
Appeal Decision

Site visit made on 22 November 2022

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/P0240/D/21/3288994

Tylers Wood Lane, Aspley Guise, Milton Keynes MK17 8EJ

- 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 Stephen Gray against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/03901/FULL, dated 24 August 2021, was refused by notice dated 1 November 2021.
 - The development proposed is erection of rear detached outbuilding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - (ii) The effect of the proposal on the openness of the Green Belt;
 - (iii) the character and appearance of the area, including Aspley Guise Conservation Area; and
 - (iv) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

3. The appeal site is within the Green Belt and the National Planning Policy Framework (the Framework) states at paragraph 147 that inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances.
4. Paragraph 149 of the Framework establishes that, within Green Belts, the construction of new buildings is inappropriate, subject to a number of exceptions. These exceptions include the extension or alteration of a building (paragraph 149(c)) and the replacement of a building provided that the new

building is in the same use and not materially larger than the one it replaces (paragraph 149(d)).

5. Policy SP4 of the Central Bedfordshire Local Plan 2021 (Local Plan) advises that proposals for development in the Green Belt will be assessed in accordance with policies in the Framework and National Planning Practice Guidance. Within settlements that are washed-over by Green Belt, such as Aspley Guise, the policy requires that proposals pay particular regard to the character and openness of the site and its surroundings.
6. The proposed detached outbuilding measuring 8m in length by 5.6m in width would be constructed with a flat roof with an overall height of about 3m. It would be located on an enclosed grassed garden area, including a small timber shed, at the rear of the property. The Council advises that the proposed outbuilding would be about 34 metres from the rear of the host property.
7. Given the distance from the main dwelling and the lack of proximity between the host property and the land on which the outbuilding would be constructed, I am satisfied that this proposal cannot be considered as an extension or alteration to the main house. Equally, the close relationship of the proposed outbuilding with the neighbouring properties, as argued by the appellant, would not fulfil this exception. As such, it would not satisfy the exception at paragraph 149(c) of the Framework. I am not persuaded that the proposal would meet any of the other exceptions for development within the Green Belt as set out in the Framework.
8. Consequently, the proposal would constitute inappropriate development in the Green Belt that is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. It conflicts with the aims of the Framework and Policy SP4 of the Local Plan. In accordance with the Framework, I attach substantial weight to the harm arising due to the inappropriate nature of the development in this location.

Openness of the Green Belt

9. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The Framework advises at Paragraph 137 that openness and their permanence are essential characteristics of Green Belts. Openness is generally defined by an absence of built form and not necessarily to visibility.
10. It is clear from the evidence provided and from my observations during my site visit that, given the screening provided by the mature landscaping and boundary fencing around the site and topography of the site and immediate surroundings, the proposed outbuilding would not be highly visible in the wider area. Nonetheless, on a more local level, the scale and form of the outbuilding would not amount to a subservient form of development on the appeal site in its current open and undeveloped form. The proposed outbuilding would result in an increase in the built form in the area which would compromise the sense of openness and would fail to keep the land permanently open.
11. Consequently, I conclude that the proposed development would result in harm to the openness of the Green Belt and as such would conflict with the aims of the Framework which seek to preserve the openness of the Green Belt. I give substantial weight to that harm.

Character and appearance of the area

12. The appeal site forms part of the garden area at the rear of a large detached two storey property. It is located in a mature well-established residential area, characterised by predominantly detached properties of varied styles and character set back from the road within large spacious landscaped plots.
13. To the north, south and east of the appeal site are the garden areas and the outbuildings associated with the adjacent properties. Where outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying open character and appearance, which is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens.
14. Whilst visually the design of the proposed outbuilding would be acceptable, the scale and form of the single storey building would nevertheless still be a significant addition in this location. Although it would be set back, the overall scale and form of the proposed outbuilding would be out of character with the generally more modest outbuildings and other structures found in the area and would compromise the sense of space and openness in the area.
15. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed outbuilding on the street scene. In any case, the site is viewed from the rear of the surrounding properties. As such, I consider the proposed outbuilding, by virtue of its scale, form and siting would result in an incongruous and out-of-keeping addition that would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
16. I have considered the appellant's arguments that the design and layout of the proposed outbuilding has been carefully considered and redesigned in order to take into account the previously refused schemes on the site and to minimise any impacts on the area. However, whilst the use of materials, boundary treatment and the landscaping would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
17. Given the location of the appeal site within the Aspley Guise Conservation Area (CA), special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. I consider that the appeal scheme, by virtue of its scale, form and siting would have a negative material impact and would fail to preserve or enhance the CA.
18. Given the modest scale of the development, the harm would be less than substantial but in accordance with paragraphs 202 of the Framework, that harm should be weighed against any public benefits to the proposal. I note the appellant's desire is to provide a new outbuilding to meet the needs of the appellant's family and to secure the optimum viable use of the site. However, I find insufficient public benefit arising from this proposal to offset the identified harm to which I attach significant weight.
19. Consequently, I conclude that the proposed development would result in harm to the character and appearance of the area, including the CA. It would be contrary to the aims of Policy HQ1 of the Local Plan and the Central Bedfordshire Design Guide 2014 which, amongst other things, require

