



Appeal Decision

Site visit made on 28 June 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/J0405/W/22/3312135

Land Between The Warren and Middle Path, B488, Ivinghoe LU7 9EJ

- 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 Jack Hawkins against the decision of Buckinghamshire Council.
- The application Ref 22/02120/APP, dated 11 June 2022, was refused by notice dated 22 September 2022.
- The development proposed is vehicular/pedestrian access.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant indicated on the Application Form that works had not started. However, interested party representations and subsequent appellant representations indicate that the appellant has installed a gate in the location where the proposed access would be formed. During my site visit I observed a gate in this location but there was no hardstanding or dropped kerb. For these reasons, I will refer to the works as the proposed development throughout my decision, albeit some aspects may have already been constructed.
3. The appeal site is a field about 0.22ha. The proposal is for a new vehicular access off the B488 along with a gate and hardstanding.¹ That is described in the application form as 'proposed vehicular/pedestrian access'.
4. The application form gives the existing use of the site as a paddock. The appellant's statement of case; however, refers to 'livestock' associated with a wider agricultural holding. This appeal follows an unsuccessful appeal in 2021 for a dwelling here.² On the evidence before me, there is no indication that the appeal site was at that former juncture actively used for agriculture.
5. In support of that position the appellant has provided Animal Plant and Health Agency (APHA) records. None refer to horses, as the appellant's description of a paddock might suggest. The primary address on each is some distance away from the appeal site. There is furthermore no evidence before me as to how the wider holding of which the appeal site is said to be part of has been operated, for example historically or in terms of livestock numbers.
6. It is also, frankly, unclear as to how current access circumstances have come to be. Currently, the appellant explains that the site is accessed via a break in the hedge to the south-west, not directly off the B488. I am told that is 'by way

¹ Drawing no. HAWK/22206/ACCESS1 as amend via plans HAWK/22206/ACCESS1A and HAWK/22206/ACCESS1B

² Ref. APP/J0405/W/21/3285632

of the granting of a temporary right of way and is across a neighbour's land'. There is potential interaction with footpath IVI/12/1 also.

7. Such access constraints as at present, would likely have limited any agricultural use in the past. Moreover, I saw that there also appeared to be a gate between the appeal site and a field to the east. It may be that land has been apportioned or sold separately, leading to the current circumstances. However, notwithstanding the foregoing, to which I will return, it would theoretically be possible to secure the use of the access for agricultural purposes only via condition, were the scheme acceptable as a whole.

Main Issue

8. The main issue is the effect of the proposed development on openness and landscape character, reflecting that the appeal site is located within the Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB).

Reasons

9. The appeal site is located within the Chilterns AONB and the Green Belt. Insofar as relevant to this appeal the AONB here is characterised by a patchwork of agricultural fields demarcated by hedgerows. There are a small number of properties pepper-potted across the landscape here. Nonetheless, the area is characterised by undeveloped fields which appear to be used for agricultural purposes. These characteristics combine to create a verdant and rural character.
10. Section 85(1) of the Countryside and Rights of Way Act 2000 as amended (the '2000 Act') places a duty upon me to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. National Planning Policy Framework (the Framework) paragraph 176 sets out that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.' It further sets out how 'the scale and extent of development within all these designated areas should be limited....'
11. The appeal site is a field free from development, bordered by low fences and hedgerows. Rolling hills are located the other side of the appeal site, from the road, and are prominent on the landscape. Currently, the site is untended grassland, but I understand that the field is used for agricultural purposes so the height of the grass may vary over time. It provides a landscape break between adjoining residential development on either side, being essentially natural in appearance. Therefore, it makes an important contribution to the openness of the area despite its size and boundary features.
12. The proposed development includes the removal of a section of the hedgerow to form a new access to the site including the installation of a dropped kerb and a large section of hardstanding. The application plans were amended during the determination of the planning application. The final proposal includes the installation of a cellular base in the middle section of the site, with a tarmac crossover leading from the road to the proposed site entrance. The size of the hardstanding was also increased to facilitate manoeuvring vehicles and create parking spaces for up to 3 vehicles.

13. The proposed development would include the erection of a gate which is similar in appearance to the low fences and would include the installation of a cellular base which would allow the grass to grow through it. Notwithstanding, it would lead to the loss of a section of the hedgerow which contributes toward the verdant character of the area.
14. Policy S4 of the Vale of Aylesbury Local Plan 2013-2033, (VALP, adopted September 2021) states that within the Green Belt, land will be protected from inappropriate development in accordance with national policy. Policy S4 goes on to explain that small scale development for the purposes of agriculture will be supported, provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
15. Paragraph 137 of the Framework states "The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence." Paragraph 149 identifies that the construction of new buildings within the Green Belt are inappropriate subject to specific exceptions. Also, paragraph 150 identifies certain forms of development which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
16. 'Building' as defined in section 336 of the Town and Country Planning Act 1990 as amended, includes 'any structure or erection'. Similarly, 'engineering operations' is therein defined as including 'the formation or layout out of means of access to highways'. The gate and hardstanding therefore relate to different provisions. Both buildings and engineering operations under the 1990 Act are forms of development.
17. Engineering operations are identified as being not inappropriate development subject to them preserving the openness and ensuring they do not conflict with the purposes of including land within the Green Belt, within paragraph 150 of the Framework.
18. The concept of openness logically has both visual and spatial aspects. The proposed development would have a very limited visual impact on the openness of the Green Belt as the cellular base would only be visible from areas immediately adjacent to the appeal site, and would allow the grass to grow through it which would partially screen it. Spatially; however, the proposed development would have an effect on the openness of the Green Belt as it would introduce hardstanding into an area that is currently free from development. It would also enable additional activity to take place on the site.
19. Within paragraph 149 of the Framework buildings for agriculture are considered not inappropriate in the Green Belt. There is no dispute between the main parties that this would be the function of the gate, i.e. to provide access to the field for unloading livestock and, notwithstanding my reasoning initially in this decision could be secured via condition were the scheme acceptable as a whole. Therefore, the principle of the proposed gate is accepted.
20. Nevertheless, access and the gate form the proposal as a whole. One element would be inappropriate development; the installation of a cellular base and its implications would not preserve the openness of the Green Belt for the above reasons.

