



## Appeal Decision

Site visit made on 27 September 2022

**by M Chalk BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> December 2022**

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**Appeal Ref: APP/J0405/W/21/3283259**

**Handpost Cottage, Church Road, Ivinghoe, LU7 9EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mr Richard Blay against Buckinghamshire Council.
  - The application Ref 21/00918/APP, is dated 1 June 2021.
  - The development proposed is removal of existing buildings and outside storage, cessation of storage use and erection of 3 dwellings.
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### Decision

1. The appeal is dismissed, and planning permission is refused.

### Main Issues

2. The Council has not issued a decision on the application the subject of this appeal. However, having considered the submissions made the main issues are:
  - Whether it would constitute inappropriate development in the Green Belt, including any effect on openness, having regard to the national Planning Policy Framework and any relevant development plan policies,
  - The effect of the proposed development on the Chilterns Beechwoods Special Area of Conservation,
  - The effect on the character and appearance of the area, including the Chiltern Hill Area of Outstanding Natural Beauty,
  - The management of surface water runoff,
  - The effect on biodiversity and ecology,
  - Whether the appeal site is in an appropriate location, having regard to local and national policies regarding the siting of new development,
  - The effect on the living conditions of existing occupiers,
  - The effect on trees in and adjacent to the site; and,
  - 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 inappropriate development*

3. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt. It further states that the essential characteristics of Green Belts are their openness and permanence, and that the construction of new buildings should be regarded as inappropriate in the Green Belt. The Framework does identify certain exceptions to this, including the redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Policy S4 of the Vale of Aylesbury Local Plan (the LP) states that land will be protected from inappropriate development in accordance with national policy.
4. I saw on my visit that the site is in use for storage, with various single-storey buildings present. Vehicles, materials and items were stored throughout the site within the buildings and containers, as well as in the open air. It is not in dispute between the main parties that the site is previously developed land, and from what I saw on site I agree with this assessment.
5. Green Belt openness has both a spatial and a visual component. The storage use encompasses the entirety of the appeal site, and I saw that some storage was taking place outside of the red line area on the appeal plans. However, at the time of my visit almost all storage was at a low level. The largest building at the rear of the site is a single storey in height, and other permanent structures and all open storage are significantly lower. The only exception is a pair of stacked shipping containers, although these are not permanent fixtures.
6. The appeal proposal would likewise encompass the entirety of the appeal site. The proposal is for two dormer bungalows and a two-storey house. While no elevations of the existing buildings have been provided, the built footprint of the proposed dwellings would be substantially greater than the existing built footprint. The dwellings and associated landscaping and parking would have a greater spatial presence within the site than the existing buildings and storage, with the two-storey dwelling being much larger and more prominent than the generally low-level existing structures.
7. The appellant notes that the storage use is lawful, and there are no restrictions on the extent of storage that could occur within the site. However, considering the narrowness of the vehicular access and the extent of the site already used for storage, there is no indication from the evidence before me or what I saw on site that the scale of storage could substantially exceed that present during my visit such that the effect on openness would be comparable to that of the proposed development.
8. The appeal site is bounded on three sides by mature trees that restrict visibility from outside the site. The existing dwelling and mature trees along its frontage similarly limit views into the site from Church Lane. The appeal site is elevated significantly above the adjacent B489 and the level of the nearby public right of way, which limits direct views into the site. The appellant proposes additional tree planting to reinforce the existing boundary planting, and this could be controlled by an appropriately worded condition. The proposed development would therefore cause a limited loss of visual openness outside of its immediate surroundings.

9. Nevertheless, the proposed development would overall result in a permanent loss of spatial openness within the appeal site. It would therefore be inappropriate development within the Green Belt, contrary to Policy S4 of the LP and the requirements of the Framework.

