



Appeal Decision

Site visit made on 16 March 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2023

Appeal Ref: APP/K0425/W/22/3294468

Hunters Gate, Deanfield, Saunderton, High Wycombe, HP14 4JR

- 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 Natalia Goloubeva against the decision of Buckinghamshire Council.
 - The application Ref 21/07058/FUL dated 6 July 2021, was refused by notice dated 14 December 2021.
 - The development proposed is described on the application form as "Erection of four outbuildings".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Natalia Goloubeva against Buckinghamshire Council. This application is the subject of a separate decision.

Procedural matters

3. The development description on the application form does not correspond with that on the appeal form and decision notice. I also note that the appellant states that the description used by the Council on the decision notice was not communicated to them and agreed. I have as a consequence assessed the scheme on the basis of the development description shown on the application form as this clearly sets out what was applied for.
4. The appellant submitted amended plans (dated 20 October 2021) at the application stage that illustrate a reduction in size of 3 of the proposed outbuildings and relocation of the proposed garden room. The Council has confirmed that these drawings were not considered as part of its formal assessment of the scheme, which was based on the original plans dated 6 May 2021. Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* [1980], I am nonetheless satisfied that the Council and third parties would not be prejudiced by these minor changes and as a consequence I have considered the appeal on the basis of these amended plans.
5. The appellant states that all 4 proposed outbuildings fall within the private garden of the host dwelling (Hunters Gate), but the Council disputes this and considers it to be agricultural pasture land. However, the lawful use of the site is not a matter for me to determine in a section 78 appeal of the Town and

Country Planning Act 1990 ('the Act'). It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act or for the Council to take enforcement action if it considers the current use of the land to be unlawful. Any such application or enforcement action would be unaffected by my determination of this appeal.

6. The appellant submitted late additional information relating to a legal judgement dated 12 August 2022¹. On the basis that I considered this to be material to the case before me and was not available at the time the appeal was made, I agreed to accept it. The Council was given the opportunity to comment on this and I have taken its comments into account.
7. Having regard to the above judgement, I recognise that the definition of an extension to a building is not confined to physically attached structures. Rather, it is a matter of fact and degree as to whether a proposed detached building can be considered to be an extension of an existing building.
8. In the case before me, there would be a significant intervening distance between the proposed outbuildings and the existing building at the site (the host dwellinghouse) and neither would they closely relate to the group of existing outbuildings which are in close proximity to this dwelling. I am also satisfied that the existing outbuildings, when taken cumulatively, offer plentiful scope to serve the domestic needs of the host dwelling, even allowing for the significant size of the appeal site as shown on the submitted plans. Furthermore, whilst the host dwelling clearly has an association with the land upon which the proposed outbuildings are sited, the latter's substantial size and geometric shape nonetheless has a very different open, undeveloped and rural paddock-like character, quite unlike the more domesticated and built-up form of the land associated with the host dwelling originally granted planning permission², which was confined to the south-east corner of the appeal site.
9. In light of the above factors, I have determined, on a fact and degree basis, that the proposed outbuildings could not reasonably be considered to form an extension to the host dwelling, irrespective of whether the use of the land for residential garden purposes is lawful and/or whether each proposed outbuilding falls within the curtilage of the dwelling as asserted by the appellant.
10. As a consequence, I have considered the appeal on the basis that it is for 4 residential outbuildings, and not an extension to the existing building (the host dwellinghouse). In light of this, Policy 7 of the Neighbourhood Plan³, as referred to by the appellant, is not relevant to the scheme as this directly relates to extensions and alterations to a building within the Green Belt.

Main issue

11. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;

¹ *Warwick District Council v Secretary of State for Levelling Up, Housing and Communities and others* [2022] EWHC 2145 (Admin)

² Planning Permission 10/07121/FUL dated 15 November 2010, Wycombe District Council.

³ Bledlow-cum-Saunderton Neighbourhood Plan 2016-2033, June 2017.

- if the development is inappropriate, 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 necessary to justify the development.

