



Appeal Decision

Site visit made on 16 February 2023

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/P0240/D/21/3289668

Alma Farm, Alma Farm Road, Toddington, Dunstable LU5 6BG

- 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 Tony Courtenay against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/03635/FULL, dated 08 October 2020, was refused by notice dated 25 November 2021.
 - The development proposed is: Retention of detached Log Cabin style annexe with shared services to Alma Farm.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development for which planning permission is sought was described on the application form and the Council's decision notice as the "retention of detached Log Cabin style annex with shared services to Alma Farm". The term "retention of" does not describe an act of development and it is necessary to set out precisely the nature of development for which permission is sought in order that it can properly be assessed against relevant local and national planning policies. That is particularly important given the location of the site within the Green Belt where new buildings or development are considered "inappropriate" unless they fall within a limited number of exceptions. In other words, it is necessary to determine what development is proposed in order to ascertain whether it falls within any of those exceptions.
3. The breach of planning control in the extant enforcement notice is described as "without planning permission, the change of use of land from allotment to residential use and the siting of an agricultural workers' mobile home (log cabin)". Reference to "siting of" as opposed to "erection of" indicates that the Council approached the issue on the basis that the cabin did not amount to a building operation but rather that it was sited on the land as part of a material change of use to residential purposes. Had the Council considered it a building, the notice would more likely have referred to the erection of a dwellinghouse.
4. The appeal against the enforcement notice did not seek to dispute that description and it seemed likely that the parties considered the log cabin on the

- basis that it is not a building but a mobile home or twin unit caravan, falling within limits set out within relevant legislation¹.
5. Given the ambiguity in the description of development in the planning application form I wrote to the parties to seek clarification as to whether that was, in fact, the case. The Council confirmed that it had proceeded on the understanding that the cabin amounted to a material change of use of the land. The appellant did not respond to my letter.
 6. I have not been provided with any direct evidence as to how the “mobile home” was brought to site or whether it was constructed off site and assembled or joined together on site, nor in relation to whether it is capable of being moved, albeit that the drawings show it is mounted on top of pads or feet. Nonetheless, given the previous history and the way the cabin has been considered in enforcement proceedings, I find no reason to depart from the position that it is not a building but is essentially a mobile home that has been sited on the land.
 7. Thus, if no building operations are involved, planning permission would only be required if the development resulted in a material change of use in the land. The enforcement notice was upheld at appeal on that basis. Since that time a Lawful Development Certificate under section 191(1)(a) of the Town and Country Planning Act 1990 has been granted, on appeal, for the land upon which the cabin is sited. That concluded that the land had a lawful existing use as garden land associated with Alma Farm².
 8. The appellant put forward the current application on the basis that the use of the cabin would be ancillary to and linked to the occupation of the farmhouse at Alma Farm. If a caravan is sited in a residential garden and used for purposes ancillary to the host dwelling no development is likely to have taken place and the basis that the caravan is not operational development and no material change of use will have occurred. However, if a mobile home is sited and used for independent occupation that would amount to a material change of use of land to use as a caravan site in technical terms.
 9. Whilst the appellant now maintains that the use would be ancillary to the use of the main dwelling it is not clear how that use would differ from the use that has already been considered in the appeal relating to the enforcement notice. Section 285(1) of the Town and Country Planning Act 1990 states that: *The validity of an enforcement notice shall not, except by way of an appeal under Part VII, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.*
 10. Had the appellant considered that the breach, as alleged in the notice, had not occurred or that cabin did not amount to a material change of use it would have been possible to make those arguments under ground (b) or ground (c) of section 174 of the Act when the appeal against the notice was made. However, no such arguments were made. The present agent maintains that the appellant was unaware of the importance of shared services at the time but the requirements of the Act are quite clear. In effect, the current appeal is seeking a second bite of the cherry in attempting to run an argument that

¹ Sub-section 29(1) of the Caravan Sites and Control of Development Act (1960) and sub-sections 13(1) & (2) of the Caravan Sites Act (1968)

² Appeal ref: APP/P0240/X/22/3292606

should properly have been made at the time the enforcement notice appeal was made. Given the clear wording of the Act I am not sure that such arguments can be validly considered at this stage.