#### *Chilterns Beechwoods*

10. The appeal site lies within the zone of influence for the Chilterns Beechwoods Special Area of Conservation (the SAC). The SAC is an attractive and accessible site of regional significance for recreation. Residential development within the zone of influence is expected to result in further recreational pressure on the SAC from the increased number of people using it. This additional pressure is likely to result in significant effects on the integrity of the SAC.
11. Natural England is working with the relevant local authorities to develop a strategic solution to address the increased recreational pressure on the SAC. At the time of this decision no solution is in place, and the appellant recognises that until such time as there is, planning permission cannot be granted for the proposed development.
12. No details of a strategic solution are before me, nor is there any evidence of when it may be adopted. I have considered whether, if I were otherwise minded to allow the appeal, a suitably worded condition could have been used to prevent development commencing until such time as the strategic solution is adopted. However, in the absence of any details or timescale, I do not consider that it would be reasonable or appropriate to impose a condition that would require the appellant to comply with a strategy when it is not clear what this would entail.
13. It is not therefore possible, in the absence of an adopted strategic solution to address increased recreational pressure, to conclude that the proposed development would not cause an adverse impact to the integrity of the SAC.

#### *Character and appearance*

14. The appeal site lies within the Chilterns Area of Outstanding Natural Beauty (the AONB). The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. Policies NE3 and NE4 of the LP recognise the importance of protecting the AONB, and more generally require that development recognise the individual character and distinctiveness of particular landscape character areas. Policy BE2 of the LP states that new development proposals shall respect and complement the local distinctiveness and vernacular character and the natural qualities and features of the area, amongst other criteria.
15. The proposed dwellings would comprise two dormer bungalows and a two-storey house. They would be larger and more visible than the existing storage use and structures, although the site benefits from substantial established landscaping that would screen much of the proposed development from view. Nevertheless, the development would be visible to an extent in longer views from within the AONB, including from the nearby public right of way, and would be particularly visible given the elevated ground level of the site relative to the surrounding area. The introduction of three dwellings on this backland site would be visually intrusive and not in keeping with the character of the area, which is characterised predominantly by frontage development.

16. The new dwellings would be finished in brick or weatherboarding with clay tiles to the roofs. The appearance of the buildings would not in themselves be harmful in this rural location, and the extent of visual impact could be softened to some extent by additional planting. Nevertheless, the siting of the development and its visibility would result in harm to the character and appearance of the area, and of the AONB. The appeal proposal would therefore conflict with Policies NE3, NE4 and BE2 of the LP, the requirements of which are set out above.

#### *Surface water runoff*

17. Policy I4 of the LP requires that development provide a sustainable drainage system (SUDS) for the effective management of surface water run-off at the site. The Drainage Strategy Report provided with the appeal suggests a SUDS system ultimately draining into a watercourse on the other side of Church Road.
18. However, it is not clear from this Report that the appellant has permission to connect to this watercourse, which is reported to be under the authority of the Local Highway Authority. In addition, there is no evidence that the watercourse has the capacity to accommodate the additional flow from the site. The drainage strategy also relies on a single attenuation tank that falls outside of the appeal site, and which may not be accessible for future occupiers of the proposed houses to service.
19. For the reasons set out above, the proposed development would not provide adequate surface water management, and therefore the development would fail to accord with the identified requirements of Policy I4 of the LP.

#### *Biodiversity and ecology*

20. Policy NE1 of the LP seeks, amongst other criteria, that development deliver a net gain in biodiversity. An Ecology Report provided by the appellant concludes that the site has generally limited potential for hosting protected species, although a birds' nest was found in one of the buildings to be removed, and the development would involve the removal of existing trees. The report concludes that precautionary measures be employed to guard against harm to any protected species that may be present, and that measures including bird and bat boxes be incorporated into the new development.
21. However, this Report does not address the impact on habitat features on the site, nor does it provide a measurable account of the impact that the proposed development would have on these features.
22. Applying the precautionary principle, it is not therefore possible to conclude that the proposed development would deliver a net gain in biodiversity. Accordingly, it would conflict with Policy NE1 of the LP.

#### *Location*

23. The site lies a short distance outside of Ivinghoe, which is designated as a larger village in the LP. These villages are considered more sustainable locations for development, with at least reasonable access to facilities and services and public transport. Policies S1, S2 and S3 of the LP collectively set out the spatial strategy for growth in the area, directing new development towards the most sustainable towns and villages and a site adjoining Milton Keynes, supported by growth at other larger, medium and smaller villages.