Reasons

Appeal site context

12. The appeal site consists of a modern detached house, with a range of small detached buildings clustered around it. It forms part of a small group of detached dwellings that fall within the open countryside, Green Belt and Chilterns Area of Outstanding Natural Beauty (AONB).

Whether the proposal would be inappropriate development in the Green Belt

13. Policy DM43(2) of the Local Plan⁴ states that the erection of residential outbuildings will be considered appropriate development in the Green Belt if they fall within a built-up village; or accord with a made Neighbourhood Plan; or if elsewhere in the Green Belt, they comply with a range of limitations relating to, amongst others, the cumulative volume and extent of curtilage used for all existing and proposed outbuildings.
14. The scheme does not fall within a built-up village and therefore falls to be considered against the second and third limbs of Policy DM43(2) referred to above.
15. In terms of the Neighbourhood Plan, Policy 1 states that development proposals outside of settlement boundaries will be required to conform to, amongst other things, the provisions of the 'Wycombe Development Plan' in respect of the control of development in the open countryside and Green Belt.
16. Paragraph 3.4 of the Neighbourhood Plan defines the 'Wycombe District Development Plan' as comprising a range of documents (then in force at the time) and Paragraph 3.5 refers to the emerging Local Plan (which was under preparation at the time, but is now adopted and referred to in this decision), stating that it would set out, amongst other things, detailed policies to manage development. Paragraph 3.6 further states that the Neighbourhood Plan had sought to develop complementary policies to the emerging Local Plan given that the latter was still at a formative stage. In light of this, I am satisfied that the current Local Plan now forms part of the 'Wycombe Development Plan' and that the Green Belt provisions within this (Policy DM43) must be conformed with for the scheme to comply with Policy 1 of the Neighbourhood Plan.
17. Turning to the limitations set out in the third limb of Policy DM43(2), the Council states that the total volume of all existing and proposed outbuildings would exceed the 140 cubic metre limit, which is not disputed by the appellant.
18. In light of the above, I conclude that the scheme would fail to comply with Policy DM43 of the Local Plan which states, among other things, that residential outbuildings will only be considered appropriate development within the Green Belt if; (a) they do not exceed all of the stated cumulative size limitations; or (b) they accord with a made Neighbourhood Plan (the scheme would conflict

⁴ Wycombe District Local Plan, Adopted August 2019, Wycombe District Council.

with Policy 1 on the basis that it does not conform with the Green Belt provisions of the Local Plan).

19. For the reasons identified above in Paragraphs 6-10, I also find that the scheme would not fall within any of the categories outlined as 'not inappropriate' in Paragraph 149 and 150 of the Framework⁵.
20. In view of the above, I conclude that the proposal constitutes inappropriate development in the Green Belt. I have assessed the scheme's impact upon the openness of the Green Belt and concluded that it would cause limited harm to the openness and purpose of including the land within the Green Belt.

Other considerations

21. The Local Plan was adopted within the last 5 years following public examination and the Neighbourhood Plan made not long before this in June 2017. I am satisfied that the policies referred to are broadly consistent with Framework and that the proposal conflicts with the development plan when taken as a whole.
22. Paragraph 147 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 148 states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
23. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause limited harm to the openness of the Green Belt. In accordance with Paragraph 148 of the Framework, I have given substantial weight to this harm in my assessment.
24. I recognise that the appellant does not consider the 140 cubic metre limit to represent a proportionate amount of development in terms of the overall size of the appeal site. However, this does not represent very special circumstances to justify harm to the Green Belt.
25. In view of the above, I find that there are no very special circumstances that clearly outweigh the scheme's harm to the Green Belt by reason of inappropriateness, and the limited harm to its character, openness and permanence. As a consequence, I conclude that the scheme would conflict with Policy DM43 of the Local Plan, and also find that it would not accord with Paragraphs 147, 148, 149 and 150 of the Framework.
26. The Council has raised concerns over the impact of the development on the character and appearance of the Chilterns AONB. However, given that I am dismissing the scheme for other reasons, it has not been necessary for me to consider this as it would not alter the outcome of the appeal.
27. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

⁵ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

Conclusion

28. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

Robert Fallon

INSPECTOR