



Appeal Decision

Site visit made on 20 June 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/X0415/W/22/3313552

Mulberry Lodge, 64a Wycombe Road, Prestwood, Buckinghamshire HP16 0PQ

- 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 Mrs Carole Eaden against the decision of Buckinghamshire Council - East Area (Chiltern).
- The application Ref PL/22/2370/FA, dated 1 July 2022, was refused by notice dated 9 December 2022.
- The development proposed is detached dwelling and garage, subdivision of garden.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Buckinghamshire Council against Mrs Carole Eaden. This application is the subject of a separate decision.

Preliminary Matters

3. The site has been subject to an appeal decision¹ dated 5th July 2021 (the previous appeal) which was dismissed, for a similar development to that currently proposed. The previous scheme also proposed the introduction of a dwelling, albeit of a slightly differing design, size and siting. I have taken the previous Inspector's findings into account in my decision. Nonetheless I have reached my own findings based on the circumstances of the present case.
4. As detailed within the previous appeal and highlighted by the appellant, the appeal site and adjacent dwelling has been subject to a number of previous appeal decisions. Mulberry Lodge was allowed at appeal² in 2005. The appeal decision identified that although the vehicular parking and garden area was within the Green Belt, the dwelling was close to, but outside, the Green Belt. The main issues, with respect to the effect on character and appearance and highway safety, were found to not raise harm and the appeal was subsequently allowed.
5. Appeals³ in 2007, the first for a detached dwelling and garage and the second for a detached single garage, both at Mulberry Lodge were allowed. Both cases raised a main issue of the effect of the development on Mill House and the surrounding area.

¹ APP/X0415/W/21/3267390

² APP/X0415/A/04/1151212

³ APP/X0415/A/07/2036844 & APP/X0415/A/07/2040729

Main Issues

6. 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 of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and appearance of the area; and
- whether any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development in the Green Belt

7. Policy GB2 of the Chiltern District Local Plan 1997 (including alterations 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.
8. 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.
9. Following the previous appeal, the Council do not dispute that the appeal site is within a village, or that the proposal would be 'limited', and I have nothing before me to suggest I should take a different approach. Therefore, an assessment must be made as to if the proposal would amount to 'infilling'.
10. The Framework does not contain a definition of 'infilling'. The appellant has provided a number of examples of the interpretation of 'infilling' by Inspectors within appeal decisions to which I have had regard, and I note the definition that the Inspector applied within the previous appeal. Nonetheless, I have not been provided with the full details of other appeals and although I accept that the decision maker in some cases may well have been dealing with similar Green Belt issues, the relevant issue is also one that depends on the specific circumstances of each case.
11. Consistency in decision making is important but each case must be considered on its own merits and what constitutes infilling is a planning judgment, that needs to be determined in the light of the specific circumstances and context of each case. Therefore, in the absence of a statutory definition, I agree with the previous appeal Inspector that infilling suggests '*a small-scale development which fills a gap in an otherwise built-up area*'. I consider examples of a 'gap' could be such as a vacant part of a street scene or noticeable empty area

between existing built developments. Furthermore, it does not automatically follow that a finding that an appeal site is within a village result in the site, or surrounding land, being considered a 'built up' area. An assessment is required to be made on the ground based on the circumstances of the site.

