



Appeal Decision

Site visit made on 7 December 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/H1515/W/21/3289125

Murcocks Farm, Back Lane, Fryerning CM4 0HR

- 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 and Mrs A Kind against the decision of Brentwood Borough Council.
 - The application Ref 21/00241/FUL, dated 17 February 2021, was refused by notice dated 31 August 2021.
 - The development proposed is the conversion of former agricultural building to create a private swim school facility, alterations to the building and parking and access alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined, the Brentwood Local Plan 2016-2033 was adopted on 23 March 2022. This supersedes the Brentwood Replacement Local Plan (2005). The appellant has had the opportunity to comment on this matter. I have determined the appeal in accordance with the plan in force at the time of this appeal decision.
3. The appellant alleges that the council may have confused the building with another on site and have not conducted a site visit. Irrespective of this, I have considered the scheme on the basis of the information submitted and my own site observations.

Main Issues

4. The main issues are:
 - whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policies, and the effect on the openness of the Green Belt; and
 - whether any 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 proposed development.

Reasons

Green Belt considerations

5. The appeal site comprises a parcel of land accessed via a track from Back Lane. It contains an existing barn of modern appearance, together with a grassed area surrounded by mature trees.
6. National Green Belt policy in the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are, however, certain forms of development which are not inappropriate development, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. One of those exceptions, at paragraph 150, is the re-use of buildings provided that they are of permanent and substantial construction. Policy MG02 of the Brentwood Local Plan 2016-2033 (LP, 2022) conforms to the general thrust of national Green Belt policy, setting out that all development proposals within the Green Belt will be considered and assessed in accordance with the provisions of national planning policy.
7. I note that neither the Framework nor LP Policy MG02 define what constitutes 'permanent' or 'substantial'. This is a matter of judgement based upon the evidence before me and my observations on site.
8. The appellant has set out that the existing building has been in-situ since 1988. Whilst I have no substantive evidence to confirm this, it is evident through its appearance that the existing building has been in place for a considerable period of time. Whilst open fronted, its roof, timber clad rear and sides and concrete floor give rise to a large, substantial building.
9. The Report on Structural Inspection confirms that there are signs of corrosion to the steel frame, that the ground floor slab is cracked and uneven and that some works are required to futureproof it. Crucially, this report concludes that the existing building is structurally sound. Although time has elapsed since that report was prepared, there is nothing to indicate that its findings are no longer valid. Notwithstanding this, even where a proposal falls within the list at paragraph 150, it must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
10. In that respect, I observed during my visit, how intervening features and the topography of the landscape mean there is fairly limited visibility of the site from the surrounding area, although it can be glimpsed from Back Lane. Nevertheless, openness is a fundamental characteristic of the Green Belt. It has both spatial and visual dimensions. It follows that openness can be harmed even when development is not readily visible from public vantage points.
11. At present, the site retains an essentially open character set amongst other established farm buildings. The proposed development would include the enclosure of the front of the currently open-fronted building, its recladding, insertion of windows and doors and the construction of an extension to the side. This would give the building greater solidity and presence, and inevitably reduce the existing visual and physical openness of the site. Moreover, the proposed use would give rise to associated paraphernalia, including parked cars, which would contribute to a further loss of visual openness. Similarly, the proposed activity in and around the building, including to and from Back Lane

and the car parking area, would add to the reduction of openness beyond a simplistic reliance on amount of ground covered, despite the use of Geocell matting. I therefore do not concur with the appellant that the appeal proposal would not significantly change the appeal building and site, in terms of the existing visual and spatial levels of openness, regardless of its continued screening through existing and proposed landscaping.

12. Overall, the proposed development would not fall within an exception under paragraph 150 of the Framework as it would fail to preserve the existing openness of the Green Belt. I therefore conclude that it would be inappropriate development in the Green Belt which is harmful by definition. In accordance with paragraph 148 of the Framework, substantial weight must be given to any such harm. It follows that the proposed development would be contrary to the relevant provisions of LP Policy MG02 which, in summary, seeks to protect the Green Belt from inappropriate development.

Other effects

13. No objections are raised by the Council in respect of other technical matters including flooding, contamination, noise, highways, access and landscape. The submitted evidence does not cause me to disagree with that stance. This is of neutral consequence in my assessment of the appeal proposal

Heritage

14. The appeal site is located within Fryerning Conservation Area (CA). The significance of the CA lies in its historic village layout, maintaining a rural and verdant character based around tree-lined roads.
15. There is no dispute between the Council and appellant in respect of any harm to the character or appearance of the CA as a result of the proposal. However, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
16. Based on the evidence before me, and my observations on site, I have no reason to disagree with the Council's findings. The site is not readily visible from public vantage points and does not contribute to the significance of the CA. As such, the proposal would have a neutral effect on, and would preserve, the character and appearance of the CA.
17. Nearby Murcocks is a Grade II listed building. It is a Medieval timber-framed house of red brick and plaster, with red clay tiles. It fronts Back Lane and is set within a well landscaped garden plot, with farm buildings situated largely behind it. The significance of the property lies in its traditional form and historic value and is experienced from Back Lane and Mill Green Road.
18. There is no dispute between the Council and appellant that either the significance or setting of the listed buildings would be harmed by the proposal. In exercising my duty to have special regard to the desirability of preserving that heritage asset, I have no reason to disagree with the Council in this respect. The listed building is perceived as a relatively discrete residential entity, separate and functionally and visually removed from the appeal site, set to the rear.

