



Appeal Decision

Site visit made on 20 June 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2023

Appeal Ref: APP/X0415/W/22/3313490

**Great Kingshill Farm, Mellow Cottage, Stag Lane, Great Kingshill,
Buckinghamshire HP15 6EW**

- 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 Watson against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/22/1517/FA, dated 28 April 2022, was refused by notice dated 29 June 2022.
 - The development proposed is demolition of existing dwelling and outbuilding and erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Additional biodiversity evidence was submitted with the appeal, comprising a Preliminary Ecological Assessment (Syntegra Consulting, September 2022) (PEA). This evidence was prepared after the application was determined by the Council, in response to the third reason for refusal. The Council and any interested parties have had the opportunity to respond to this additional evidence and I have had regard to it when considering the appeal.
3. The description of the proposal in the banner heading above is taken from the Council's decision notice and differs from that on the application form in that the Council had replaced the word 'replacement' with 'detached'. The revised description adequately describes the proposal and the appellant has confirmed that they are content with the revised wording.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area, having particular regard to the sites location within the Chilterns Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposal on biodiversity; and

- if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

5. Policy GB2 of the Chiltern Local Plan 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 (LP) sets out that most development in the Green Belt is inappropriate, apart from the listed exceptions at (a) to (f). GB2(d) relates to limited infilling within villages. However, exceptions outlined within LP Policy GB2 are more restrictive than those described within the Framework. The Framework illustrates the most up to date national policy position on development in the Green Belt and therefore the inconsistency limits the weight I afford to LP Policy GB2.
6. The site is located within the Metropolitan Green Belt. The Framework outlines that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. One of the exceptions to inappropriate development in the Green Belt, set out at paragraph 149(e) of the Framework, includes limited infilling in villages. There is agreement between the parties that the proposal, relating to a single dwelling, is 'limited'. I see no reason to disagree. Therefore, in considering the remaining criterion set out at paragraph 149(e), an assessment has to be made as to whether or not the site would be within the village for the purpose of Green Belt policy and, secondly, whether or not the proposal would amount to infilling.
7. The appeal site is located at the end of Stag Lane, and consists of the dwelling known as Great Kingshill Farm and associated garden area, a static caravan and various outbuildings. The site is on the northern edge of built form associated with the settlement of Great Kingshill. I have not been made aware of any settlement boundary associated with Great Kingshill. I observed that built form along Stag Lane is more sporadic than the denser forms of development within the village core and due to the spacious character created by associated gardens and open fields beyond, the appeal site appears within a semi-rural setting with a strong visual relationship with the adjacent countryside.
8. Notwithstanding, I noted that Stag Lane and the appeal site are within close walking distance to the village centre and associated services and facilities, and is contiguous to residential development to the east. As a result, I find that the appeal site can be considered as within the village for the purposes of the Framework.
9. With regard to infilling, the Framework does not define what infilling is. Both main parties have referred to appeal decisions where Inspectors assume differing definitions of limited infilling. The appellant submits, on the basis of other appeal decisions¹ that infilling needs to fill a gap between two other buildings. Other definitions, such as that noted within an appeal decision² by the Council are more specific, referring to a small gap in a row of buildings forming an otherwise fully developed frontage. The question of infilling is a

¹ APP/X0415/W/22/3290156 and APP/F2360/W/3238776

² APP/X0415/W/20/3253141

matter of planning judgement, taking into account the size and location of the development and its relationship to existing built form. I find, in the absence of a statutory definition, infilling suggests a development which fills a gap in an otherwise built-up area such as a vacant part of a street scene or noticeable empty area between existing built developments.

10. As I have previously identified, the area surrounding the appeal site consists of more sporadic development. The storage buildings to the west of the location of the proposed dwelling are set some distance back from Stag Lane, which the appellant states is a private lane with no public right of way available. Great Kingshill Farm is also set some distance from, and at the head of Stag Lane, having a connection to the lane via a long private driveway.
11. While I acknowledge the location of the buildings either side of the proposed location of the dwelling, due to the lack of visual relationship between the storage buildings, Great Kingshill Farm and Stag Lane, as well as the irregular spatial relationship and orientation of the buildings with no consistent frontage, I find that the appeal site is not seen as a distinct gap between existing development.
12. Accordingly, while the proposal would be limited and within a village, based on the evidence before me, and having assessed the proposal on the ground, the proposed development would not be 'infill'. Therefore, the proposal would lie outside the provisions of paragraph 149(e) of the Framework.
13. I have had regard to the other appeal decisions cited by the appellant and previously mentioned above. However, these appeals differ from the current proposal in several ways. They concern different sites with differing contexts, and whilst the size of the gap within appeal AP/F2360/W/19/3238776 may well have been larger than that within this proposal, the site differs significantly in that it consisted of a built-up frontage to a main road, between a dwelling and a carpark. Also, the full details of the other cases are not before me. This limits the equivalence of the other cases to the current proposal. Moreover, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.
14. It has also been put to me that the appeal site is previously developed land (PDL). The Framework defines PDL 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)*'. However, even if I were to consider the appeal site to be PDL, Paragraph 149(g) requires that limited infilling of PDL would not have a greater impact on the openness of the Green Belt than the existing development. I turn to the matter of openness in the main issue below.

Openness

15. Paragraph 137 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The openness of the Green Belt has both spatial and visual aspects.
16. The proposed dwelling would be a room-in-roof bungalow with dormer windows and would replace two other structures sited elsewhere in the appeal site, these being a single storey timber outbuilding, and a static caravan known as Mellow Cottage which benefits from a Certificate of Lawfulness as a residential

dwelling. The structures to be removed are modest in scale, and both feature low ridge heights and are located to the rear, and within close proximity to Great Kingshill Farm.

17. Whilst the site features a number of fence and planted boundaries, and public views into the site are limited, I observed that there are a number of private views into the site, as well as from the landscape beyond where the proposed dwelling would be visible. As a dwelling, the proposal would have a high degree of permanence and introduce a building on an area of predominantly undeveloped garden and would have a greater impact on openness than the existing development to be removed. It would thereby give rise to a loss of both spatial and visual openness in the context of the locality.
18. Furthermore, the effect of development as encroachment on the countryside may be in the form of loss of openness or intrusion and through the loss of openness, there can be an intrusion or encroachment into the countryside. Given the semi-rural character I have previously identified and notwithstanding the site being within an established garden, it would visually encroach on the countryside.
19. The harm to openness arising from the development proposed in the context of the existing surrounding development in the area would be moderate. Nonetheless, the Framework requires that substantial weight is given to that harm to the Green Belt. As the proposal would have a greater impact on openness it would lie outside the provisions of exception (g) of Framework paragraph 149. As such, the proposal would constitute inappropriate development in the Green Belt. It would conflict with the aims of the Framework and LP Policy GB2, both of which seek to protect the Green Belt.

Character and appearance

20. The appeal site is within the AONB. The Framework at paragraph 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's, which have the highest status of protection in relation to these issues.
21. As I have identified, while the proposal is within an established garden, the character of the area differs from that of the village core and exhibits a more spacious and rural character due to the sporadic form of development and undeveloped nature of large gardens. I observed that the character of the wider landscape features elements of open pasture, arable, paddock and woodland and nucleated settlements.
22. I agree with the Council's finding that the design of the proposal is acceptable and would reflect features of the local vernacular and that public views of the site are restricted from the surrounding area. Furthermore, the proposal includes the removal of two other structures, one of which being a static caravan does little to contribute to the character and appearance of the area.
23. However, notwithstanding existing built form at and near the appeal site, the site of the proposed dwelling retains an open undeveloped character which provides a visual association with surrounding countryside. Additionally, while within a residential garden, the site is nonetheless still within the AONB and contributes to the surrounding landscape character. The proposal would visually spread development into the protected landscape. While the degree of

harm would be limited, such encroachment would, in turn, be harmful to the landscape and scenic beauty of the AONB.