21. As discussed above, there would be increased activity on the site, albeit this activity would be associated with an agricultural use. The installation of agricultural accesses is common in the wider rural area. The proposed cellular base would allow grass to grow through it, largely screening it from wider views. Notwithstanding, the increased activity and vast extent of the hardstanding would have an urbanising effect on the character of the site.
22. Although the construction of a gate for agricultural purposes is considered to not be inappropriate development in the Green Belt, it would still have a harmful effect on the natural and scenic beauty of the AONB. The proposed gate would appear similar to the low fence; however, the fence was previously, at least partially, screened by a dense hedgerow. A section of the hedgerow would be removed to install the gate. The installation of the gate, alongside the tarmac crossover up to the site entrance, would be at odds with the verdant character of the AONB.
23. Interested parties have highlighted the planting of species of vegetation which are not commonly found in the area and the removal of two trees as having an effect on the character and appearance of the area. The planting of this vegetation and the removal of the trees is outside of the scope of my assessment on the appeal proposal, as they did not form part of the original planning application.
24. In conclusion the proposed development would have a harmful effect on openness and landscape character of the area. It would therefore be contrary to VALP policies S1, S3, S4, BE2, NE3 and NE4. These policies indicate that consideration will be given to minimising impacts on the landscape; new development in the countryside should be avoided; Green Belt land will be protected from inappropriate development in line with national policy; all new developments shall respect and complement the physical characteristics of the site and its surroundings; proposals for non-major development in the AONB shall preserve and enhance the AONB's special qualities; and, development must recognise the individual character and distinctiveness of particular landscape character areas.
25. The proposed development would be in accordance with paragraph 84 of the Framework, insofar as planning decisions should enable the development of agricultural and other land-based rural business. However, it would be contrary to paragraphs 174 and 176 of the Framework which set out how planning decisions should contribute to and enhance the natural local environment by recognising the intrinsic character and beauty of the countryside; and great weight should be given to conserving and enhancing the landscape and scenic beauty in AONBs. Therefore, the proposed development would be contrary to the Framework when read as a whole. It would also be contrary to the advice within section C1 of the National Design Guide.

Other Matters

26. The proposed access, as argued to ensure the long term viability of maintaining livestock on the land by a local farmer is a benefit. However, given the size of the land and the farmer's access to other parcels of land in the area, only modest weight can be ascribed to this benefit. Moreover the site, presently, is accessible and there is little information before me as regards constraints in that respect; or, that the scheme before is the only means of overcoming applicable constraints.

27. There is a need to provide a gate to ensure animals do not stray onto the carriageway whilst a vehicle exits the site. It appears that the existing access arrangement would stop animals straying on to the carriageway. There is also no evidence before me that indicates that this has been a previous issue. As such, only very limited weight can be ascribed to this benefit.
28. The improvement to the existing access in terms of its geometry and the highway officer considering that a safe access could be formed at the proposed location are neutral factors. Similarly, the appeal site being in Flood Zone 1 and 'green' great crested newts impact zone are neutral factors and do not weigh in favour or against the proposed development.
29. The appellant contends that the size of the hardstanding was requested by the highway officer. Within the representations put before me, the highway officer has not requested the provision of three car parking spaces. There is no compelling evidence explaining the need for the provision of three car parking spaces and the resultant increase in activity.
30. The council has indicated on the appeal questionnaire that the appeal site is in or adjacent to or likely to affect an internationally designated site. The appeal site is located within the zone of influence of the Chilterns Beechwoods Special Area of Conservation. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as a result of my overall reasoning regarding the scheme, it is not necessary for me to undertake an appropriate assessment, or to consider this matter further.
31. The conduct of the council during the determination of the planning application does not alter my assessment on the planning merits of the appeal proposal and so it does not weigh in favour or against the appeal proposal.
32. The previous appeal on the site assessed the impact of the previous scheme on the openness of the green belt. The inspector explained that the scheme involves the construction of a detached house with an associated garage and parking. This list was predicated with the word "involves" which indicates that the list is not exhaustive. The inspector was therefore assessing the scheme as a whole, including the access. My assessment is therefore consistent with the previous appeal decision.
33. As part of the appellant's final comments, they have provided an Agricultural Land Classification Report. This evidence had not been previously provided to the council during the determination of the application or as part of the appellant's original representations.
34. Even were I to accept the appellant's late submission of a report into agricultural land classification, that is a tangential issue. Whatever that report would have concluded would not have altered my reasoning above.
35. As outlined within the preliminary matters, there is also very little compelling evidence in terms of the need for the access and hardstanding to support an agricultural use at the appeal site.

Conclusion

36. For the reasons given above, I conclude that the proposed access and associated hardstanding would be inappropriate development in the Green Belt. As per paragraph 148 of the Framework, substantial weight has to be given to any harm in the Green Belt. When considered together, the other considerations do not clearly outweigh the identified harm. Consequently, very special circumstances would not exist, nor do other matters serve to outweigh the broader landscape harm that would result.
37. Having taken account of the development plan, as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR