



Appeal Decision

Site visit made on 18 October 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2022

Appeal Ref: APP/X0415/W/21/3289103

Land at Lycrome Lodge, Nashleigh Hill, Chesham HP5 3JX

- 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 Katie Mclatchie against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/21/2879/FA, dated 19 July 2021, was refused by notice dated 27 September 2021.
 - The development proposed is the erection of dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the appeal process, Natural England issued a letter in respect of the Chilterns Beechwoods Special Area of Conservation (SAC) which is afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations), of which the appeal site is located within the Zone of Influence. The letter states there is currently an outstanding need for a mitigation strategy to be produced for this SAC before any developments that would result in a net increase in dwellings within the area where the appeal site is situated are allowed. Whilst the appeal proposal would result in a net increase of one dwelling, as I am dismissing the appeal, I do not need to consider this matter further as it could not lead me to a different conclusion.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies;
 - the effect of the development upon the character and appearance of the area.

Reasons

Whether Inappropriate Development

4. The NPPF identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of

the NPPF explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One such exception is (e) limited infilling in villages.

5. Policy GB2 of the Chiltern District Local Plan, adopted 1997 (including alterations adopted 2001) and consolidated 2007 and 2011 (LP) refers to development that would not be inappropriate in the Green Belt, including limited infilling in accordance with LP Policies GB4 and GB5. LP Policy GB5 states that the Council will accept limited infilling within Nashleigh Hill/Lycrome Road (Chesham) as set out in LP Policy GB4, or where the site consists of a small parcel of land in existing residential use which is totally or substantially enclosed by existing residential development, including dwellings and not just their curtilages. The policy goes on to define a small parcel and the number of dwellings. LP Policy GB4 defines infilling, referring in detail to the characteristics of the site, the proposed development, and the character of the area.
6. Although LP Policy GB2 is broadly consistent with the NPPF, LP Policies GB4 and GB5 are more prescriptive and restrictive than the NPPF and therefore are not entirely consistent with it. Annex 1 of the NPPF states that the weight afforded to policies in plans should accord with their degree of consistency with the NPPF. For this reason, I attribute limited weight to the specific criteria stated within LP Policies GB4 and GB5.
7. The NPPF does not provide a definition of a "village", instead it is a planning judgement as to the characteristics of the area as well as any relevant policies. The appeal site is within a cluster of development off the A416 that predominantly consists of dwellings. LP Policy GB5 identifies the area of Nashleigh Hill/Lycrome Road (Chesham), of which the appeal site forms part of, as a "settlement" that is compact in form. On this basis, I consider that the appeal site is located within a village for the purposes of Green Belt policy.
8. I have been directed to the Council's "Review of Villages within the Green Belt" report (April 2019) that stated that the area of housing around Nashleigh Hill and Lycrome Road could not, on its own, be considered a village. However, this document formed part of the evidence base for the Chiltern and South Buckinghamshire Local Plan 2016-2036, which has subsequently been withdrawn. Furthermore, I have not been provided with information as to how the report defined "village" or whether it is consistent with Green Belt policy. I therefore attach limited weight to this report, which does not alter my view detailed above.
9. The terms "limited" and "infilling" are not defined in the NPPF and are essentially a question of fact and planning judgement having regard, for example, to the location of the application site and its relationship to other existing development adjoining and adjacent to it. The appellant has referred me to the Cambridge Dictionary definition of infill as "development of new houses, business buildings, etc. on land between other buildings in already developed areas", whilst the Council has referred me to both this definition and the Collins English Dictionary definition as "the act of infilling or closing gaps etc. in something, such as a row of buildings". Neither of these definitions indicate that the proposed development and/or existing surrounding built form would need to be visible to conclude that a gap has been infilled.

