



Appeal Decision

Site visit made on 30 August 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2022

Appeal Ref: APP/Y3940/W/22/3296262

Bybrook Meadow, Ashley, Box, Wiltshire

Grid Ref Easting: 380928, Grid Ref Northing: 168256

- 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 A Lowin against the decision of Wiltshire Council.
 - The application Ref PL/2021/10907, dated 19 November 2021, was refused by notice dated 21 January 2022.
 - The development proposed is Change of use and conversion of agricultural building to a single dwelling with associated development, including installation of a septic tank.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Lowin against Wiltshire Council. This application is the subject of a separate Decision.

Background and Procedural Matters

3. The address on the application form refers to the site as 'Agricultural Building, Wiltshire County Boundary North East C168 To Bath Road', whilst the address on the appeal form and application plans refers to the site as 'Bybrook Meadow'. I have used the latter address in the banner heading above as it is more concise.
4. The appeal proposal relates to an existing agricultural building, which was granted planning permission in October 2013¹. It is a point of disagreement between the parties regarding whether the agricultural building on site has been built in accordance with the plans approved under the application. In the absence of a Certificate of Lawful Use, it is not my role to determine whether the use of the existing building is lawful. However, based on the evidence before me, I am satisfied that despite the opening being positioned in a different location to that as approved, the structure appears to be built in line with the approved plans, in terms of its height, form and footprint.
5. There was an error in the plans submitted with the application, most notably the roof of both the existing and proposed building was shown with a higher eaves height on the rear elevation which consequently changed the pitch of the roof. The correct plans have been submitted with the appeal and I have considered the appeal on the basis of the corrected plans. With regard to the

¹ 13/02511/FUL

'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, I do not consider that any parties will have been prejudiced by my doing so.

6. A structural assessment has also been submitted with the appeal, which wasn't submitted with the planning application. I am also content that no parties would be unfairly disadvantaged by my acceptance of this assessment, as it would not fundamentally change the development.

Main Issues

7. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt having regard to relevant development plan and national planning policies, taking into account the effect on the openness of the Green Belt and the purposes of including land within it;
- whether the proposed development would conserve or enhance the natural beauty of the landscape within the Cotswolds Area of Outstanding Natural Beauty;
- whether the location of the proposed development is acceptable, having regard to the accessibility of services and facilities; and,
- if the development is inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development in the Green Belt

8. The appeal site falls within land defined as Green Belt. Paragraph 149 of the National Planning Policy Framework 2021 (the Framework) states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. Paragraphs 149 and 150 of the Framework list a number of exceptions to this. One of the exceptions, criterion 'd' of paragraph 150, is the re-use of buildings provided that the buildings are of permanent and substantial construction, provided they preserve its openness and do not conflict with the purposes of including land within it.
9. Permanent and substantial construction is not defined in the Framework and is inevitably a matter of planning judgement. The structural assessment is brief but concludes that 'the existing construction appears to have been constructed of element sizes that are suitable for carrying the loads associated with a permanent dwelling'.
10. The existing agricultural building comprises a timber frame with Oriented Strand Board (OSB) attached, covered with a waterproof membrane sheathing. At the time of my site visit, I note that there was evidence of the previous external timber cladding that the appellant claim was removed due to its poor condition. It has a suspended timber floor in part of the building, with the other half currently open. It has a corrugated sheet metal roof, with a waterproof membrane below, supported on timber purlins. Whilst the timber frame gives the building a somewhat lightweight appearance, the structure appears robust and strongly built, with the circular pad foundations also visible.