24. Accordingly, the proposal would conflict with LP Policy LSQ1 and Policy CS22 of the Core Strategy for Chiltern District, adopted November 2011. These policies, amongst other things, require development to preserve and enhance the natural beauty of the AONB and conserve and enhance its special landscape character, heritage and distinctiveness. The proposal would also conflict with the aims of the Framework which requires development to protect and enhance valued landscape.

Biodiversity

25. The PEA identified the potential and presence for protected species within the site. Ecological receptors noted as being present include *Rhododendron ponticum* and other unlisted potentially invasive species; nesting birds within trees and hedgerows; signs of small mammal activity; and low reptile and Great Crested Newt (GCN) value within grassland, however high value within hedgerow and woodland areas.
26. However, evidence from the Council's ecological advisers casts doubt on the reliability of the PEA due to the date the associated survey was undertaken, as well as a data search from the Buckinghamshire and Milton Keynes Environmental Records Centre not being carried out.
27. Furthermore, the Council's Newt Officer highlights that the site is within a red impact risk zone for GCN and advised that the PEA is inadequate in a number of respects in relation to GCN. In particular, it is highlighted there are GCN records within 50m of the site, a lack of survey of nearby ponds or entry into the Council's district level GCN licensing scheme. Despite the intensively mown character of grass at the appeal site as highlighted by the PEA, the Council contend that GCN may still traverse across the site during their dispersal phase to reach the surrounding suitable habitats and there is a reasonable likelihood that GCN will be impacted by the proposal.
28. The PEA concludes that any potential adverse impacts from the proposed development upon specific protected species will be able to be wholly mitigated through an ecologically lead design process. In addition, a sensitive landscape design could provide enhancements to the habitats on and adjacent to the site which in turn will benefit multiple species and biodiversity in general.
29. However, Circular 06/2005 makes clear that it is essential that the presence or otherwise of a protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. In this case, given potential limitations of the PEA, the application is not adequately supported by evidence that the proposal could be implemented in a manner which avoids harm or disturbance of a species of principal importance (GCN). Given the potentially suitable habitat surrounding the site, and the area's status as a red risk zone for GCN, this outstanding issue cannot safely be addressed through mitigation measures or planning condition, in the absence of further evidence.
30. Consequently, based on the evidence before me, I am not persuaded that the proposal would adequately protect or enhance biodiversity. It would conflict with relevant requirements of CS Policy CS24, which amongst other things,

require that development proposals should protect biodiversity, and safeguard and enhance any ecological interest. There would also be conflict with the aims of the Framework which seeks to protect and enhance biodiversity and promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species.

Other Considerations

31. The proposal would provide a family dwelling of which the appellant states there is limited supply. However, given that an existing residential unit would be removed, the proposal would not provide any additional housing to the area's housing supply. Therefore, the weight I afford to this benefit is limited.
32. The proposal would also provide economic and social benefits through the construction period of the development but given the scale of the proposal this benefit also carries limited weight.

Planning Balance and Conclusion

33. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. This would, by definition, cause harm to the Green Belt. Even though the extent of the harm would be moderate, the Framework establishes that substantial weight should be given to the harm. I have also found that the proposal would result in harm to the special landscape character of the AONB and would not adequately protect or enhance biodiversity. I collectively afford these harms significant weight.
34. I find that the other considerations in this case, either individually or cumulatively, do not clearly outweigh the harm to the Green Belt openness that I have identified. Consequently, I find that the very special circumstances necessary to justify granting planning permission in the Green Belt do not exist.
35. The appellant refers to development plan policies being out of date but even if paragraph 11d of the Framework was engaged, there are no very special circumstances. The application of policies in the Framework that protect areas of particular importance therefore provides a clear reason for refusing the development proposed. As such the proposal would not be sustainable development.
36. For the above reasons, and taking into account all other matters raised, the appeal is dismissed.

S Harrington MA MRTPI

INSPECTOR