extension or alteration of an existing building.
5. In this regard I note that the proposed development would be noticeably separated from the host dwelling and set at an angle to the front main wall of the front wall. Consequently, as a matter of fact and degree I find that the proposed development would not consist of an extension or alteration to the existing dwelling. Therefore, it would not fall within the exception provided within paragraph 149 c).
6. The Council maintains that the dwelling that previously occupied the site was concentrated on the western side of the appeal site and the location of the proposed development was never occupied by any structure or building such that the site does not constitute previously developed land.
7. However, the planning permission and conservation area consent granted in 2014¹ includes a dwelling towards the western side of the plot, together with ancillary works that include a driveway and parking areas. On my site visit I noted the parking area to the east of the host property which was defined by retaining walls on three sides of approximately 1 metre in height.
8. Notwithstanding the above, the definition of previously developed land expressly excludes land within a 'built-up' area such as residential gardens. In this regard, whilst acknowledging that the appeal site is not within a dense urban area, it is nonetheless within a group of buildings that contribute towards a larger community, and it forms part of the garden to the host property. Consequently, by definition it does not fall within the definition of previously developed land given in Annex 2 of the Framework.
9. Notwithstanding my findings above in respect of the site not comprising previously developed land, even if I was to accept it is previously developed land, I would be required to assess whether the proposed development would have a greater impact on openness of the Green Belt than the existing development. In those circumstances, given my findings below that there would be harm to the openness of the Green Belt, the proposed development would not comprise an exception under paragraph 149 g) of the Framework. As such, it would still comprise inappropriate development in the Green Belt.
10. In light of the above, I find that the proposed development would constitute inappropriate development in the Green Belt for the purposes of Policy SP4 of the LP and the Framework. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

¹ Planning permission reference CB/14/04089/FULL and CB/14/4076/RDCA

Openness

11. Openness is an essential characteristic of the Green Belt, which has a spatial aspect as well as a visual aspect. Notwithstanding the presence of some low level retaining walls, the space to the side and front of the property currently has an open aspect. The proposed development would occupy a significant amount of the space available and would project forward of the host property. Furthermore, it would consist of a building of significant height. Consequently, the loss of this space would reduce both visual and spatial openness.
12. I acknowledge that the side garden of the host property is separated from the neighbouring property, Bailey Cottage, by mature trees. In addition, it is screened from the majority of The Green, by mature trees and shrubs. That said, there would be views of the proposed development, above the low hedge at the front of the host property, and the vehicular gate, from the northern end of The Green.
13. In light of the above, I accept that the impact on openness would be limited and localised. Nevertheless, harm to openness would result to the Green Belt and I am directed by paragraph 148 to give 'substantial weight to any such harm'.

Character and appearance of the Chilterns Area of Outstanding Natural Beauty

14. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty². The Framework identifies that the planning system should protect and enhance valued landscapes and great weight should be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty³.
15. The proposed car port would be located between the host dwelling and Bailey Cottage, which is located to the east. The scale of development is not significant in relation to the AONB as a whole and there would be no encroachment into the open countryside. Existing trees and shrubs, which are shown to be retained, would limit views from the south and would provide a verdant backdrop for the proposed development.
16. In light of the above I conclude on this main issue that the proposed development would not cause significant harm to the distinctive landscape character of the AONB. Consequently, I find no conflict with LP Policies HQ1 and EE7 or the Framework which, amongst other matters, aim to protect or conserve the existing landscape character.

Character or appearance of the Whipsnade Conservation Area

17. The CA covers an area running alongside the B4540. It incorporates a number of sparsely distributed properties each grouped around a parcel of open land. The appeal property itself is one of a small number of individually designed detached properties set around The Green. The buildings in the immediate vicinity of the appeal site are predominantly bungalows, albeit a number of them have accommodation within the roof space. They utilise a wide pallet of materials and vary significantly in their design.

² Areas of Outstanding Natural Beauty are designated for the purposes of conserving and enhancing natural beauty and Section 85(1) of the Countryside and Rights of Way Act 2000 place a duty on me to have regard to these purposes in this decision.

³ Paragraph 176 of the National Planning Policy Framework.

18. The low density of development, the individual design of the properties, together with the mature trees located within The Green, and the curtilages of the individual properties, make a positive contribution to the character and appearance of the area.
19. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets is set out in the Framework. At paragraph 197, it sets out matters which should be taken into account including the desirability of sustaining and enhancing the significance of the heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
20. I acknowledge that the proposed development would be sited forward of, and at an angle to, the front wall of the host property. In this regard I note that there is a nominal 'building line' with the Village Hall to the west and Bailey Cottage to the east. That said, the set back of the respective properties from The Green is not identical in all cases. There is also already some variation in the alignment of the front elevation of the host property. I find that this, combined with the separation between the neighbouring properties and the intervening vegetation, means that some divergence from the nominal 'building line' does not weigh against the proposed development.
21. The Council's Conservation Officer made no specific comments on the original application, but referred to the statutory test, and guidance relating to new development in conservation areas as set out in the Central Bedfordshire Design Guide. In its appeal statement the Council refers to the built form, character and subservience. In this regard, whilst recognising that the proposal has specific functional requirements, I find that it would be in keeping with the design of the host property, utilising similar materials and a pitched roof. Furthermore, whilst accepting that the car port would represent a significant additional building, its height would be lower, and floor area less than the host property. Consequently, it would be a subservient structure.
22. I also acknowledge that the trees and shrubs within the appeal site provide some public benefit, given their significant size and prominence when viewed across The Green. Moreover, they would provide some screening of the proposed development albeit, given that they are predominantly deciduous species, any mitigation provided would be reduced when they are not in leaf.
23. Furthermore, I accept that, based on the structural report submitted by the appellant, the existing wall and foundations could be used to accommodate the additional loading imposed by the construction of a proposed timber-framed car port, thereby avoiding damage to the nearby trees. I give this matter moderate weight.
24. I also recognise the appellant's desire to protect vehicles from sap shed by the trees, and their assertion that if this matter is not resolved it could lead to pressure being applied to carry out tree works that could be to the detriment of the CA. However, I have not received sufficient evidence to indicate the extent to which it causes damage or that this could not be mitigated in other ways. Consequently, I give this matter only limited weight.

25. These considerations, taken together, lead me to the conclusion on this main issue that the appeal scheme would preserve the character and appearance of the Whipsnade Conservation Area. For these reasons, the proposed development would not conflict with Policy HE3 of the LP, or the Framework which, amongst other things, seek to ensure that heritage assets are conserved in a manner appropriate to their significance.

Balancing of considerations and whether very special circumstances exist

26. I have found that the proposal would be inappropriate development, which would by definition be harmful to the Green Belt. Additionally, I have found that there would be harm to the openness of the Green Belt. These matters carry substantial weight.
27. For the reasons given above, I have found that the proposed development would not cause significant harm to the distinctive landscape character of the AONB and would preserve the character and appearance of the CA. However, these findings do not deflect from the harm I have found in respect of the first two main issues.
28. The other considerations advanced in support of the proposal, that I have referred to under the fourth main issue, at most carry moderate weight and do not clearly outweigh the substantial weight that is given to the harm identified to the Green Belt by reason of inappropriateness and to the openness of the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist. The proposal therefore conflicts with Policy SP4 of the LP, and the Framework.

Conclusion

29. There are no other relevant material matters that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

John Gunn

INSPECTOR