11. While I note the concerns of the Council as to whether the building is capable of being converted, I have nothing before me to contradict my own observations and the structural assessment undertaken by the appellant, notwithstanding its succinct nature. The building appears in reasonable condition and considering no major rebuilding or extensions are required to convert the building, other than the recladding, I would consider the building meets the requirement of the Framework insofar as it is of permanent and substantial construction.
12. Given my findings above, in order to ascertain whether or not the proposal would be inappropriate development, within the terms of Framework paragraph 150 'd', an assessment of its effect on openness and the purposes of including the site within the Green Belt is required.
13. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.
14. Presently, the agricultural building sits unobtrusively at the end of the existing access track, nestled adjacent to substantial vegetation along the rear and to both sides. There is only one opening in the existing building to the front, with the rear and both sides being solid elevations. The existing hardstanding is relatively limited to that directly around the building. The site is visually contained, with the A4 road situated to the north of the site and the Great Western mainline railway situated to the south.
15. The proposal would involve the conversion of an existing building, without requiring any major extensions or modifications, which would help to retain the visual aspect of openness. However, whilst the access track would remain largely as existing, it would be reasonable to expect a more intensive residential use of the land immediately around the proposal, including planting and domestic paraphernalia. There would also be an area of block paving which would be large enough to accommodate 3 cars. These features would result in an erosion of openness, especially as the proposed parking area would involve the removal of mature vegetation to the side of the building. Therefore, the presence of parked vehicles and associated activity would result in the intervening space around the building having a considerably more domestic and urbanised appearance, in stark contrast with its existing agricultural use. As such, in spatial terms, the proposal would harm the openness of the Green Belt, albeit to a limited degree given the scale of the proposal.
16. The introduction of the hardstanding for vehicles would also represent encroachment into what is presently natural and undeveloped land. Paragraph 138, criteria 'c' of the Framework sets out that one of the purposes of the Green Belt is to safeguard the countryside from encroachment. Whilst this would be on a limited scale given the size of the proposed hardstanding, it would still represent encroachment into the countryside, which the Framework seeks to avoid.
17. It is acknowledged that the existing agricultural use could introduce an element of hardstanding, with the parking of large vehicles associated with the agricultural use. However, for the purposes of this appeal I consider that there

is a clear distinction between the impact of vehicles relating to an agricultural use, which requires a countryside location given the nature of its use, and the impact of vehicles and other domestic paraphernalia associated with the occupancy of a domestic dwelling, which I have found to harm the spatial openness of the Green Belt. Furthermore, the previous agricultural use on the site was clearly able to operate using the existing limited hardstanding.

18. In order for new buildings to not be inappropriate in the Green Belt, criterion 'd' of paragraph 150 of the Framework requires development to both preserve the openness of the Green Belt, as well as no conflict with the 5 purposes. By virtue of the failure of the proposed development to preserve the openness of the Green Belt, and the conflict with one of the purposes of the Green Belt, the proposal would be inappropriate development in the Green Belt.
19. I find therefore that the proposal would fail to accord with the exception set out in paragraph 150 'd' of the Framework. It would also conflict with paragraph 137 of the Framework which identifies openness as an essential characteristic of Green Belts.

Cotswolds Area of Outstanding Natural Beauty

20. The appeal site currently consists of an agricultural barn situated within a triangular parcel of land. As mentioned above, the presence of the A4 road and the mainline railway encloses the site. Mature vegetation lies immediately to the rear of the existing agricultural building and along the southern boundary alongside the railway line. The site retains its rural character and contributes positively to the natural beauty of the landscape within the Cotswolds Area of Outstanding Natural Beauty (AONB).
21. As noted above, the proposal would introduce a degree of urbanisation into a rural site, including an introduction of domestic paraphernalia. I also have concerns over the number of doors and windows proposed. Only one elevation would remain totally solid, with 5 new openings being inserted on the front elevation alone. The proposal would fail to retain an appropriate solid to void ratio, resulting in harm to the agricultural character and appearance of the existing building. This would be at odds with the rural character of the area, unlike the existing agricultural building and its associated use. Consequently, the proposal would result in harm to the character and appearance of the area, and thus would fail to conserve the natural beauty of the landscape.
22. I note the visual containment of the site, and the findings of the Viewpoints Analysis, demonstrating that public viewpoints are limited. I also note the assessment of the Council when granting planning permission for the agricultural building that the design and siting of the proposal would 'not alter the overriding rural character of the area'. However, what is before me now, whilst it may involve the conversion of an existing building, is a building for residential use, not agricultural.
23. I conclude that the proposal would fail to conserve or enhance the natural beauty of the landscape of the Cotswolds AONB. The proposal would be contrary to Core Policy 51 of the Wiltshire Core Strategy (Core Strategy) (adopted January 2015) which states that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, and that great weight will be afforded to conserving and enhancing landscapes and scenic beauty of the

