



Appeal Decision

Site visit made on 16 November 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/P0240/C/21/3281187

Land west side of Woodside Road, Caddington now known as Ashtree Paddocks, Woodside Road, Lower Woodside LU1 4DJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Dylan McKenzie against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 12 July 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of land from stables with grazing land and the storage of a touring caravan, to a residential use involving the siting and use of a twin-unit mobile home for residential purposes, the storage of a touring caravan, the change of use of the stables to domestic storage use incidental to the residential use, and the erection of timber fencing by mobile home and front boundary metal sheeting.
 - The requirements of the notice are to:
 1. To cease the residential use of the twin-unit mobile home and the Land
 2. To cease the incidental domestic storage use of the stables.
 3. To remove the residential twin-unit mobile home from the Land.
 4. To remove the timber fencing panels and supporting posts adjacent to the mobile home and the metal sheeting fixed along the road frontage from the Land.
 - The period for compliance with the requirements is: Six calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - At section 3 of the notice, the deletion of the words 'from stables with grazing land and the storage of a touring caravan,', so that it reads 'Without planning permission, the material change of use of land to a residential use involving the siting and use of a twin-unit mobile home for residential purposes, the storage of a touring caravan, the change of use of the stables to domestic storage use incidental to the residential use, and the erection of timber fencing by mobile home and front boundary metal sheeting.'
 - At section 6 of the notice, the deletion of the word 'six' and the insertion of the word 'nine', so that it reads 'In respect of elements (1 to (4 inclusive nine calendar months from the date when this notice takes effect'.
2. Subject to the correction and variation above, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the

application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. The appellant submitted a planning application for the demolition of two existing stable blocks, removal of a touring caravan and erection of one single-storey, detached prefabricated dwelling, new parking layout and boundary treatment. The application was refused on 28 April 2021 and an appeal made to the Planning Inspectorate. However, the appeal was out of time and has been turned away. The appellant suggests that the turning away of the appeal is potentially injurious to the appellant as the drawings relating to the refused application were only included within the appeal against the planning refusal, in the belief that both appeals would be considered together. However, in an appeal under ground (a), I can only consider the matters stated as constituting the breach. The proposed dwelling does not form part of the matters stated in the breach and so I cannot have regard to it.
4. The Council has adopted a new local plan, the Central Bedfordshire Local Plan 2015 – 2035 (adopted July 2021)(the CBLP) since the issue of the enforcement notice. The Council advise it considers policies SP7, EE5, HQ1, SP4, DC3 and DC5 to be of relevance to this appeal. The appellant has been given the opportunity to comment on this through the appeal.
5. The notice describes the breach as the material change of use of land from stables with grazing land and the storage of a touring caravan. Whilst it is good practice for an enforcement notice alleging a material change of use to identify the previous use, it does not render the notice invalid or a nullity if it does not. It is what is alleged to have occurred, which must be identified. Since stables are not a use of land, I shall delete 'from stables with grazing land and the storage of a touring caravan,' from the allegation. Since this would not change the scope of the allegation, I consider such a correction would not cause injustice to either party.

Ground (a)

6. The appeal under ground (a) is made on the basis that planning permission ought to be granted for the matters stated in the notice as constituting the breach.

Main Issues

7. The main issues of the appeal are:
 - Whether the appeal scheme is inappropriate development in the green belt having regard to the revised framework and relevant development plan policies;
 - The effect of the appeal scheme on the openness of the Green Belt;
 - Whether the appeal site is a suitable location for residential development, having regard to its location and proximity to services and facilities;
 - The effect of the appeal scheme on the character and appearance of the area;

- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the appeal scheme.

Reasons

Whether inappropriate development in the Green Belt & Openness

8. The appeal site comprises a substantial area which is bound by vegetation and fencing. It is not disputed that the site is within an area which is washed over by the Green Belt. Policy SP4 of the CBLP states that within the Green Belt there is a general presumption against inappropriate development.
9. The National Planning Policy Framework (the 'Framework')(2021) identifies that 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 harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 149.
10. Paragraph 149(g) is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development. The Framework defines previously developed land as '*land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed structure. This excludes: land that is or was last occupied by agricultural or forestry buildings...*'.
land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed structure. This excludes: land that is or was last occupied by agricultural or forestry buildings...'.
11. There were previously two stable buildings within the site, one of which has now been removed. While the grazing of horses can be considered an agricultural use, the keeping of horses, which involves activities other than just putting horses out to graze, is unlikely to be agricultural for the purposes of the Act. It is not disputed that the appeal site previously comprised two stables. Although one of the buildings has since been removed, given the substantial size of the remaining building, I consider it highly likely that the site was used for the keeping of horses. Consequently, I agree, for the purposes of this appeal, the appeal site comprises previously developed land.
12. The appellant has provided calculations to show that there would be a reduction in footprint and floorspace, however, these calculations relate to the proposed demolition of two stable blocks, removal of a touring caravan and erection of one single-storey, detached prefabricated dwelling, new parking layout and boundary treatment, not the appeal scheme before me. Section 177(1) of the Act only allows for a grant of planning permission for the whole or part of the matters.
13. Within the site I saw various residential paraphernalia, including a gazebo, seating, a trampoline and other play equipment. Close boarded fencing has also been erected within the site. Although the site is well screened from the road by vegetation, the metal fencing is visible from the public domain. The appellant suggests that the metal fencing was not intended to be a permanent

feature, however, it has been *in situ* since the enforcement notice was issued and given its size and prominence, it has resulted in a physical change in the characteristics of the land and, in my view, is a building for the purposes of the Act.

