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# Appeal Decision

Site visit made on 15 November 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12<sup>th</sup> December 2022.**

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**Appeal Ref: APP/K0425/W/22/3299318**

**Lower Warren Farm House, Hatches Lane, Hughenden Valley HP16 0JP**

- 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 Nigel Barr against Buckinghamshire Council.
  - The application Ref 21/08607/FUL, is dated 3 December 2021.
  - The development proposed is separation of residential plot and erection of two storey part sunken dwellinghouse with attached garage and alterations to existing vehicular access.
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## Decision

1. The appeal is dismissed and planning permission for separation of residential plot and erection of two storey part sunken dwellinghouse with attached garage and alterations to existing vehicular access is refused.

## Preliminary Matters

2. During the course of the appeal, the appellant submitted a revised plan. The changes were substantive in nature as they proposed an alteration to the access arrangements for the proposal. I am mindful of the guidance in the Planning Inspectorate's guidance<sup>1</sup> that the appeal process should not be used to evolve a scheme and that the Inspector should consider essentially what was before the Local Planning Authority (LPA), and on which interested people's views were sought.
3. Although the LPA has briefly commented on the changes, interested people have not been able to. As such, I will make my decision based on the plans considered by the Council when it made its decision.
4. The site forms the garden to Lower Warren Farmhouse, a Grade II listed building<sup>2</sup>. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest.

## Main Issues

5. The appeal results from the failure of the Council to determine the application within the prescribed period. However, its Statement sets out the reasons why

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<sup>1</sup> PINS Procedural Guide: planning appeals – England

<sup>2</sup> List entry 1125784

it would have refused permission. On this basis, I consider that the main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt,
- The effect of the proposal on the significance of the grade II listed Lower Warren Farmhouse having regard to its setting,
- The effect of the proposal on the character and appearance of the area, including the Chilterns Area of Outstanding Natural Beauty (AONB) within which the site sits,
- The effect of the proposal on highway safety, and
- If the proposal is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Inappropriate development in the Green Belt*

6. The site lies within the Metropolitan Green Belt. Paragraph 147 of the Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Framework Paragraph 149 sets out exceptions of development that is not inappropriate. New buildings are inappropriate unless, relevant to this appeal, they constitute limited infilling in villages (e), or the limited infilling of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development (g).
7. Policy DM42 of the Wycombe District Local Plan, adopted August 2019 (WDLP) also sets out exceptions to inappropriate development in the Green Belt. Relevant to this proposal, an exception (iv) is for limited infilling within the built-up villages, within an existing small gap between other buildings, and where its siting would be appropriate to the settlement pattern. It also makes clear that suitable infilling plots can be created by the subdivision of larger residential gardens. WDLP Policy DM42 is therefore consistent with the Framework.
8. There is no dispute that the site is outside of the settlement boundary of the nearest built-up area, Hughenden Valley. The settlement pattern includes dwellings and agricultural buildings. As well as Lower Warren Farm and the Farmhouse itself, there is a dwelling at Kaydon on Hampden Road, with others at Fair Acres and The Highways being located further along Hatches Lane. A ribbon of development is also formed by dwellings on Warrendene Road.
9. However, these dwellings are separated from the appeal site by fields, countryside, agricultural buildings or gardens. There is a relatively large gap between Fair Acres, the closest dwelling beyond the site on Hatches Lane and the appeal site. There are two detached buildings forming part of Lower Warren Farm adjacent to the site boundary. However, although large, these are

agricultural buildings and so have a rural appearance, rather than one which is suburban or built-up.