special qualities of the AONB. It would conflict with criteria 'i' and 'ii' of Core Policy 48 of the Core Strategy which only supports the re-use of rural buildings where any modifications would preserve the character of the original building, and that the proposed use would not detract from the character or appearance of the landscape. The proposal would also conflict with the principles within Chapter 15 of the Framework in regard to the conservation and enhancement of the natural environment, in particular with paragraph 176 in regard to conserving and enhancing landscape and scenic beauty within the AONB.

Location

24. The appeal site is situated outside of any recognised settlement limits. Core Policy 2 of the Core Strategy refers to the exception policies which supports development outside of the settlement limits. The relevant exception policy in this case would be Core Policy 48, which supports the conversion and re-use of rural buildings for residential purposes, but only where there is evidence that the rural building could not be practically used for employment, tourism, cultural or community uses.
25. I note that the Core Strategy was adopted more than 5 years ago, and prior to the adoption of the most recent version of the Framework. However, paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. Therefore, the amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker.
26. Paragraph 84 of the Framework supports the sustainable growth and expansion of all types of business in rural areas, through the conversion of existing buildings. Core Policy 48 takes a more sequential approach. However, it is broadly consistent with the Framework in terms of seeking to support a prosperous rural economy. Therefore, I still afford Core Policy 48 a reasonably significant amount of weight.
27. Whilst I note that paragraph 80 of the Framework sets out that the re-use of a redundant or disused building is an exception to the general avoidance of isolated homes in the countryside, this is only where they would enhance its immediate setting. Whilst I accept that the building is now disused, I have found that it would harm the openness of the Green Belt and would fail to conserve or enhance the natural beauty of the landscape within the Cotswolds AONB. Therefore, it would not enhance its immediate setting.
28. It has not been demonstrated that it would not be a 'practical proposition' for the proposal to be used for any of the preferable uses set out in Core Policy 48. Therefore, the proposal would conflict with the provisions of this policy. It would not be justified by any 'special circumstances' set out in the Framework as it would not enhance its immediate setting, and no other special circumstances have been put forward by the appellant to justify the proposal.
29. I acknowledge the location of the site in relation to the nearby settlements of Bathford, Batheaston and Box. The A4 is a busy road, as confirmed by my site visit, with a speed limit of 40mph and Heavy Goods Vehicles (HGV's) frequently using the road. Whilst there is a footpath, connecting the site to the nearby

settlements, they are predominately unlit. Whilst the distances to the nearby settlements may not be prohibitive in themselves, given the busy nature of the A4, it would not represent an appealing environment to walk or cycle alongside. The unlit nature of the road, again whilst not overly prohibitive, would restrict access to the site by non-motorised transport to certain times of the day. I note the appellant calculates that the nearest bus stop is approximately 470 metres from the site, however I have not been provided with any bus timetables. Therefore, I am unable to determine whether any bus service would represent a convenient alternative to the car.