Policy HSG2 of the Ivinghoe Parish Neighbourhood Plan states that housing development outside of the settlement boundaries will not be permitted other than for certain specific exceptions, including development provided for in the LP.

24. The appeal site is connected to Ivinghoe by a footpath that runs along this side of Church Road into the village. Although narrow, the footpath is uninterrupted between the appeal site and the village. As a larger village, Ivinghoe possesses services and facilities to support the day-to-day needs of future occupiers. It also provides access to public transport that would allow them to travel further afield. While I would expect the development to still generate some private car travel, the Framework does note that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
25. Given that the site is close to Ivinghoe with pedestrian access into the village available, I am satisfied that it is in an appropriate location. While there is some conflict with the policies set out above, the proposal is for a small-scale development adjoining a site in existing residential use. The proposal would not result in coalescence with neighbouring settlements and would accord with the Framework aim to locate housing where it will enhance or maintain the vitality of rural communities. Consequently, the appeal site is in an appropriate location, having regard to local and national policies regarding the siting of new development.

#### *Living conditions*

26. The bungalow on Plot 3 would be close to the rear elevation of Handpost Cottages. The existing house is set down from the appeal site, and the rear elevation would face onto the flank elevation of the bungalow on Plot 3. However, the outbuilding to the rear of Handpost Cottage already restricts outlook from the ground floor of the property, and the outlook from the first floor would not be unduly restricted by the proposed development.
27. The appeal proposal would therefore accord with Policy BE3 of the LP, which amongst other criteria states that development must not unreasonably harm any aspect of the amenity of existing residents.

#### *Trees*

28. The proposed development would involve the removal of 7 trees and 1 group of trees, and in addition trees would be removed from 2 further groups. Each of these trees are Category C or U trees of low quality or already dead. Their removal from the site would not therefore cause significant harm to the character of the area. Suitable replacement planting could have been secured by an appropriately worded condition, had I otherwise been minded to allow this appeal.
29. The proposed development would therefore not cause unacceptable harm to trees. It would therefore accord with Policies NE3, NE4 and NE8 of the LP. Taken together, these require that development involving the loss of trees provide adequate replacement provision in sympathy with the character of the existing tree species in the locality and the site.

#### *Other Matters*

30. The site lies within the setting of Ivinghoe Conservation Area and the Grade I listed St Mary Church. The Council concludes that the development would not

cause harm to the significance of these heritage assets. Given the separation distance and the backland nature of the proposed development and consequently limited prominence within the setting of the heritage assets, I agree with this conclusion.

#### *Other considerations*

31. The Framework requires that substantial weight is given to any harm to the Green Belt. The appeal proposal would be inappropriate development, and additional harm would be caused to the character and appearance of the area, including the AONB, as well as to the Chilterns Beechwoods SAC. In addition, the proposed development would fail to make adequate provision for the management of surface water runoff, and it has not been shown that it would deliver a net gain in biodiversity.
32. The appellant has identified considerations that they contend weigh in favour of the appeal proposal. The development would deliver three new dwellings, supporting the Government's objective of significantly boosting the supply of homes. The appeal site is in an appropriate location for new residential development. The occupiers of the new dwellings would provide additional support for the local services and facilities.
33. The proposed houses would be of good design that, in itself, would not be harmful to the rural character of the area. The appellant contends that the development would improve the appearance of the site, given the lawful unrestricted storage use. I agree that the proposed residential use would be an improvement on the existing appearance of the site. However, given that it would amount to intrusive and uncharacteristic backland development there would still be harm to the character of the area. This does not therefore weigh in favour of the proposed development.
34. The harm arising from the appeal proposal by way of inappropriateness and the other identified harm would, in this instance, outweigh the benefits that would result. Very special circumstances do not therefore exist.

#### **Conclusion**

35. There are no material considerations to indicate that this appeal should be determined otherwise than in accordance with the development plan. Accordingly, for the reasons set out above, the appeal fails.

*M Chalk*

INSPECTOR