14. Openness of the Green Belt has a spatial aspect as well as a visual aspect. Although the site was previously used for the keeping of horses, I have limited information to show how the site was actually used. From aerial photographs provided by the Council, the paddock appears free of structures and equine paraphernalia. Residential paraphernalia, by contrast, is visible in the aerial photograph dated 2021.
15. Although the appellant states that there were two stable blocks within the site, one of those has previously been removed. The other stable remains within the site and would be retained if I were to grant planning permission for the appeal scheme. The mobile home, fencing and residential paraphernalia, in my view, has a greater impact on the openness of the Green Belt than the previous use and is therefore inappropriate development in the Green Belt.
16. The appellant has drawn my attention to Land Adjacent to No 66 Woodside Road, which was granted planning permission on 15 July 2019 for the demolition of existing stables and outbuildings and erection of one new detached dwelling. A revised scheme was also granted at the site, reference CB/20/03894/FUL, for the erection of two new bungalows, on 3 February 2021. Both planning consents were granted before the adoption of the new local plan and comprised the demolition of a number of buildings. They are therefore not comparable to the appeal scheme before me.
17. For the reasons given above, I find the appeal scheme harms the openness of the Green Belt in both visual and spatial terms and conflicts with policy SP4 of the CBLP and the Framework, the requirements of which are set out above.

Suitability of Location

18. Policy SP7 of the CBLP supports housing within Settlement Envelopes and states that outside Settlement Envelopes, planning permission will be granted for the redevelopment of previously developed land where the proposal does not cause the coalescence of settlements when considered against Policy SP5, the site is, or can be made, accessible to nearby services and facilities by sustainable modes of transport, amongst other things. It is not disputed that the appeal site lies outside any Settlement Envelope. However, as set out above, I consider the appeal site comprises previously developed land.
19. While the appeal site would not cause the coalescence of settlements, there appear very limited facilities within walking distance of the appeal site. It is located along a part of Woodside Road which does not have footpaths and I have no evidence to show that the site is, or can be made, accessible to nearby services and facilities by sustainable modes of transport. As a consequence, occupants of the site are highly likely to be dependent upon private vehicle, contrary to policy SP7 of the CBLP, the requirements of which are set out above.

Character and appearance

20. The appeal site is bound by open fields to the rear. Although there are buildings opposite the appeal site, the area has a semi-rural character, with

mature hedgerows making a significant contribution to the character and appearance of the area. Although mature vegetation significantly limits views into the site, the erection of metal fencing along the road frontage has a makeshift appearance which diminishes the verdant character of this part of Woodside Road, contrary to policy HQ1 of the CBLP, which seeks high quality development which responds positively to its context and policy EE5 of the CBLP which seeks to ensure development reflects local character and distinctiveness.

21. I note that the Parish Council supported a planning application in relation to the site and suggested that it will be a visual improvement on what is there now, however, this does not appear to relate to the appeal scheme before me.

Other Considerations

22. The appellant suggests that there has been a discrepancy in the provision of housing due to greater development in the District which is not Green Belt and as a result there is a pressure for housing in this area. However, since the submission of the appeal, the Council has adopted its local plan, which would have considered the provision of housing within the area. I have no substantive evidence to suggest that the policies are already out of date, or that they are not capable of meeting housing need within the area.
23. The appellant states that alternative accommodation is out of their reach and would constitute real hardship. However, I consider it highly unlikely that the appeal site is the only way of meeting the family's housing needs and therefore afford this matter limited weight.

Other Matters

24. The Council has provided me with a copy of policy DC4 of the CBLP which deals with equestrian development. However, since the appeal scheme is residential, the policy is not of relevance in this case.
25. The Council has also drawn my attention to policy DC3 of the CBLP, which supports permanent and temporary new dwellings for the use of rural workers, subject to certain criteria. However, it is not suggested that the appeal site is intended to support a rural worker and so the policy is not of relevance in this case.

Ground (a) Conclusion

26. The Framework sets out the general presumption against inappropriate development within the Green Belt. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
27. The appeal scheme is inappropriate development in the terms set out in the Framework and has led to a limited loss of openness to the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, I have found the appeal site is not a suitable location for a residential use and there is harm to character and appearance of the area.

28. The other considerations which arise do not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist and the appeal scheme conflicts with the Framework and with policies SP4, SP7, HQ1 and EE5 of the CBLP. Therefore, for all of the reasons given above I conclude that the appeal under ground (a) should be dismissed.

Ground (g)

29. An appeal under ground (g) is made on the basis that any period specified in the notice...falls short of what should reasonably be allowed. The appellant states they have three young children in education locally, and as they have no alternative means of accommodation, they request that the time to comply is extended to one year. The appellant also cites Covid as a reason for extending the compliance period, however, I am unaware of any remaining restrictions which are likely to impede the appellant's ability to secure alternative accommodation.

30. Although the village of Caddington is relatively close by, it is likely to take time for the appellant to find suitable accommodation which is affordable. While I note the period of six months is the usual time given by the Council to tenants to find alternative accommodation if in the private rented housing sector, I am mindful of the timing of this decision, prior to the holiday period, which is likely to affect the appellant's ability to secure accommodation. Furthermore, the appellant will also need to arrange for the mobile home to be removed from the site once it has been vacated. Consequently, I consider it would be reasonable and proportionate to extend the compliance period to nine months.

Conclusion

31. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. The appeal on ground (g) succeeds to that extent.

M Savage

INSPECTOR