10. The site has the appearance of spacious, open countryside, rather than being a small gap in a built-up area. As such, although the proposal would be for a single dwelling and so would be 'limited', it would not represent the infilling of a small gap. As a result, and because of its location outside of the settlement boundary, exception (iv) of WDLP DM42 would not be met. Furthermore, given the rural character of the site and its separation from the built-up part of Hughenden Valley, I find that it would be outside of the village for the purposes of Framework exception 149(e) and so would not comply with this.
11. The definition of previously developed land within the Framework includes residential garden outside of a built-up area and so includes the site. However, a fundamental aim of Green Belt policy is to keep land permanently open. The Planning Practice Guidance<sup>3</sup> advises that openness is capable of having both spatial and visual aspects.
12. Visually, the proposal would be sunk into the ground and would have a low pitch. Hatches Lane is also at a lower level than the site, helping to limit views of the proposal above the hedge. Even so, the two-storey height of the proposal and its Sedum-covered roof would in my judgement still be seen from Hatches Lane, including for example from the site entrance. Spatially, the proposal would result in significant additional built-form, volume and mass compared with the current largely open site. Its visual and spatial effects would therefore result in a harmful loss of openness.
13. Therefore, even if I were to consider the proposal as limited infilling, it would not meet Framework exception 149(g) due to its effect on openness. Furthermore, the proposal would encroach into the countryside beyond the existing settlement, conflicting with the purposes of its inclusion within the Green Belt. I conclude that the proposal would be inappropriate development in the Green Belt having regard to the Framework and the relevant development plan policies and would harm the openness of the Green Belt. As such, it would conflict with WDLP DM42, and with the Framework.

#### *Lower Warren Farmhouse*

14. Lower Warren Farmhouse is a late C18, large two-storey brick farmhouse. It has a prominent position at the junction of Hampden Road, Warrendene Road and Hatches Lane. The significance of the building insofar as it relates to this appeal is its architectural value, together with its agricultural and rural setting, reflecting its origins as a farmhouse.
15. The appeal site forms part of the long, simply landscaped garden to the dwelling, albeit partially subdivided from it by yew bushes. The site is surrounded by hedging and has a range of wooden garden sheds and buildings but is otherwise undeveloped lawn. I have little evidence of the historic evolution of the site, for example in a heritage impact assessment, but there is no dispute that the site forms part of the historic curtilage of the dwelling. As such, the site's green, rural appearance reflects its surroundings. This, together with its historic association with the Farmhouse, means it has a positive effect on the setting of the listed building.

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<sup>3</sup> Paragraph: 001 Reference ID: 64-001-20190722

16. The proposal would introduce a dwelling together with its associated parking and turning areas into this site. The dwelling has a contemporary design intended to mitigate its visual intrusion from the Farmhouse, including through its siting, sunken level and its regressive materials. It is proposed to bolster the existing subdivision either by means of infill fence panels or by the erection of a brick wall, using materials sympathetic to the Farmhouse. Existing hedgerows would be retained, and I do not doubt that the appellant seeks to respect the listed building and its setting.
17. However, even with this design and its low height, the proposal would be visible in association with the Farmhouse, for instance from Hatches Lane. There would also be some visibility of it from the Farmhouse itself. The proposal would result in a more intensive and built-up form than currently, particularly given the limited amount of space around the proposed dwelling within its plot. This would detract from the pleasant, green and rural appearance of the site and so would harm the contribution that it makes to the setting of the Farmhouse.
18. Most of the existing garden would remain associated with the Farmhouse. Even so, the permanent subdivision formed by fencing or a wall, and the separate use of the site, would sever it from the historic curtilage of the Farmhouse, and truncate the remaining length of garden serving it. The reduction in spaciousness resulting from the truncation and the loss of the historic association of the appeal site with the Farmhouse would further harm the setting of the listed building.
19. I therefore conclude that the proposal would have a negative effect on the significance of the designated heritage asset and its setting, and so it would result in 'less than substantial' harm in the words of the Framework. No public benefits have been identified to outweigh this harm.
20. I therefore conclude that the proposal would have a harmful effect on the significance of the grade II listed Lower Warren Farmhouse having regard to its setting. As such, it would be contrary to WDLP Policy DM31, which requires development to conserve the historic environment including the significance and setting of a designated heritage asset. The proposal would also conflict with the aim of the Framework that the historic environment is preserved and enhanced.

#### *The Character and Appearance of the area*

21. My consideration of this issue overlaps in some respects with my earlier findings on the effect of the proposal on the Green Belt and on the setting of the listed Farmhouse. The characteristics of the landscape are gently sloping, green and rural and this reflects the natural beauty of the area and its location within the AONB.
22. As I have already found, the dwelling together with its associated parking and turning areas would result in a more urban and built-up form than at present, detracting from the site's rural and green appearance. The evergreen hedgerow on the site boundary with Hatches Lane would provide some screening. However, the proposal would nevertheless be seen from Hatches Lane, including from the site entrance.