11. In any event, the cabin itself is the same, the internal facilities are the same and there is nothing to suggest that the way it is used and occupied is any different than the time the enforcement notice appeal was considered. The unit is occupied by the appellant and his partner whilst his son, daughter-in-law and their family reside in the farmhouse. The unit contains two bedrooms, a bathroom and an open plan kitchen/ dining/ living area. It has a small fenced off garden to the front and parking is available immediately to the rear. Thus, although the occupants are related to those living in the farmhouse, the cabin provides all the facilities for day to day living and there is no indication that the appellant and his partner rely on any facilities in the farmhouse for their existence.
12. Electricity and water appear to be connected to the meter cabinet within the farmhouse but that alone does not dictate that the way in which the unit is occupied is ancillary to the dwelling. It may be that bills for those services are shared, albeit no details have been provided, but that does not mean that there is any day to day interaction between occupants, other than the financial arrangement for paying for those services. The septic tank also appears to be shared but it is not uncommon for properties in rural areas to share private drainage arrangements.
13. The cabin is essentially a self-contained unit that would enable the occupants to live quite separate lives without reliance on the farmhouse. The proposal was originally put forward on the basis that a separate residential unit was required to run the knackers yard on site. The information suggests that the appellant still lives on site and manages the knackers yard and it is not clear how much interaction that involves with members of the family living in the farmhouse.
14. I also note the presence of other farm buildings between the cabin and the farmhouse which creates an element of visual and physical separation. Overall, I have reservations as to whether the appellant's arguments can be validly considered having regard to the terms of s285 of the Act. In any event, notwithstanding the information provided relating to service connections, the unit essentially provides independent accommodation for the appellant and his partner. On the balance of probability, the information provided does not indicate that the cabin is ancillary in nature to the farmhouse and it seems likely that a material change of use is involved.
15. The appellant suggests that a condition could be attached to ensure that the use is ancillary to the main dwelling. However, there is no suggestion that there is any intention to alter the way in which the unit is occupied or to alter the range of services it contains. Thus, the condition would not alter the fact that the unit contains all of the facilities for day to day living, nor would it affect the level of independence it affords to the appellant and his partner on a day to day level.
16. Therefore, I shall deal with the appeal on the basis that permission is sought for a material change of use of land to a caravan site and the siting of the log cabin to form an independent unit of occupation.

Main Issue

17. Notwithstanding the alterations to the boundary of the Green Belt boundary in the Central Bedfordshire Local Plan (2020) the cabin is located on land that falls within the Green Belt. With that in mind the main issues are:
- i) Whether the development amounts to inappropriate development within the Green Belt, including an assessment on the effect on the openness of the Green Belt and on the purposes of including land within it;
 - ii) The effect on the character and appearance of the area;
 - iii) Whether any harm to the Green Belt, and any other harm, is outweighed by other material considerations such as to indicate that very special circumstances exist.

Whether Inappropriate Development

18. The National Planning Policy Framework (the Framework) identifies that new development is inappropriate within the Green Belt unless it falls within a limited number of exceptions. Under paragraph 150(e), the material change of use of land is not inappropriate providing it would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
19. The Inspector in the appeal against the enforcement notice concluded that the development had eroded the openness of the Green Belt, in visual and physical terms, and that it had led to encroachment into the countryside. At the time of my site visit, the circumstances on the ground were no different to those described by the Inspector in that previous appeal. The cabin is a sizeable structure which has led to a reduction in the openness of the Green Belt. It sits slightly apart from the existing farm buildings such that it has increased the visible encroachment of the farmstead into the countryside and is clearly visible from surrounding land and vantage points along Leighton Road to the south.
20. However, I recognise that circumstances have changed in terms of the allocation of the land immediately to the south as a housing site Central Bedfordshire Local Plan (the Local Plan) which was adopted in July 2021. As and when that scheme is built out the visual impact of the cabin from public vantage points along Leighton Road is likely to be much reduced depending on the precise layout of the proposed estate.
21. However, openness has both a visual and physical quality. Even if screened by neighbouring housing, or the adjacent barn which also benefits from planning permission, the cabin would still reduce the openness of the Green Belt on account of its physical size and the fact that it occupies space that was previously free from development. In any event, there is no certainty as to when the housing estate or the neighbouring barn will be constructed. It could be a good number of years before any effective screening is in place.
22. Moreover, given the changes in Green Belt boundaries to accommodate the proposed housing allocation, the appeal site is effectively now at the very edge of the Green Belt boundary on the fringe with the expanded village, as proposed. All Green Belt land is subject to strict controls and one of the key purposes of the designation is to prevent encroachment into the countryside. In that sense land on the very edge of a settlement is sensitive to change in the sense that new development will project into the countryside. If that

approach was followed it would lead to a chipping away of the clearly defined boundary which is clearly contrary to the aims of the Green Belt. Thus, the fact that the proposal is closely adjacent to the housing allocation does not alter my view that the development would erode openness and result in encroachment into the countryside.

