



Appeal Decision

Site visit made on 20 June 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Appeal Ref: APP/X0415/W/22/3303743

Elmwood, Swan Bottom, The Lee, Buckinghamshire HP16 9NQ

- 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 & Mrs Burton against the decision of Buckinghamshire Council.
 - The application Ref PL/22/1659/FA, dated 9 May 2022, was refused by notice dated 4 July 2022.
 - The development proposed is described as the 'change of use of existing outbuilding to a residential annexe for the main house'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs Burton against Buckinghamshire Council. This application is the subject of a separate decision.

Preliminary Matter

3. My attention has been drawn to a number of previous planning applications and appeals related to the appeal site. In so far as they are relevant to the development proposal subject of this appeal, I have had regard to the decisions made, as well as to the related evidence that has been supplied.

Background and Main Issue

4. The appeal site is within the Green Belt. Policy GB2 of the Chiltern District Local Plan 1997 - as amended and consolidated (the Local Plan), indicates that most development in the Green Belt is inappropriate and there is a general presumption against such development. However, both this policy and Policy GB11 of the Local Plan also indicate that in certain circumstances, permission for proposals for change of use of existing permanent and substantial buildings in the Green Belt may be given.
5. Paragraph 150 of the National Planning Policy Framework (the Framework) guides that certain forms of development, including the re-use of buildings - provided that the buildings are of permanent and substantial construction - are not inappropriate in the Green Belt, where they preserve its openness and do not conflict with the purposes of including land within it.
6. In respect of the effect of the development on the Green Belt, the Council has found that the development proposals would align with the requirements of Policies GB2 and GB11 of the Local Plan and paragraph 150 of the Framework.

I have been presented with no compelling information from which to conclude otherwise.

7. Against this background, the main issue is the effect of the development on the supply of employment sites and premises within the area.

Reasons

8. The appeal site which is mainly surrounded by countryside comprising; woodland; fields; and enclosures, accommodates a house and a series of outbuildings. The outbuilding subject of this appeal (the outbuilding) is separated from the house by areas of hardstanding/gravel either side of a grassed area.
9. The appeal site has a relatively complex planning history. It has not been disputed that the planning permission granted subject of CH/2008/0969/FA authorised the retention of the outbuilding, which from the evidence, was to be used for purposes associated with a dog kennelling business operating from the appeal site.
10. Within the appeal statement prepared on behalf of the appellants, and a statutory declaration dated 4 March 2022, it is confirmed that the outbuilding has never been used for any business use and has remained empty until the present day.
11. However, this evidence conflicts with comments made on behalf of the son of the appellants in support of a previous application on the site. The statement in support of planning application reference CH/2016/0885/FA, dated 10 May 2016, indicates that at the time of the CH/2008/0969/FA application, the building had not been used for the kennelling of dogs, but other parts of the building had been used in association with the dog kennel business - including the office, the drying area and storage. Furthermore, in the same supporting statement, it was confirmed that the last use of the building was for food preparation and storage associated with the business; as an isolation unit; and also, that it had been used as a greeting area for customers arriving to use the kennel facilities. Given the conflicting evidence regarding the previous use of the building, I can't, therefore, be sure that it hasn't been used for commercial purposes.
12. Furthermore, and even if the outbuilding has not been previously occupied, then on the evidence before me, I have no reasonable basis to doubt that it could be used in accordance with the CH/2008/0969/FA permission, without requiring further planning permission.
13. Given the previous considerations and notwithstanding that the appellants no longer run a dog boarding business from the appeal site, I find that the part of the appeal site upon which the outbuilding is located comprises a form of employment site or premises.
14. Even if the dog boarding business operating from the appeal site was closed in 2010, and a small boarding license for up to 3 animals was granted in 2011 - requiring that the animals live inside the house as family pets - these actions do not alter my previous findings.
15. Whilst the evidence indicates that the appellants lived in the house within the appeal site both during and after the time that the dog kennel business was

operational, this does not alter my conclusion that the outbuilding comprises a form of employment site or premises.

