



Appeal Decision

Site visit made on 4 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/X0415/D/22/3294242

Land Adjacent to Misbourne End, Amersham Road, Chalfont St Giles HP8 4RX

- 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 Ms Emma Taylor against the decision of Buckinghamshire Council.
 - The application Ref PL/21/4100/FA, dated 19 October 2021, was refused by notice dated 7 January 2022.
 - The development proposed is described on the planning application form as 'Siting of a detached Garden Room Building 3.5m D x 5.0m W x 2.5m H within the Green Belt and AONB on the site of a previously demolished Garage Block.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follow:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to its effect on openness, the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - If the proposal is inappropriate development, 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

3. Saved Local Plan¹ Policy GB2 relates to development in the Green Belt and sets out various forms of development which are not inappropriate within it. However, these exceptions are not wholly consistent with those listed at Framework Paragraph 149. In addition, the policy does not allow for the very special circumstances test as set out at Framework Paragraph 148. As a result, Policy GB2 is out-of-date and I do not afford it any significant weight in considering this appeal.
4. Framework Paragraph 149 outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt, with various exceptions. The appellant asserts that the proposed development fulfils exceptions 'b', 'd' and 'g'.

¹ Chiltern District Local Plan Written Statement – adopted September 1997, consolidated 2007 & 2011.

5. Exception 'b' relates to 'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it'. The evidence before me indicates that the appeal site has a relatively extensive planning history. The appellant asserts that the current stable building on the appeal site was approved under planning application reference 92/1153/CH.
6. Even if accepting that the proposed building constitutes an 'appropriate facility' in connection with 'outdoor recreation', in order to fall under exception 'b' it must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
7. Framework Paragraph 137 states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness requires a consideration of both spatial and visual aspects.
8. The proposed building would be partly sited within the location of a largely demolished former garage building. All that remains of the garage is the sub-structure which protrudes slightly above ground level. In this regard the site of the proposed building contributes positively to the openness of the Green Belt. The proposed building would have a height of 2.5 metres, width of 3.5 metres and length of 5 metres. There would therefore be an obvious and significant spatial reduction in the openness of the Green Belt as a result of the proposed development.
9. The fact that a larger garage building previously existed on the site is not a consideration which has any bearing on my assessment of the impact on openness. This is because that building has now largely been removed. The structure that does remain is very low level and is significantly materially less harmful to the spatial and visual aspects of openness than the proposed development. This is not therefore a consideration which outweighs the harm caused by the spatial reduction in the openness of the Green Belt.
10. The existing retaining wall, relief of the land, surrounding structures and other landscape features of the site would all help to reduce the visual impact of the development on openness. However, these characteristics would not completely negate the harm caused from a spatial perspective. Indeed, the proposal would be visible from the private driveway which serves several properties.
11. As such, whilst there would be a limited visual impact on openness there would be a significant and harmful spatial reduction in openness. For these reasons the proposed development would not fulfil exception 'b' of Framework Paragraph 149.
12. Exception 'd' relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. As already noted, the former garage building has already been largely demolished and it cannot therefore be taken into account within the context of exception 'd'. Given the height and bulk of the development when compared with the remains of the garage building, the development would be materially larger. It would not therefore fulfil exception 'd'.

13. Exception 'g' relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. Even if I were to accept the appellant's contention that the appeal site comprises previously developed land, exception 'g' requires that such development should not have a greater impact on the openness of the Green Belt than the existing development. I have already concluded that the proposed development would have a greater and more harmful impact on openness than the existing development (what remains of the former garage building). As such, the proposed development does not fulfil exception 'g'.
14. The Planning Statement submitted to the Council by the appellant asserts that the appeal site is within the curtilage of Beech Tree Cottage and reference is also made to it falling within the curtilage of Misbourne House. For the avoidance of doubt, given the significant distance between the site of the proposed development and any residential property², the proposals cannot be considered to relate to 'the extension or alteration of a building' within the meaning of Framework Paragraph 149 exception 'c'.
15. In summary, the proposed development does not fulfil any of the exceptions to inappropriate development set out under Framework Paragraph 149. It would therefore be inappropriate development in the Green Belt and would also result in a harmful spatial reduction in its openness.
16. The proposed development would also conflict with Local Plan Policy GB2 given that none of the criteria listed would apply to it³.

Other Considerations

17. The proposed development would provide a room which the appellant asserts would be used in conjunction with the existing equine facilities. However, there is no substantive evidence to indicate that there would be any significant benefit associated with the development other than providing a minor supplement to the existing facilities on the site. As such, this is a benefit to which I attribute only limited weight.
18. The appellant has referred to the Council's conduct, in terms of whether it acted proactively in determining the planning application. However, this is a procedural matter which does not alter my findings in relation to this appeal.

Conclusion

19. The development conflicts with saved Local Plan Policy GB2. However, this policy is not consistent with the Framework for reasons already outlined. As such, it cannot be afforded any significant weight and greater weight should be attached to the Framework in this regard.
20. The proposal would be inappropriate development in the Green Belt and would lead to a significant spatial reduction in its openness. The Framework clearly sets out that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. It also outlines that very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. I afford substantial weight to the harm to the Green Belt, in accordance with the

² With Beech Tree Cottage separated from the site by a shared private driveway.

³ It would not comply with clause (b) for reasons I have set out in relation to Framework Paragraph 149(b).

Framework. This harm would not be clearly outweighed by the minor benefits of the proposal. As such, very special circumstances do not exist.

21. The most important development plan policy (GB2) for determining this appeal is out-of-date, given its inconsistency with the Framework. Nonetheless, Framework Paragraph 11dii is not engaged given that the Green Belt policies in the Framework provide a clear reason for refusing the development, as prescribed under Framework Paragraph 11di⁴.
22. For the reasons set out above, having had regard to the development plan and all other relevant material considerations raised, the appeal is dismissed.

Luke Simpson

INSPECTOR

⁴ Framework Footnote 7 outlines that policies on the Green Belt are such policies referred to in Framework Paragraph 11d(i)