23. For all of those reasons, the material change of use amounts to inappropriate development within the Green Belt, having regard to the content of the Framework and policy SP4 of the Local Plan.

Effect on the Character and Appearance of the Area

24. The previous Inspector in relation to the enforcement appeal concluded that the cabin significantly harms the character and appearance of the area on account of its visually exposed location and uncharacteristic chalet style form and appearance which does not harmonise with the surrounding built environment. Given that the situation on the ground at the time of my visit had not altered I see no reason to depart from that view.
25. The visual impact, particularly from Leighton Road, would undoubtedly be mitigated to a large degree as and when the proposed housing estate and adjacent barn are constructed. But until such time the significant harm identified by the previous Inspector would persist. In the absence of any clear timescale for those developments it is difficult to attach significant weight to potential future mitigation which is largely outside the control of the appellant.
26. There is a clear conflict with the aims of policy HQ1 of the Local Plan which, amongst other things, requires development of high quality that reinforces local distinctiveness and which relates well to the existing context. The potential future mitigation does not overcome that policy conflict in my view given the uncertainty over when any building work may take place.

Other Material Considerations and Whether Very Special Circumstances Exist

27. The Council and the previous Inspector have accepted the need for additional residential accommodation at the farmstead in order to serve the knackers yard which provides an important facility serving quite a wide rural area. The appellant's role in running the knackers yard is not in question. There is nothing to indicate that the circumstances in that respect have changed. Given the important role the yard plays in the local agricultural economy the benefits of providing essential accommodation is a matter that attracts significant weight in favour of the development.
28. However, it is well rehearsed that approval has previously been granted for accommodation at a less conspicuous location within the farm complex and the fact that the same benefits could be achieved without some of the visual harm is a matter that weighs against the current appeal proposal. In addition, the approved scheme would have replaced existing buildings such that the effect on the openness of the Green Belt would be minimised.
29. I note the contention that the appellant could erect a building on the land under permitted development rights under Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, such rights only allow for buildings that are incidental to the enjoyment of the existing dwellinghouse. Proposals including primary living accommodation as is the case here would not be permitted. Thus, whilst some

form of building may be constructed it would not replace the current cabin in functional terms and is not clear that the argument is anything more than a theoretical possibility. A building of similar scale would come at some cost and without a clear purpose behind such a proposal there must be uncertainty as to whether the fall-back would materialise.

30. Reference has also been made to the potential to erect further agricultural barns under permitted development rights. However, no details have been provided, such development would most likely require prior approval and would not be directly comparable to the appeal development. Moreover, agricultural buildings are considered 'not inappropriate' within the Green Belt and the context is clearly different. For the reasons set out I attach little weight to the suggested fall-back arguments.
31. The appellant has provided numerous examples of other annexes that have been approved by the Council within the Green Belt. However, any proposal is site specific in terms of its impact on openness, other Green Belt impacts, and the effect on the character and appearance of the area. I am not persuaded that the context of those alternative schemes is directly comparable to the appeal site, particularly given the site-specific planning history and previous acknowledgement that alternative sites within the farmstead would have a lesser impact. Consequently, I attach little weight to the fact that other annexes have been approved elsewhere.
32. The Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances. Substantial weight must be attached to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.
33. The development does amount to inappropriate development on account of the harm to the openness of the Green Belt and encroachment into the countryside. It also causes harm to the character and appearance of the area. The combined weight I attach to that harm is substantial. On the counter side of the argument, I attach little weight to the suggested fall-back scenario or to the fact that other annexes have been approved elsewhere.
34. The benefits of the accommodation and the link to the knackers yard are significant in terms of the service to the agricultural economy. However, those same benefits could be achieved without the same impact on the openness of the Green Belt or character and appearance of the area. Whilst some of those impacts may be mitigated when the adjacent housing site is developed there is uncertainty over when that is likely to happen. Moreover, that mitigation is primarily visual and would not overcome the loss of openness in Green Belt terms. I am not satisfied that the harm identified could be overcome by the imposition of planning conditions.
35. Overall, notwithstanding the changes in circumstance since the previous appeal was determined, the material considerations in favour of the proposal do not clearly outweigh the harm that I have identified. As such, the very special circumstances needed to justify the development do not exist.

Conclusion

36. The development is contrary to the relevant policies of the development plan with regard to the Green Belt and the effect of the character and appearance of the area. In the absence of very special circumstances there are no grounds for taking a decision other than in accordance with the development plan.

37. It follows that the appeal should be dismissed.

Chris Preston

INSPECTOR