16. The objective of Policy CS19 of the Chiltern District Council Core Strategy for Chiltern District dated 2011 (the Core Strategy) is to support the rural economy. Policy CS16 of the same document seeks to ensure the long-term retention of a portfolio of employment sites and premises within the district, which are attractive to the market and which provide a range of jobs to meet local needs. The amplification of this policy states that to establish that there is no reasonable prospect of continuing commercial use, the Council will require appropriate evidence.
17. Neither Core Strategy Policy CS16 nor its amplification require that the premises be marketed to demonstrate that there is no reasonable prospect of commercial use. I accept that the use of the outbuilding in association with a dog boarding business is a very restricted use. However, no compelling evidence has been put before me demonstrating that, subject to securing any necessary planning permissions, there would not be a demand for other employment-generating/commercial uses of the outbuilding. Furthermore, whether or not there are vacant offices and premises in the towns within the district, it wouldn't necessarily follow that there is not a demand for commercial units of the size and form as the outbuilding, in more rural locations that may not be well-related to local services and public transport links.
18. I accept that the appellants have no intention of selling the property and that they no longer have a need for the outbuilding as a commercial premises. However, and even if the outbuilding has been vacant for a period of in excess of 12 years, this does not serve to demonstrate that there is not a demand for commercial properties within the area, which are comparable with the outbuilding in terms of both its size and location, for either sale or rent. Nor does it demonstrate that there is no reasonable prospect of [the outbuilding's] commercial use, if it were to be made available with a clause preventing it from being used to form a separate dwelling in the future.
19. I do not know the full circumstances leading to the appeal decision - appeal reference APP/X0415/W/19/3237436 – relating to a site at Chesham Service Station. However, in that case, and on the evidence before them, the Inspector found that, amongst other things, the buildings would likely require investment to meet modern efficiency standards and attract new occupiers. In addition, they had been presented with compelling evidence regarding the availability in the supply of offices for let and sale in the wider area. I have not been provided with such evidence in this case, and as such the Chesham Service Station appeal is not directly comparable with the development subject of this appeal.
20. The Council advise that planning application reference PL/20/1655/FA, related to a site within the former South Buckinghamshire district area, where different development plan documents, than those which apply to the appeal site, were in force. Whilst in the Council's consideration of application reference PL/20/1655/FA, it was found that there were no local plan policies that would support the retention of the cattery, in this appeal, policies CS16 and CS19 of the Core Strategy have been found to be relevant.
21. For the reasons given above, the development would lead to the loss of an employment site, which would be harmful to the supply of employment sites

and premises within the area. Consequently, it would conflict with Policies CS16 and CS19 of the Core Strategy. It would also conflict with an objective of the Framework, to support a prosperous rural economy.

Other matters

22. The evidence indicates that the appellants' son provides care for one of the appellants and that together, they reside within the house at Elmwood. I accept that occupying the outbuilding subject of this appeal would afford the son of the appellants the opportunity to secure a greater degree of independence from his parents, whilst still enabling him to be close enough to provide appropriate care and support for them. I sympathise with their situation, but on the evidence before me, I am unable to conclude that the appeal scheme would be the only way to meet the ongoing care and support requirements of the appellants. For these reasons, I accord very limited weight to the benefit associated with facilitating the increased independence of the son of the appellants, as a result of the development subject of this appeal.
23. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB) where Policy LSQ1 of the Local Plan indicates that the primary objective is to conserve and enhance the natural beauty of the landscape. Policy CS22 of the Core Strategy requires that all development should conserve and enhance the special landscape character, heritage and distinctiveness of the AONB. Paragraph 176 of the Framework guides that in AONB's great weight should be given to conserving and enhancing landscape and scenic beauty. Given that no external alterations are proposed either to the outbuilding subject of this appeal or to the wider appeal site, and on the evidence before me, I have no reason to doubt that the proposal would conserve the natural beauty, landscape character, heritage and distinctiveness of the AONB.
24. I have found that the proposed extension would cause harm to the supply of employment sites and premises within the area. I have also found that the extension would enable the son of the appellants greater independence whilst continuing to provide care and support for his parents. However, on the evidence before me, the harm to the supply of employment sites and premises within the area would outweigh the benefits of this development. It is therefore proportionate and necessary to dismiss the appeal.
25. The development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and development plan conflict.
26. The site is within the zone of influence of the Chiltern Beechwoods Special Area of Conservation (SAC). However, given that this appeal is being dismissed on grounds related to the supply of employment sites and premises, there would be no pathways to adverse effects on the integrity of the SAC.

Conclusion

27. For the reasons given above, the appeal is dismissed.

V Simpson

INSPECTOR