



Appeal Decision

Site visit made on 24 May 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2023

Appeal Ref: APP/A1910/W/22/3307916

Zighy Barn, Birch Lane, Flaunden, Hertfordshire HP3 0PT

- 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 Flaunden Construction Ltd against the decision of Dacorum Borough Council.
 - The application Ref 22/01794/RET, dated 1 June 2022, was refused by notice dated 4 August 2022.
 - The development proposed is described in the application form as 'Proposed enlargement of the residential curtilage following the removal of conditions 9 and 10, and variation of condition 4 attached to planning permission reference 21/00365/FUL to permit access via the eastern elevation of Zighy Barn.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the retention of an enlarged residential curtilage around the Buttercup and Zighy Barns and the full-sized opening door in the eastern elevation. The Council dealt with the proposal on this basis and so shall I. I also note that this description of development is used in the appellant's appeal form.
3. The Council does not object to the full-sized opening door and, based on the evidence before me and my site visit, I have no reason to disagree.
4. The development has been implemented. I am therefore considering the appeal retrospectively.

Main Issues

5. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt and if the development is inappropriate development, the effect of the proposed development on the openness of the Green Belt; and
 - whether the 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 proposal.

Reasons

Whether Inappropriate Development and Openness

6. The appeal site comprises a converted agricultural building, in use as two separate dwellings. The site forms part of a wider complex of buildings including stables and other converted agricultural buildings. The site lies within the Green Belt.
7. Green Belt policy in the National Planning Policy Framework (the Framework) sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 149(g), is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. Similarly, paragraph 150(e) sets out that other forms of development are also not inappropriate in the Green Belt. This includes material changes in the use of land, provided such development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
8. Policy CS5 of the Dacorum Borough Core Strategy (CS, 2013) broadly conforms to the general thrust of national Green Belt policy, setting out that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt.
9. The appellant sets out that the appeal site, in particular the extended garden areas, should be regarded as previously developed land, and provides discussion on curtilage. The appellant contends that it, and the wider site, form established residential and equestrian uses. It is also set out that the Council's Brownfield Register includes the site of Buttercup and Zigby Barns as previously developed land. On this latter point, I have no substantive evidence before me to demonstrate the extent of the area which made up the Brownfield Register entry for this site and whether it included the current, extended, garden areas.
10. The definition of previously developed land is provided in the Framework's glossary 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 surface infrastructure...". Even were I to agree with the appellant that the appeal site forms previously developed land, it is a clear requirement under both paragraphs 149(g) and 150(e) of the Framework that any development must not have a greater impact on the openness of the Green Belt.
11. The Framework indicates that openness is an essential characteristic of the Green Belt and a fundamental aim of Green Belt policy is to keep land permanently open, preventing urban sprawl and safeguarding the countryside from encroachment. The openness of the Green Belt has a spatial, as well as a visual, aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when a development is not readily visible from the public realm.

12. I accept that the land in question would be used as amenity space for each of the established dwellings and that the garden areas are currently, in the most part, made up of mown lawns. Those mown lawns retain a relatively open appearance, albeit they are set within a boundary fence. However, there is no substantive evidence before me to demonstrate that those garden spaces would remain as they currently appear going forward. Ornamental planting, hard landscaping, garden buildings and domestic paraphernalia would, in all likelihood, increase over time once the currently vacant dwellings are occupied. This covers a significantly greater area than was the case under the permitted scheme and is in addition to the boundary features already erected. All of this would inevitably lead to a loss of openness, both physically and visually.
13. That a circular horse walking contraption previously existed on the site, near to the original agricultural building, does not amount to the same effect on openness as I have identified under the appeal scheme. Based on the evidence before me, that equipment did not cover the entire area that now forms the extended garden areas. Moreover, the use of the site as garden land, for the reasons given above, would be significantly more visually prominent from nearby properties. Accordingly, the development harms the openness of the Green Belt.
14. For the foregoing reasons, as the development would fail to preserve openness, it would be inappropriate development in the Green Belt rather than an exception permissible under Framework paragraphs 149 or 150. Those impacts would fairly be described as moderate. The proposed development would be contrary to the relevant provisions of CS Policy CS5 which, in summary, seeks to protect the openness of the Green Belt.

Other considerations

15. I acknowledge that the current, larger, gardens would provide a greater standard of accommodation for future occupiers compared with those previously approved. However, this is not in dispute between the main parties, the Council having previously permitted smaller areas of outdoor space. In any case, the improved standard of accommodation for future occupiers would not outweigh the harm identified above. I give this consideration limited weight.
16. My attention has been drawn to a previously allowed appeal at a site at Bushey Drive, Clanfield. Whilst this is acknowledged, that appeal does not relate to land within the Green Belt and is positioned within a different Council area. It is evident that the circumstances that applied there and the planning balance in that case, are not directly comparable to those before me. I therefore give that other appeal scheme limited weight.

Conclusion

17. The proposed development would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt.
18. The cumulative weight attached to the other considerations does not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would not therefore accord with the Green Belt protection aims of CS Policy CS5 or the Framework. The proposed development conflicts with the development plan as a whole.
19. I therefore conclude that the appeal should be dismissed.

A Price

INSPECTOR