30. I acknowledge the Officer's report in relation to the original agricultural building and the conclusion that the location was 'close to Bathford'. However, I consider that there is a clear distinction between the accessibility requirements of an agricultural building, which was focused on pig production, to those of a residential use, where future occupiers need to access, amongst others, jobs, retail, healthcare, hospitality, and leisure.
31. Therefore, given that the proposal would not comply with the exception policy Core Policy 48, the proposed location of the residential development would conflict with the adopted settlement and delivery strategy which directs residential development towards the most sustainable locations. Based on the evidence before me, future occupants of the proposal would be largely reliant on the private motor car to access services and facilities. This lack of accessibility to enable future occupants to carry out day to day activities demonstrates that the site would be an unsuitable location for new housing.
32. The proposed development, for the reasons given, would not provide a suitable location for housing, having regard to the accessibility of services and facilities. The proposal would be contrary to Core Policies 1, 2, 60 and 61 of the Core Strategy. Amongst other things, these policies, in combination, direct growth and new housing to defined settlements and resist new homes in the countryside except in certain circumstances. They also encourage planning developments in accessible locations and promote sustainable transport alternatives to the use of the private car. The development would also fail to comply with the sequential steps set out in Core Policy 48 of the Core Strategy, which supports the conversion and re-use of rural buildings for residential development but only where it has been demonstrated that it would not be practical for it to be used for employment, tourism, cultural or community uses.
33. The proposal would not meet the aims of paragraph 110 of the Framework, which seeks to ensure that development proposals have appropriate opportunities to promote sustainable transport modes, and that safe and suitable access to the site can be achieved for all users.

Other Considerations

34. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I turn now to address other considerations that, potentially, might clearly outweigh harm arising from inappropriate development in the Green Belt, taking in to account the erosion of openness and the conflict with one of the purposes of the Green Belt, so as to provide the very special circumstances required to justify a grant of planning permission.

35. The development would provide a dwelling in an area where the Council is unable to demonstrate a five-year housing land supply. However, I have found that the proposal would harm both the Green Belt and the AONB. Therefore, this is a situation in terms of paragraph 11 (d) (i) of the Framework, where the presumption in favour of sustainable development is not engaged because the application of the policies in the Framework that protect land designated as Green Belt and AONB² provides a clear reason for refusing the development proposed.
36. The provision of a family home in an area where the appellant is currently unable to afford a house is a private benefit and therefore only attracts limited weight.
37. The development would involve the re-use of a disused building, for which the appellant has argued that the existing use is no longer viable. Accordingly, this would attract moderate weight.
38. The tolerations and provisions set out in Class Q of the General Permitted Development Order, in terms of the scope of work supported, are acknowledged. However, due to the appeal site being located within the AONB, Class Q would not be applicable.
39. The appellant refers to an approved planning application at Broadlands Barn and challenges the lack of consistency between the two planning applications, given the alleged similarities, particularly in regard to the Green Belt, the AONB, the scope of work and the accessibility. Apart from quoted references from the Officer's report and the associated Design and Access Statement, I do not have the full details of this application before me to be certain that the site circumstances are sufficiently similar. Furthermore, the Council notably mention that the scheme at Broadlands Barn carried out the sequential assessment as required by Core Policy 48 of the Core Strategy, demonstrating that Broadlands Barn could not be practically used for employment, tourism, cultural or community uses. Whilst I do not have the details of this assessment, this is something which I have found that the appeal proposal has failed to carry out. I therefore attach limited weight to this other decision and have considered this appeal on its own merits.

Conclusion

40. I have identified that the scheme would be inappropriate development in the Green Belt as defined by the Framework. The proposal has harmful implications for the Green Belt in terms of inappropriate development, as a result of the erosion of the openness of the Green Belt and the conflict with the purpose of including land within it. The scheme would also result in a dwelling in an unsuitable location for new housing, having regard to the accessibility of services and facilities, as well as harm to the character and appearance of the area, including the Cotswolds AONB.
41. My analysis above leads me to give moderate weight to the re-use of a disused building, but only limited weight to the other material considerations cited in support of the proposal. However, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify

² Framework paragraph 11 d), footnote 7

the development do not exist. As such, the proposal would be contrary to the Framework, which seek to protect the Green Belt from inappropriate development.

42. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Laura Cuthbert

INSPECTOR