10. The host dwelling fronts onto and is sited in close proximity to Nashleigh Hill. It is set within an elevated position towards the northernmost section of a large, irregular shaped plot, with its undulating garden extending in a southerly and easterly direction towards Woodcroft Road. Beyond Woodcroft Road there are three detached dwellings that are set back from Nashleigh Hill by a landscaped bund, with two of the three dwellings located on a lower ground level. To the north of the appeal site is a further residential development set around a cul-de-sac (Lycrome Lane), whereby the dwellings closest to Nashleigh Hill are set back from the road by their rear gardens. The host dwelling's plot is separated from the residential development to the rear by a continuation of Woodcroft Road, with these dwellings set on a lower ground level.
11. The proposed dwelling would be located within the southernmost section of the host dwelling's garden, between the host dwelling and Woodcroft Road. Albeit on varying ground levels and at varying distances, the appeal site is surrounded by existing dwellings to three sides. The proposed dwelling would therefore have the function of infilling a gap between existing dwellings to the east of Nashleigh Hill. The Council has directed me to the size of gap that would remain should the proposed dwelling be allowed and does not consider that this would fill or close the gap. However, by constructing a dwelling in this location the existing gap would be reduced, thereby filling or closing the existing gap. The intervening presence of Woodcroft Road does not lead me to a different conclusion. Furthermore, the two definitions that I have been provided do not require the gap to be infilled to be within the same frontage.
12. The Council has directed me to a number of appeal examples, including map excerpts, that do not comprise limited infilling within a village for the purposes of paragraph 149 of the NPPF. However, these examples are not directly comparable to the appeal proposal as they do not include development to three sides of the site. I have therefore determined the appeal proposal on its own merits.
13. For the reasons given above, the proposed development would meet the exception set out in paragraph 149(e) of the NPPF and would not amount to inappropriate development in the Green Belt. In light of the limited weight I afford, for the above reasons, to LP Policies GB4 and GB5, and given the broad consistency that LP Policy GB2 has with the NPPF's approach to exceptions for new buildings in the Green Belt being defined as inappropriate, I also find that there is no direct conflict with LP Policy GB2.

Character and Appearance

14. The appeal site comprises a grassed area of garden that slopes downwards from Nashleigh Hill towards the Woodcroft Road/Sycamore Dene junction. The western and southern boundaries of the site are planted with trees (some of which have a Tree Protection Order) which partially screen the plot from Nashleigh Hill. An electricity sub-station occupies part of the plot but is excluded from the appeal site. The appeal site provides a verdant appearance and open character to this corner of Nashleigh Hill and Woodcroft Road. The eastern boundary of the site is predominantly open to Woodcroft Road, allowing clear views into and out of the appeal site.
15. The proposed dwelling would be two-storeys, with part of the ground floor located on a lower ground level due to the sloping nature of the land. However, given its steeply pitched roof and the surrounding topography, the proposed

building would read as having a greater mass than what might be expected of a two-storey dwelling, particularly when viewed from Woodcroft Road/Sycamore Dene to the southeast/east. It would also be notably taller than other properties in the locality, appearing as an incongruous feature. Furthermore, the proposed dwelling would occupy a large proportion of the appeal site, with a high plot-to-build ratio.