12. I observed that the appeal site is a broadly rectangular area of garden located to the northwest of Mulberry Lodge and shares a boundary to the east with the rear gardens of dwellings that front Wycombe Road. The site is further contained by a private access road to the west, and a mature planted boundary to the north.
13. Beyond the northern boundary and access drive to the west, I observed the land to be woodland and garden which also contained sporadically sited modest structures including sheds, garages, green houses and hardstanding (stated by the appellant in combination to amount to 2200sq.ft), in various states of repair as well as historic garden walls.
14. Although 46 and 78 Wycombe Road, as well as other dwellings in the wider area, are sited to the rear of the broadly linear form of development along Wycombe Road, these properties and associated outbuildings are some distance from the appeal site when considering if the proposal would constitute infilling and therefore are not a decisive factor. I find that whilst there are numerous structures beyond the appeal site to the north and west as described above, their modest form and sporadic siting within largely open woodland and garden results in the land retaining an undeveloped character and does not amount to a 'built-up area'. Furthermore, the removed spatial relationship of the buildings to the appeal site does not result in a defined row or group of development that the appeal site can be said is a noticeable gap within.
15. Notwithstanding the close relationship to Mulberry Lodge and the rear boundary of dwellings along Wycombe Road, having assessed the appeal site on the ground, I find the proposal would not fill a gap in an otherwise built-up area and consequently would not represent limited infilling within a village, thus not meet the exception set out within paragraph 149(e) of the Framework. It would also conflict with, whilst noting the reduced weight afforded to it, LP Policy GB2.
16. It is put to me that the appeal site is previously developed land (PDL). The Framework definition of PDL includes '*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)*'.
17. However, even if I were to consider the appeal site to be PDL, paragraph 149(g) of the Framework requires, in proposals which do not seek to meet an identified affordable housing need, that limited infilling of PDL would not have a greater impact on the openness of the Green Belt than the existing development. While the proposal is put forward as a self-build dwelling, it has not been put to me that the proposal would be an affordable unit, or have I been made aware of any planning obligation or mechanism that is in place in this regard. I turn to the matter of openness in the main issue below.

Openness

18. Paragraph 137 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and

the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt, as a matter of judgement is capable of having spatial and visual aspects. The spaces between buildings, landscaping, trees, open spaces and limited scale of existing buildings all contribute to the concept of openness.

19. The proposal is for a room-in-roof chalet bungalow style dwelling featuring a low eaves height and half hip roof form, detached single garage with pitch roof, extension of existing hardstanding for parking and associated garden area. The proposed garage would be sited to the south-east of the site, with the dwelling being centrally located, but within closer proximity to the western boundary.
20. Given the site is well screened by mature planted boundaries, public views into the site are limited. Nevertheless, the proposed dwelling would be clearly visible from several private views from the rear windows of adjacent dwellings and from the private access lane to the south and west which also serves adjacent land. As a dwelling, the proposal would have a high degree of permanence and, when in combination with the garage, would introduce two buildings on an area, which whilst currently does contains small garden buildings, is predominantly undeveloped garden. Whilst the proposal features low eaves, it would nevertheless introduce substantial built form onto the appeal site and result in a greater impact on openness, both in spatial and visual terms than is as existing within the appeal site.
21. 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.

Character and Appearance

22. I observed that largely detached properties often in well sized plots, mature landscaping, woodland and undeveloped land make a significant contribution to the verdant and spacious semi-rural character of the area. The appeal site, whilst adjacent Mulberry Lodge and to the rear of dwellings that front Wycombe Road, is largely open and undeveloped and features mature planting and makes a positive contribution to the verdant and rural character and appearance of the area
23. Within the context of this identified character, my attention has been drawn to the surrounding urban grain, and a number of dwellings located to the rear of properties, thereby not directly addressing Wycombe Road. I observed that these dwellings form part of the urban grain of the wider area, however, the existence of other dwellings to the rear of properties in the wider area does not necessarily indicate that the proposal would not harm the character and appearance of the immediate area of the appeal site.
24. I acknowledge the previous appeal decisions⁴ cited by the appellant including those relating to Mulberry Lodge and Idaho Cottage. Dwellings to the rear of housing is not unusual in the wider area, and indeed there is a general 'second

⁴ APP/X0415/A/04/1151212, APP/X0415/A/07/2036844, APP/X0415/A/07/2040729, APP/X0415/W/18/3217807, APP/X0415/W/20/3252599

axes of development as previous Inspectors have found. However, within the immediate area of the appeal site it is notable that there are no dwellings to the rear of 1–6 Mill End Close, on land between Mulberry Lodge and 46 Wycombe Road resulting in a significant break in the second axes of development.

