



Appeal Decision

Site visit made on 5 September 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal Ref: APP/P0240/W/23/3314507

The Bungalow, Tring Road, Dunstable, Central Bedfordshire LU6 2JU

- 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 Ben Rowles against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/01364/FULL, dated 24 March 2022, was refused by notice dated 11 November 2022.
 - The development proposed is the demolition of existing house and stable block and replacement with new 1 1/2 storey 5 bedroom house with attached single storey garage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted an amended plan as part of their final comments reference: Proposed Site Plan 21 656 PL22 A. I understand that this amended plan seeks address some of the Council's concerns by altering the proposed residential curtilage by reducing its overall size. However, the appeal process should not be used to evolve a scheme and it is important that what was considered by the Council, and on which interested people's views were sought is the same in the appeal. The Council would have seen this amended plan as part of the appeal but due to this plan being submitted with the final comments, they have not had the opportunity to formally comment. For that reason, I consider that the Council, along with any interested parties, would be prejudiced if I determined the appeal on the basis of the amended plan. Accordingly, I have determined this appeal based on the plans originally submitted with the planning application, on which the Council made its decision.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the development on the openness of the Green Belt, and;
 - the effect of the development on the character and appearance of the area,
 - the effect of the development on the integrity of the Chilterns Beechwoods Special Area of Conservation,

- housing mix, and;
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. Paragraph 149 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, are a replacement building, providing that the building is in the same use and not materially larger.
5. The proposed replacement house is materially larger than the existing and as such, it is not disputed that the proposal does not meet the exception of a replacement dwelling.
6. Accordingly, the proposal would comprise inappropriate development in the Green Belt.

Openness

7. Paragraph 137 of the Framework sets out that the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open. While the existing house would be demolished the proposal would be materially larger which would inevitably lead to a loss of openness.
8. Consequently, the development would lead to encroachment of development into the open countryside and result in a loss of Green Belt openness which attracts substantial weight against the proposal.

Character and appearance

9. The appeal site is located at the end of Farmers Lane, which is a short lane that contains a small row of houses. These houses front the lane and are modest in size with tightly constrained curtilages. The wider area is surrounded by extensive open fields which gives the area an open and rural character and appearance.
10. I note that the Council consider that in allowing this appeal could mean that the existing dwelling is retained. However, it is clear from the proposed plans that the existing dwelling would need to be demolished to facilitate the proposal. Furthermore, I am satisfied that a suitably worded condition could ensure the demolition of the existing dwelling.
11. There is a dwelling currently under construction next to the appeal site and the proposal has been designed to be in keeping with this dwelling. I have not been provided with the precise details of the dwelling under construction however it differs from the other houses on the lane due to its set-back distance and large curtilage size.
12. The proposal would also be located centrally within the plot which would further erode the prevailing character of nearby dwellings that front the lane.

Furthermore, the proposal would have an extensive garden which would be greater in size and depth than the modest existing garden and those at nearby properties, including the dwelling under construction. It would also have a long driveway and large parking area immediately to the front which differs from the modest car parking areas to the front of nearby properties.

13. Overall, this would lead to an urbanising effect on the appeal site which would harm the rural and open character and appearance of the area.
14. The proposals large curtilage could provide opportunity to provide a landscaping scheme and improve biodiversity. However, most of the proposed curtilage is currently free from development and it therefore contributes positively to the open and rural character and appearance of the area. The appellant has not put forward a landscaping scheme for the development and so it has not been demonstrated how this rural character could be maintained with such a scheme.
15. I therefore conclude that the proposal would unacceptably harm the character and appearance of the area. It would be contrary to policies EE5 and HQ1 of the Central Bedfordshire Local Plan 2015-2035 (LP). Amongst other things these seek to ensure development reflects the local character and distinctiveness in terms of the scale and pattern of the surrounding landscape and existing settlement form and enhance or reinforce the local distinctiveness of the area.

Chilterns Beechwoods Special Area of Conservation

16. The appeal site falls within the zone of influence for the Chilterns Beechwoods Special Area of Conservation. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Housing mix

17. The Council's fifth reason for refusal concerns housing mix and suggests that a 5 bedroom dwelling would not be appropriate in the appeal site location. Policy EB14 of the Eaton Bray Neighbourhood Plan 2015-2035 (NP) seeks to ensure that houses are one to three bedroomed flats, semi detached or terraced. However, the supporting text outlines that this is only applicable to schemes where there will be a net addition to the number of dwellings. As the proposal is for a replacement dwelling there would no net addition of dwellings and I therefore find no conflict with Policy EB14 of the NP.

Other considerations

18. The appellant has put forward a fallback position in the form of two extant prior approvals¹. These show extensions and alterations to the existing dwelling. I accept that the fallback position is available and that from the information before me both schemes could be carried out.
19. The appellant has stated its intention to carry out the fallback position should this appeal fail, and I therefore accept that there is a greater than theoretical possibility that it would be implemented should the appeal scheme be

¹ Council references CB/21/04878/PAES and CB/20/03462/GPDE

dismissed. It is therefore a material consideration in the assessment of the proposal.

20. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme. This approach is in accordance with relevant and established case law².
21. The appellant considers that as the appeal scheme would result in a reduction in built form as it would have a reduced footprint, floorspace, volume and height. It would also result in the removal of a stable block, thereby improving openness. The appellant therefore considers that the appeal scheme would be less harmful than the fallback position.
22. I acknowledge that the fallback would have a reduced built form, but these extensions and alterations would largely utilise the existing dwelling which would retain an element of its rural design and appearance.
23. Similarly, whilst there would be a reduction in built form, due to the positioning of the proposed dwelling in the centre of the plot with a much greater garden area, the potential for paraphernalia would have a greater impact on openness than the changes resulting from the fallback position. I therefore find that the appeal proposal would be more harmful than the fallback position and as such I give the fallback position limited weight.
24. I have had regard to the appeal decision³ referred to by the appellant whereby the Inspector found that a prior approval scheme attracted significant weight. I do not have the full details of this scheme before me however the proposal is a first floor extension which is materially different from the dwelling proposed in the appeal before me.
25. I also note that the Council have previously accepted a fallback position as a very special circumstance and in the subsequent appeal⁴ the Inspector found the fallback would not result in a greater impact on openness. I do not have the full details of this scheme before me however it differs in that the Inspector found that there would be no harm to the character and appearance of the area. I therefore give these appeals limited weight.
26. The Council have found the proposal to not harm the nearby Area of Outstanding Natural Beauty. I have no reason to conclude otherwise, however this is a neutral matter.

Green belt balance and conclusion

27. The other considerations that weigh in favour of the proposal only carry limited weight when considered as a whole. Therefore, in this case they do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission for development in the Green Belt do not exist.

² Coln Park LLP v Secretary of State for Communities and Local Government [2011]; Simpson v Secretary of State for Communities and Local Government [2011]; Zurich Assurance Limited V North Lincolnshire District Council [2012]; Gambone v SSCLG [2014] EWHC 952 (Admin)

³ APP/G2245/D/16/3162201

⁴ APP/P0240/W/21/3284083

28. In conclusion, the proposal conflicts with policies EE5 and HQ1 of the LP and national policy set out in the Framework which seeks to protect the Green Belt. There are no other considerations that outweigh that conflict and for this reason the appeal is dismissed.

D Wilson

INSPECTOR