19. Although there would be some change to the relationship between the appeal site and that property through the site's redevelopment, the mitigating factors of the scheme, including its significant setback from the road frontage, means that this change would be limited. For this reason, I find that the proposal would have a neutral effect on, and would therefore preserve, the special historic interest and setting of the listed building.
20. In the absence of any harm to these designated heritage assets, I conclude that the appeal proposal does not conflict with the development plan or the Framework's heritage policies in this regard.

Summary of the other effects

21. In summary, I find no other harm to add to the harm to the Green Belt as described earlier by virtue of the appeal proposal being both inappropriate development and also its effect on openness.

Other Considerations

22. I accept that the appeal proposal would provide both social and health benefits because of the nature of the use. The appeal proposal has scope to provide localised economic benefits for this rural economy through the construction phase and also, thereafter, by the jobs that would be created and the demand for related services. However, these benefits have not been quantified by the appellant and are likely to be small given the scale of the appeal proposal. Each of these benefits attracts moderate weight in favour of the appeal proposal.
23. My attention has been drawn to other appeal decisions for similar schemes. From the limited information provided, it is evident that these are not sufficiently comparable to the circumstances of the appeal before me in terms of the character and appearance of those sites and their individual contexts. In any event, I have found that the particular appeal proposal is inappropriate development in the Green Belt, which is harmful by definition, and it would cause harm to its openness. As such, I attribute limited weight to each of these other decisions.
24. The appellant sets out that the proposed development would include new landscaping and biodiversity enhancements including new bird and bat boxes to adjacent trees and native hedgerows to the boundaries. I accept that these works are of benefit, although the enhancement of the site for the benefit of biodiversity is not inherently dependant on the success of this appeal. I afford this consideration moderate weight.
25. There would be other benefits through the inclusion of UV filters to minimise chlorine use, and the appellant would be able to live near their place of work as a result of the appeal proposal, minimising the need to travel. However, the use of UV filters is effectively a mitigation measure for the effects of the proposed development. The appellant's reduced commute would be offset by the inevitable increased traffic generation to the site. Accordingly, each of these matters are of neutral consequence and are afforded no weight.
26. Letters of support in respect of the health and social benefits of the proposed development are noted. However, these raise matters already considered above and therefore attract limited weight in favour of the appeal proposal.

27. In the absence of substantive details of the alleged fallback position, the appellant has not adequately demonstrated that this has a reasonable prospect of being implemented, and that it would give rise to equal or greater harm than this appeal proposal. As such, this consideration is not capable of weighing in favour of the appeal proposal and is afforded no weight.

Green Belt Balance

28. I have found that the appeal proposal represents inappropriate development in the Green Belt, which is harmful by definition. It would also cause moderate harm to openness. In accordance with paragraph 148 of the Framework, any harm to the Green Belt must be given substantial weight, weighing against the appeal proposal.
29. In terms of the other considerations, I have found no other harm. My findings in respect to the relevant technical matters, including heritage, flooding, contamination, noise and highways, are of neutral consequence to my assessment. Moreover, I have set out why I have not attributed weight to the alleged fallback position.
30. I have found that the appeal proposal would provide some social, health, localised economic and biodiversity benefits, which each weigh moderately in favour of the appeal proposal. I have also noted the public support and other appeal decisions, to which I attach limited weight.
31. The demonstration of very special circumstances is an extremely high policy bar to cross. Overall, I conclude that the collective totality of the other considerations of this particular case do not clearly outweigh the harm to the Green Belt which I have identified.
32. Consequently, in this particular instance, the very special circumstances required to justify allowing this appeal do not exist. The proposed development would not therefore accord with the Green Belt aims of LP Policy MG02, or the Framework.

Conclusion

33. For the reasons given earlier in this decision, I have found that very special circumstances do not exist to justify allowing this particular development in the Green Belt. Consequently, both LP Policy MG02 and national Green Belt policy both provide a clear reason for refusing the development and the appeal proposal conflicts with the development plan when taken as a whole.
34. Therefore, there is no justified basis to allow this appeal, which is contrary to the development plan and so the appeal should be dismissed.

A Price

INSPECTOR