



Appeal Decision

Site visit made on 6 July 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2023

Appeal Ref: APP/T3725/W/23/3316589

Hammonds Barn, Purlieu Lane, Kenilworth, Warwickshire

- 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 Dr Alan Malik against the decision of Warwick District Council.
 - The application Ref W/22/0275, dated 14 February 2022, was refused by notice dated 10 February 2023.
 - The development proposed is described as 'erection of 7 new stables (wooden in structure) and laying of new footings / base.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the banner heading above is taken from the planning application form. However, during the application stage the number of stables changed from 7 to 5. The above description therefore differs from that on the decision notice which is 'erection of 5no. stables.' My decision is based on this description from the decision notice, since it more accurately described the proposal. The change from 7 to 5 stables is also shown on the appeal form, so the appellant would not be prejudiced by my use of it.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - 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, including whether or not the proposal would preserve or enhance the setting of the Kenilworth Conservation Area and the effect on the setting of the Grade I listed Kenilworth Castle and the Grade II* listed Registered Historic Park and Garden;
 - the effect of the proposal on biodiversity; and
 - whether or not any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

4. The appeal site lies within the open countryside, outside of any settlement boundary, and is within the Green Belt. The site consists of the remains of a part timber framed building, part stone, part brick with an enclosed yard. The building is in a dilapidated state.
5. The fundamental aim of Green Belt policy in the National Planning Policy Framework (Framework) is to prevent urban sprawl by keeping land permanently open.
6. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate development. A closed list of exceptions is set out, one of which, under sub-paragraph b), concerns the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. The proposed stable building would constitute a facility for outdoor recreation. However, the appellant's site plan also includes an area of land for horses to the north of the proposed building (area shown in green on the appellant's site plan). The Council is concerned that this area of land may not be within the appellant's ownership. The appellant has not confirmed otherwise. Therefore, as this area of land does not fall within the red line boundary of the appeal site, I cannot be sure that this area is under the ownership of the applicant. Furthermore, I found nothing on site, and no evidence is before me, to suggest that this land is currently or was previously used for equestrian purposes.
9. The Council indicate that the British Horse Society recommend 1 acre of grazing land per horse. In the absence of evidence to the contrary, I find the proposed stables and the area shown within the red line boundary on the appellant's plans to be of limited capacity and unlikely to be capable or desirable for use by 5 or 6 horses, as there would be insufficient space for grazing purposes. I therefore find it unlikely that the appeal site would sufficiently accommodate equine use for 5 or 6 horses on the land within the red line boundary. As such, its use would not equate to paragraph 149 of the Framework where it relates to the provision of appropriate facilities for outdoor sport and outdoor recreation. Even if the area was available for the grazing of the horses, the proposal would still need to preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
10. Openness in terms of the Green Belt has a spatial and visual aspect and therefore relates both to considerations of the amount of built form and also a professional judgement on the effect of this on the perception of openness.
11. The proposed stables would be seen in the context of the previously approved building for a one horse stable (ref: W/21/0397), which is intended to replace the dilapidated building on site. However, this has not yet been built. Nevertheless, from what I saw on site, the proposal before me would have a

larger footprint and would extend beyond the building form of the previous approval and the existing dilapidated building on site. Thus, the proposed building would be sizeable and would increase the amount of built form on the site. In addition, due to the scale of the building and its positioning on the brow of a hill, the proposal would appear highly prominent. Although the previously approved building that has not yet been built would be sited in front of it, the proposal would be wider and would still be clearly visible from public vantage points including Purlieu Lane and from the nearby public footpath, and in views from the castle. The increase in built form would result in a loss of openness to the Green Belt.

12. The appellant has indicated an existing tree would offer some screening. However, the tree could die off, be cut back, or be removed. In those circumstances the proposed development would be even more prominent, and in any case, even with the tree in place, this would still not mitigate the spatial encroachment into the countryside.
13. I note that it is proposed to plant additional hedging to screen the development. However, there is no detailed landscaping scheme before me. Moreover, such planting would take time to become established and in itself cannot be a reason to justify the proposal.
14. The proposal would therefore not preserve the openness of the Green Belt in both visual and spatial terms. Consequently, the proposal would not comply with the exception in Framework paragraph 149 b) and would be inappropriate development. I have attached substantial weight to this harm.