16. The appellant, as part of their appeal statement, has submitted a map indicating the size of some of the plots in the surrounding area. Although not explicit in detailing the exact parts of each plot that have been measured, it demonstrates that the proposed plot would be smaller than the prevailing plot size in the surrounding area. Furthermore, the smallest plot size appears to exclude the property's front garden and part of its driveway. Therefore, the scale and massing of the proposed dwelling would not reflect the predominant larger plot sizes in the surrounding area and would erode the area's green and spacious, landscaped character and appearance.
17. Woodcroft Road bounds the appeal site to the south/southeast, with the junction of Sycamore Dene and Woodcroft Road located to the southeast. Sycamore Dene slopes downwards away from the appeal site and the eastern boundary of the plot is largely open to these roads. The elevation of the proposed dwelling fronting Nashleigh Hill would follow the building line of the host dwelling, however, the elevation fronting Woodcroft Road would extend beyond the host dwelling, closer to the road. The proposed dwelling would be elevated above Woodcroft Road due to the sloping nature of the land. The proximity of the proposed dwelling to Woodcroft Road and Sycamore Dene, together with its elevated position and overall massing, would result in an overly dominant and prominent dwelling when viewed from these roads.
18. There is a large gap between the trees along the southern boundary of the appeal site adjacent to Woodcroft Road that affords a clear view of the host dwelling. This gap would be retained and used as a vehicular access to serve the proposed dwelling. Given the siting, scale and massing of the proposed dwelling, it would also appear unduly prominent from the south and west, particularly when the vegetation has lost its leaves, exacerbating the loss of this verdant corner.
19. Glimpses of the appeal site could be gained through the trees at the time of my site visit and the level of screening would be likely to reduce in the colder months, exposing the proposed dwelling to views from Nashleigh Hill. Furthermore, the Council's Tree Officer has stated that due to the proximity of the proposed dwelling to the existing trees, there could be pressure in future for some of these trees to be felled. If this were to occur, the proposed dwelling would be more visually prominent from Nashleigh Hill. An additional hedgerow is proposed along the boundary with Nashleigh Hill however, it would take a number of years to become established to offer any significant level of screening to the proposed dwelling. Notwithstanding this, landscaping should not be used to screen an otherwise unacceptable development.
20. I have taken into consideration a planning approval¹ for a detached garage and associated access onto Woodcroft Road. However, the detached garage would be significantly smaller in scale than the proposed dwelling and would not extend as close to Woodcroft Road to the east. It would therefore not have the

¹ PL/20/2611/FA

same effect on the character and appearance of the surrounding area and is not directly comparable to the proposal before me.

21. The proposed dwelling would harm the character and appearance of the surrounding area and would be contrary to Policy GC1 of the LP and Policy CS20 of the Core Strategy for Chiltern District, adopted 2011 (CS). Together, these policies, broadly consistent with the NPPF, seek to ensure that developments respect the character of the surrounding area. It would also be contrary to Section 12 of the NPPF that seeks to achieve well-designed places.

Other Matters

22. The Council's "Review of Villages within the Green Belt" report (April 2019) proposed removing the Nashleigh Hill and Lycrome Road area from the Green Belt. However, for the same reasons as detailed above, I attach limited weight to this matter.
23. I note the appellant's reference to the lack of engagement from the Council during their determination of the planning application. However, this is not determinative as to the acceptability of the appeal proposal, which I have considered on its merits, based on the evidence before me.

Planning Balance

24. The Council has stated that it is unable to demonstrate a five-year housing land supply of deliverable housing sites. As such, the relevant policies for the supply of housing should not be considered up-to-date and paragraph 11(d) of the NPPF is engaged which states, "where the policies which are the most important for determining the application are out-of-date, granting planning permission unless:
- (i) The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole".
25. The Council has stated that it currently has a housing supply of deliverable sites of 2.1 years. This is a significant shortfall. The appeal site is located in the Green Belt (a protected area by definition of Footnote 7 of paragraph 11(d)), however, I have found that the proposed development does not comprise inappropriate development, therefore paragraph 11(d)(ii) is engaged.
26. The provision of one additional dwelling, in an area identified by LP Policy GB5 as potentially suitable for additional residential development, weighs in favour of the proposal and would make a contribution to the delivery of housing in the district and the Government's objective of significantly boosting the supply of new homes. The proposal would also provide some economic benefits in the form of short-term employment through the construction of the development and additional support to the local community from future occupiers using local facilities and services. However, given the nature and scale of the proposed development, the benefits would be relatively limited, even when considered cumulatively with other similar developments. Accordingly, the benefits attract moderate weight in favour of the scheme.

27. Against these benefits is the harm that would be caused to the character and appearance of the area. This matter attracts substantial weight given the harm identified would be contrary to the design and local distinctiveness objectives of both the development plan and the NPPF.
28. Consequently, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole. The proposal would not therefore represent a sustainable form of development.

Conclusion

29. For the reasons given above, having considered the development plan as a whole and all other material considerations, I conclude that the various benefits and other considerations put to me in support of the development neither outweigh the harm I have identified nor the conflict with the development plan. Accordingly, the appeal is dismissed.

A Berry

INSPECTOR