



Appeal Decision

Site visit made on 13 February 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2023

Appeal Ref: APP/X0415/D/22/3302134

Corfield, Arrewig Lane, Chartridge, Chesham HP5 2UA

- 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 & Mrs S Ellis against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/21/4326/FA, dated 9 November 2021, was refused by notice dated 14 April 2022.
 - The development proposed is the demolition of single storey outbuilding to the side of the main dwelling and erection of new outbuilding containing first floor accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Certificate of Lawfulness¹ was issued in 2021 for the erection of a detached single-storey outbuilding within the rear garden of the appeal dwelling. A S106 Legal Agreement has been submitted in the form of a Unilateral Undertaking² (UU). This precludes the owners, and successors in title, from implementing the issued Certificate of Lawfulness. Also, the Agreement removes the Appellant's ability to undertake any other Permitted Development (PD) Rights conveyed by Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). I shall return to this matter later.

Main Issues

3. 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;
 - the effect on the openness of the Green Belt;
 - the effect on ecological interests within the existing building;
 - the effect on the character and appearance of the area, including the Chilterns Area of Outstanding Natural Beauty (AONB); and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by

¹ Certificate of Lawfulness Reference: PL/21/0236/SA

² S106 Legal Agreement dated 11 June 2022

other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

4. The appeal site is within the Metropolitan Green Belt. Saved policy GB2 of the Chiltern District Local Plan 1997 (including alterations 2001, consolidated 2007 and 2011) (LP) seeks to protect the Green Belt from inappropriate development and to allow only limited extensions to dwellings. LP saved policy GB15 explains that the construction of a non-habitable building to a dwelling, within the Green Belt, will only be permitted where it would be small and subordinate to the scale of the original dwelling. These policies align with the Framework and to which I therefore attribute full weight.
5. Paragraph 149, of the Framework, establishes that buildings in the Green Belt would be inappropriate unless they would meet a listed exception. Paragraph 149(c) explains that the extension or alteration of a building would not be inappropriate provided that it would not result in a disproportionate addition over and above the size of the original dwelling. I see no reason why an ancillary outbuilding should not also be subject to this consideration as it would contribute to the openness of a site even if not physically attached to the dwelling. This is supported by the commentary for LP policy GB15 which states that ancillary residential buildings within the curtilage of a dwelling will be regarded as an extension of that dwelling.
6. The officer report estimates that the original dwelling was about 59 sqm and that previous additions have increased the floorspace by around 315%. The existing garage and stabling building would be demolished as part of the proposal resulting in an offset in the quantum of built form on site. Nevertheless, the proposed outbuilding would exceed the size of the existing garage and extend an already substantially extended dwelling. In comparison to the scale of the existing dwelling, the outbuilding would not be a small or subordinate addition. Consequently, in combination with previous extensions, the proposed outbuilding would form a disproportionate addition to the original dwelling in conflict with paragraph 149(c).
7. Paragraph 149(d), of the Framework, allows for replacement buildings that are not materially larger than the one it replaces. The proposal would have a similar footprint to the existing garage and stable building. However, it would replace a building with a shallow pitched roof and flat roof with a building with a tall, pitched roof that incorporates first-floor accommodation. This increase in mass would be substantial and create a form of development that would be materially larger than the building it would replace.
8. As it has not been demonstrated that the proposal would be any of the exceptions listed in Paragraph 149 of the Framework, it would amount to inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. It would therefore be in conflict with the Council's policies, as outlined above.

Effect on openness

9. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and its essential characteristics are therefore

its permanence and openness. Considerations of openness have both visual and spatial aspects. The appeal dwelling is within a large plot, adjacent to two other dwellings but otherwise in the open countryside. Its first floor would be clearly visible from the highway. The rear garden is relatively open to the rear with low lying boundary hedging and tree cover, along most of its rear boundary. The rear garden is flat but land falls away beyond the rear boundary enabling distant views of the countryside. The proposal would also be seen from the bridlepath to the southeast of the site, in glimpses through the evident tree screen.

10. The replacement building would have a significantly greater first-floor mass. Therefore, despite the footprint being similar to the existing outbuilding, the proposal would have a substantially greater roof mass resulting in a moderately harmful adverse effect on the openness of the site. Therefore, whilst openness is generally held to be the absence of built form, the proposal would fail to preserve the openness of the Green Belt. The Framework advises, at Paragraph 137, that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause moderate harm in this regard.

Effect on protected species

11. A preliminary ecological appraisal has been submitted in support of the appeal to assess the potential of the site to accommodate protected species. The included surveys were undertaken in May and June 2022. These found moderate levels of bat commuting and foraging activity along the adjacent lane with occasional passes of common pipistrelle over the garden. The building was found to be of moderate suitability for roosting bats with some bat droppings found in the small loft void, although found to be unlikely to be used by a large number of bats. The evidence of bat activity within the building was deemed to be limited and historic.
12. The appraisal recommends that the proposed scheme should be subject to a precautionary method statement and mitigation in the form of bat boxes and for any lighting to be low level. A precautionary method statement would ensure that roof tiles, hanging tiles and gable-end wooden boarding would be lifted by hand and turned over to check for the presence of bats before being discarded. In the unlikely event that a bat is found, then work would stop, and advice sought from an Ecologist. This would be a proportionate approach to development of the site taking the survey results and the moderate risk to protected species into account. A precautionary method statement could be required by condition had I been minded to allow the appeal.
13. Accordingly, the proposal would comply with policy CS24 of the Council's Core Strategy for Chiltern (2011) (CS), the Conservation of Habitats and Species Regulations and the Framework. These seek, among other matters, for development to protect and enhance legally protected species and to safeguard and where possible enhance ecological interests.