Character and Appearance

15. The appeal site is located in an elevated position to the north of Purlieu Lane and to the west of the settlement of Kenilworth. The site is located in an agricultural landscape characterised by open fields and boundary hedges. The site is not far from Kenilworth Castle and the Registered Historic Park and Gardens that encompass the castle and its defences. These features have a very strong and imposing physical presence in the landscape. The open aspect surrounding the castle contributes positively to its setting.
16. The significance and special interest of the castle is derived, in part, from its age, its relevance to the historic evolution and rural history of Kenilworth, and its historic building fabric. This significance and special interest are further underpinned by the spaciousness and openness of its rural setting, which is contributed to by the Registered Historic Park and Gardens.
17. The castle ruins and its immediate setting are located within the Kenilworth Conservation Area. The significance and special interest of Kenilworth Conservation Area and the Registered Historic Park and Gardens is drawn principally from their historic association to the castle.
18. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
19. The proposed stable building would add considerable bulk and mass to the appeal site and would appear wider and disproportionate to the more modest scale of

the previously approved building it would be sited next to. Furthermore, due to the land level changes, the proposal in this location would be highly visible from the nearby public vantage points, including the adjacent public footpath. Given its close proximity to Kenilworth Castle, it would appear dominant and visually obtrusive within the landscape, interrupting public views of the castle and its grounds.

20. The use of modern synthetic materials for the proposal's roof would not be consistent with the rural character of the traditional stables found in the local area. The proposal would also appear unsympathetic and incongruous next to the previously approved building, which would have a more traditional appearance being constructed of brick and tile roof. As such, the proposal would not respond positively to the character of the surrounding area or reflect the design of buildings in the area. There would be some scope for use of external materials through planning conditions. Nevertheless, the extent of the proposed stable and the increased massing it would create on site would adversely impact the character and appearance of the area.
21. Consequently, the proposal would fail to preserve the setting of the Conservation Area, or the setting of Kenilworth Castle and the Registered Historic Park and Garden. As such, it would harm the significance of these heritage assets. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale and substance of the proposal, I find the harm to the heritage assets to be less than substantial in this instance, but nonetheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against public benefits of the proposal.
22. The proposal would provide the appellant with stables to accommodate their horses. However, this would be a private benefit and so not contribute to public benefits of the proposal.
23. Given the above and in the absence of any defined public benefit, I conclude that on balance the proposal would fail to preserve the setting of the heritage assets, with associated harm to the character and appearance of the area. As such, the proposal would conflict with Policies BE1, NE4, HE1 and HE2 of the Warwick District Local Plan (2017) (Local Plan), and Policy KP13 of the Kenilworth Neighbourhood Plan (2017-2029) (2018). Together, these policies seek to ensure, among other things, that development conserves heritage assets in a manner appropriate to their significance, including through protecting their settings, and does not have an adverse impact upon the character of the area.
24. Also, the proposal would not accord with the policies of section 16 of the Framework which seek to conserve and enhance the historic environment.

Biodiversity

25. The submitted documents indicate that a new hedgerow would be planted and that trees and some wildflower planting would be carried out at some point in the future. However, it is not clear from the submitted plans if the proposed hedgerow would be planted on land within the appellant's ownership and there is no proposed siting for the wildflower planting. As such, there is no detailed planting scheme before me, despite it being a matter for which permission is sought.

26. A condition would not be reasonable as it could not secure the planting of hedgerows or any other biodiversity enhancements on land that might not be within the appellant's ownership. Land within the submitted site plan's red line boundary would not be suitable as this would consist predominantly of built form. Any measures found necessary to protect species would also need to be in place through conditions and/or planning obligations before permission is granted.
27. Consequently, insufficient information has been submitted to demonstrate how the proposal would achieve a biodiversity net gain. I must therefore take a precautionary approach.
28. For the reasons given, the proposal would conflict with Policy NE3 of the Local Plan, which amongst other things, seeks to ensure new development protects, enhances and/or restores habitat biodiversity.

Other Considerations

29. The appellant has referred me to planning permission W/18/1011. However, I do not have the specific details of the case before me and have afforded it little weight in my decision. In any event, I have determined this appeal on its own merits based on the information before me and my own observations of the area.
30. The appellant has submitted a historic photograph of Hammonds Barn, which illustrates that buildings previously occupied the site alongside Hammonds Barn. However, these historic buildings appear to have been demolished a long time ago. In my view these matters add little weight in favour of the proposal.
31. Although the proposed stable sizes would align with the British Horse Society sizes, this would not be sufficient to justify the harm caused by the scale and mass of the proposal in this location. As such I give it little weight.
32. I note the appellant's concern regarding the Council's procedure with dealing with the application. However, that is not a matter for my consideration in the context of this appeal decision. Any concerns regarding this matter should be directed to the Council.

Green Belt Balance

33. The proposal would be inappropriate development and would cause harm to the openness of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to this identified harm. In addition, harm has also been identified to the character and appearance of the area and the setting of the heritage assets, as well as a lack of biodiversity net gain, to which I also attach substantial weight.
34. For the reasons given, the total weight of the other considerations does not clearly outweigh the harm by reason of inappropriateness, and any other harm. Consequently, the very special circumstances necessary to justify the development do not exist.
35. As a result, the proposal conflicts with the Framework and Policy DS18 of the Local Plan, which, amongst other things, seeks to protect the Green Belt and its openness in line with national policy.

36. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it.

Conclusion

37. For the reasons given above, the appeal is therefore dismissed.

H Smith

INSPECTOR