23. Some reduction in hedgerow may also be necessary to achieve the access visibility splays, and this would further add to the impact of the proposal on the character of the area. The limited amount of space around the proposed dwelling within its plot would also detract from the open and spacious character of its surroundings.
24. For these reasons, even with the backdrop of existing trees and hedges, the built-up form of the proposal would detract from its predominantly rural location, and from the natural beauty of the AONB hereabouts. I therefore consider that the proposal would have a harmful effect on the character and appearance of the area, including the AONB.
25. As such, it would conflict with WDLP Policies DM30 and DM32 which require that the natural beauty of the AONB is conserved and must protect the positive characteristics of the landscape. For similar reasons, it would also conflict with WDLP Policy DM35. For the same reasons, the proposal would also fail to comply with the Framework, which requires that great weight should be given to conserving and enhancing the natural beauty of the AONB.

#### *Highway Safety*

26. Hatches Lane is an unclassified, single-track road, which at the site is subject to the national speed limit. The proposal would generate additional traffic which would utilise an existing access off Hatches Lane. The proposal includes visibility splays either side of the access of 34 metres to the kerb edge. It is intended that there would be no obstructions higher than 0.6 metres within these splays.
27. The proposed visibility splays are significantly below those required by the Government's advice in Manual for Streets (MfS) of 151 metres for a road within the national speed limit. Given its somewhat narrow, unclassified nature, and the proximity of the 40mph speed limit approaching the junction, vehicles are likely to be travelling at less than 60mph past the access. However, I have no substantive evidence about vehicle speeds, such as a speed survey. Even if speeds are around 30mph, as suggested by the appellant, the splays would still be below those required by MfS.
28. In addition, the splay to the left of the access on exit is partially impeded by the adjacent hedgerow. This hedgerow surrounds the garden of Fair Acres, and so may not be protected under the Hedgerow Regulations. Even so, the position and extent of any boundary treatment is not within the control of the appellant or the Highway Authority. As such, planning conditions could not be used to prevent obstruction within the splay to the left side on leaving the site, obscuring or preventing adequate visibility for such vehicles.
29. As a result of the limited visibility, vehicles leaving the site would have to protrude into the carriageway to obtain sight of on-coming traffic. Road users may not see such a vehicle with sufficient time or distance to safely react to it. Nor may they be able to safely manoeuvre around it, especially given the lane's narrow width. The proposed access would therefore give rise to a very real potential for inconvenience to, and conflict with, other road users on Hatches Lane, including cyclists.
30. I therefore conclude that the proposal would have a harmful effect on highway safety. As such, it would conflict with WDLP Policy DM33, which requires that

development is provided with safe access to the highway. For similar reasons it would also conflict with the Buckinghamshire Council Local Transport Plan 4 (adopted April 2016), the Buckinghamshire Council Highways Development Management Guidance (adopted July 2018), and the advice in the Framework that development should be prevented on highways grounds where there would be an unacceptable impact on highway safety.

### **Other Considerations**

31. There are bus stops within walking distance of the site, providing some access to public transport, helping to reduce use of the private car. Furthermore, the proposal has been designed to significantly exceed current requirements in respect of insulation, acoustic design and air tightness, and to reduce CO2 emissions as far as possible. Renewable energy installations and careful use of water, energy and heat recovery are also an important part of the proposal. The dwelling has been designed to have reduced running costs, maintenance, and carbon emissions, compared to a typical Victorian property.
32. However, considering the emphasis of the Framework on using natural resources prudently, minimising waste and pollution, and moving to a low carbon economy, it is not unusual for new dwellings to be designed to high environmental standards. For these reasons, I give only moderate weight to these benefits. The proposal would add to the supply of housing and would bring social and economic contributions from its construction and its future occupiers. However, due to the proposal being for only one dwelling, these benefits would be relatively small and so attract only limited weight.

### **Planning Balance and Conclusion**

33. The proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
34. I also attach significant weight to the harm to the setting of Lower Warren Farmhouse, to the character and appearance of the area and to highway safety. For the reasons given, I find that the other considerations do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
35. There would be conflict with the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

*O Marigold*

INSPECTOR