Character and appearance

14. Arrewig Lane consists of scattered dwellings and farm holdings within a countryside setting. The dwelling stands with two adjacent neighbouring dwellings but is otherwise within a relatively remote location. The appeal dwelling is a two-storey cottage of a traditional rural character. The appeal site's large rear garden is landscaped with boundary hedging and its shared

boundary with Autumn Cottage. The garage to the side of the dwelling includes a large single storey extension to its side consisting of a stables and store. The side extension is low-lying and largely screened from the highway by a dense hedge screen, retaining the open and verdant character of the site. As such, the site makes a positive contribution to the open character and appearance of the area.

15. The Framework requires great weight to be given to conserving and enhancing the landscape and scenic beauty of AONBs. The Council's Building Design Guide, for the Chilterns AONB, identifies that an integral part of its landscape is its wealth of attractive villages and buildings. In terms of design advice, the Chilterns Building Design Guide identifies that the shape, pitch and colour of a roof can all have a significant impact on its design. The guide identifies that an important characteristic of buildings within the AONB are pitched roofs with gable ends and, less commonly, half hipped roofs. The proposed development would include a large, hipped roof with a small crown roof. This would create a roof form of substantial bulk that would not accord with the general design advice Guide. It is unconvincing that the hipped roof is a common feature within the area nor that its design ensures it would have a minimal bulk.
16. The proposal would also be partially visible from the bridleway to the southeast of the site through boundary hedging. I undertook my visit in the winter and therefore recognise that the screening, on the southeast boundary of the site, would provide greater cover in the summer months when trees are in full leaf. Nevertheless, although partially screened from this view, it would be seen in glimpses as a conspicuous feature. In combination with its prominent streetscene location, this would result in development that would be dominant and obtrusive in the countryside. Also, whilst lower than the main dwelling it would not be a subservient addition to the site due to its overall mass and bulk. Furthermore, whilst the proposed ridge height would only be 1.4 metres higher than the existing ridge, the existing roof is small and includes a ridge that runs perpendicular to the highway. In contrast, the proposed roof would be parallel to the highway and have a much greater mass.
17. The scale and mass of the proposal would substantially erode the open setting of the frontage and be disproportionate to the scale of the existing dwelling. Therefore, it would be in conflict with the Council's Residential Extensions and Householder Development Guide that requires garages and outbuildings to be modest in size and subordinate to the existing dwelling. Consequently, the proposed building would have a harmful visual effect on the site and area.
18. Consequently, the proposed development would adversely affect the character and appearance of the site and the AONB. Accordingly, the proposal would conflict with LP saved policies GC1 and LSQ1, CS policies CS20 and CS22 and the Framework. These seek, among other matters, for development in the AONB to conserve and enhance its natural beauty and to be in scale with its surroundings.

Other considerations

19. The submitted UU prevents the Appellant from implementing the outbuilding awarded a certificate of development in 2021. Also, the UU would prevent the Appellants from exercising their Permitted Development Rights with respect to Class E, Part 1 of Schedule 2 of the GPDO. This provision allows for the

erection of an outbuilding within a residential curtilage subject to a number of restrictive criteria.

20. I see no reason in evidence that the outbuilding would not be built if no further consent were forthcoming. As such, the building subject to the Certificate of Lawfulness presents a material fall-back position in this case. The effect of its development would be to build in the Green Belt, hence reducing its openness. Nonetheless, the effect of PD development on the Green Belt, within the rear garden, would be localised and limited due to the limitations of PD Rights. Also, PD Rights cannot be exercised within AONBs and in this case this would prevent the erection of an outbuilding to the side of the dwelling. Accordingly, the site's context means that the effect of PD development on the openness of the Green Belt would be limited. Consequently, the restrictive effects of the UU would result in only a limited 'gain' to the openness of the Green Belt. This would therefore be of limited weight in favour of the proposal.
21. The Appellant indicates that the building would be of sustainable construction and design with improved insulation and energy and water efficiency. These sustainability benefits are welcomed and attribute modest weight in favour of the proposal. It is also indicated that the proposed building would be of higher quality design than the existing building. However, the proposal would not successfully integrate with its surroundings and thus its design does not attribute positive weight in favour of the scheme.
22. The proposed improvements to biodiversity, through new tree and hedge planting, a pond and bird and bat boxes, is noted. However, these measures would be limited and could be delivered without the harmful effects of the proposal.

Whether there would be Very Special Circumstances

23. Paragraphs 147 and 148 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development 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.
24. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in moderate harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt. The proposal would also fail to accord with the character and appearance of the area and would not conserve the AONB, a harm of further great weight.
25. On the other hand, the other considerations I have identified are of limited to moderate weight in favour of the proposal. As such, the harms to the Green Belt and to the character and appearance of the area are not clearly outweighed by the other considerations identified. Consequently, the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.

Conclusion

26. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Ben Plenty

INSPECTOR