25. Notwithstanding other dwellings that may be to the rear of housing elsewhere in the wider area, this area of woodland and gardens, including the appeal site, remains visually free of substantial residential built form despite the sporadic modest garden and garage buildings previously discussed and provides an important visual transition from urban built form to countryside beyond.
26. Although I appreciate the appellant has sought to amend the design, scale and siting of the proposed dwelling following the previous appeal decision, I cannot agree that it would be 'low lying', and while featuring low eaves, would present a dwelling of substantial massing, particularly given the proposed gable, ridge height and dormer windows. While it may be the case the proposal features a number of design features appropriate to the local area, it would nevertheless visually introduce substantial built form into an area of garden which would erode the important contribution the appeal site makes to the immediately surrounding character and appearance of the area.
27. Consequently, the proposal would harm the character and appearance of the area, conflicting with LP Policy GC1 and Policy CS20 of the Core Strategy for Chiltern District – Adopted November 2011. These seek, among other matters, for development to relate well to the characteristics of the site on which it is to be located and to respect the character of the surrounding area. Furthermore, for similar reasons, the proposed development would also be contrary with the provisions of the Framework which seek to enhance the built environment and achieve well designed places, and guidance contained within the National Design Guide (2019).

Other Considerations

28. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances 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.
29. I note the parties' comments in relation to anomalies in the Green Belt boundary and that this remains unresolved. The previous appeal Inspector stated that *'The boundary may not be clearly anchored to physical features close to the appeal site. However, I find the Council's policies plan submitted to be sufficiently clear to enable me to conclude that the site is within the Green Belt. The proposal must therefore be considered within that planning policy context. Consequently, the anomalies and any future changes to the boundary are of limited weight in my consideration of the current appeal.'*
30. I have also reviewed the Green Belt boundary as depicted on the Council's policies plan submitted within the appellant's 'Grounds of Appeal and Statement of Case – January 2021'. I agree with the previous Inspector's conclusion on this matter that the plan is sufficiently clear to enable a conclusion that the site is currently within the Green Belt.

31. The appellant has cited *Bond, R (on the application of) v Vale of White Horse District Council [2019] EWHC 3080 (Admin)* noting that the Council has the right to correct an error on a map of Green Belt boundaries without going through a complete consultation on the matter. Even if this is the case, and the Council have accepted that there is an anomaly and exceptional circumstances exist to alter the boundary, it has yet to be amended, with no definitive indication as to how or when it would be amended. I therefore give this matter limited weight in relation to the current appeal.
32. The last Buckinghamshire Council Self-Build and Custom House-Building Report March 2022 confirmed there are no available plots. Furthermore, the appellant has also drawn my attention to a recent appeal decision indicating that the Council's 5 year housing land supply is 1.81years, and an unmet need for Self-Build and Custom housebuilding of 347 sites.
33. The proposal is put forward as a Self-Build dwelling and it is put to me that appeals elsewhere have demonstrated that substantial weight should be given to such proposals in areas with a lack of supply of sites. However, full details of the other appeals are not before me and therefore I have limited information as to if these were comparative proposals or if there were any additional factors that weighed in their favour. However of significance I note on the evidence before me, other proposals related to a larger quantum of Self-Build and Custom House dwellings than the proposal the subject of this appeal.
34. I find that the scope of the proposal relating to a single dwelling limits its benefit. However, given the clear demonstrable housing need in the area, including that for Self-Build dwellings, I afford the provision of a single Self-Build dwelling moderate weight. Furthermore, the proposal would be energy efficient with low carbon credentials, retain existing hedges and trees as well as the planting of additional semi-mature trees, and noting paragraph 120 of the Framework, the proposal would make efficient use of land. The proposal would also provide economic and social benefits through the construction period of the development, and further spend in the area by future occupiers. However, again given the scale of the proposal, I find these benefits carry limited weight.
35. I have noted interested parties' representations, including those of support for the proposal. No harm has been identified in terms of effect on the Chilterns Area of Outstanding Natural Beauty, neighbouring living conditions, highways or waste and recycling provisions. A lack of harm in these matters is an ordinary requirement for new development, and they do not represent a positive benefit that weighs in favour of the proposal.
36. I also note the appellant's comments about the Council's handling of the application. This has little to do with the planning merits of the case, which I have considered on the basis of the evidence before me and a recent site visit.

Planning Balance and Conclusion

37. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. 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 character and appearance of the area. I collectively afford these harms significant weight.

38. 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.
39. 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.
40. For the above reasons, and taking into account all other matters raised, the appeal is dismissed.

S Harrington MA MRTPI

INSPECTOR