development proposals to be of the highest quality that relate well to the existing local surroundings and enhance or reinforce the distinctiveness and character of the area. In addition, the proposal would not accord with the Framework that developments should seek to secure a high quality of design (paragraph 126) that are sympathetic to the local character (paragraph 130) and sustain and enhance the significance of heritage assets (paragraph 197).

Other Considerations

20. I note the arguments between the main parties on whether the proposed outbuilding would fall within the residential curtilage of the main dwelling on the appeal site. I note the reference by both parties to the extensive planning history on the site, other planning applications and appeal cases elsewhere and the established case law on this matter.
21. It is a matter of fact and degree as to whether or not the proposed development would fall within the residential curtilage of the main dwelling in this particular case. In assessing this, I note that a Certificate of Lawfulness for a detached outbuilding of a similar scale in the same location as the appeal proposal was refused in November 2020¹, in which the proposed outbuilding was judged not to fall within the curtilage of the main dwellinghouse. This is a material consideration to which I attach significant weight.
22. I have considered the appellant's comments regarding the ownership of the land and the use of the land for recreational and amenity use associated with the previous owners at the neighbouring property at No. 19 Wood Lane and the appellant's family at present. However, apart from a narrow pedestrian access, the parcel of land is located some distance from the main dwelling and is physically separated by a line of boundary fencing, mature landscaping and established trees which clearly demarcates the original garden and the main dwellinghouse at Tylers Cottage from the land on which the proposed outbuilding would be sited. The land in question feels and looks distinctly separate from the original garden of the main dwelling.
23. Therefore, based on the evidence before me and my observations during my site visit, I consider that the land on which the proposed development would be located, as a matter of fact and degree, does not form part of the residential curtilage of the main dwelling in this case.
24. I have considered the appellant's comments on the detached outbuilding granted planning permission on the appeal site in February 2022². However, this relates to a different form of development granted in a different location within the original rear garden and the residential curtilage of the main dwellinghouse and should not be taken as an acceptable context for or justification of the appeal scheme.
25. I have considered the appellant's statement on the fall-back position on the appeal site and the appellant's options to build the detached outbuilding granted planning permission, but not yet implemented on the appeal site³. Based on the evidence before me, there is a reasonable likelihood that such an outbuilding would be built if this appeal is dismissed. Be that as it may, in my view, the scale and form of that proposed outbuilding would not be as

¹ CB/20/02851/LDCP

² CB/21/03896/FUL

³ CB/21/03896/FUL

substantial as the proposal now before me and would have a more limited impact, albeit to a marginal degree, on the openness of the Green Belt and the character and appearance of the area, including the CA. I therefore accord this matter moderate weight in making this decision.

26. I have considered the appellant's arguments regarding the type of outbuildings that can be built with a dwelling house using permitted development rights. Whilst this may be so, this does not apply to the land in question outside the residential curtilage of the main dwelling and does not set a precedent for such an inappropriate development in this location for the reasons set out above.
27. I have noted the other developments drawn to my attention by the appellant. However, the various examples of outbuildings, garages and other structures within the surrounding area and elsewhere have different development and locational characteristics to the appeal scheme. In any event, each proposal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other cases.
28. I have considered the various benefits put forward by the appellant that the proposal would bring, including the scheme's high quality design. Overall, these are benefits that would result in moderate weight in favour of the appeal scheme.

Very Special Circumstances

29. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have concluded that the proposal would harm the openness of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. I have concluded the proposal would cause harm to the character and appearance of the area, including the CA to which I attach significant weight.
30. Having considered all of the matters raised in support of the development, I conclude that, collectively, they do not outweigh the totality of the harm I have identified in relation to the Green Belt. I am not satisfied that any material considerations have been put forward of sufficient weight to outweigh the very strong public interest in protecting the Green Belt from inappropriate development. Accordingly, very special circumstances do not exist and the principle of the development would be contrary to Policy SP4 of the Local Plan and the Framework.

Conclusion

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR