



Appeal Decision

Site visit made on 26 September 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2023

Appeal Ref: APP/X0415/W/23/3316824

The Brickyard, Shire Lane, Cholesbury, Buckinghamshire HP23 6NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by HMD Group Pension Scheme against Buckinghamshire Council.
 - The application Ref PL/22/2220/FA, is dated 21 June 2022.
 - The development proposed is the erection of office/workshop.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its statement, that had it been in a position to determine the application, it would have refused planning permission. The substance of the Council's statement has informed the main issues of the appeal.

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 and the Chilterns Area of Outstanding Natural Beauty (AONB), 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. The appeal site is located within the Green Belt. Paragraph 149 of 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 aims of policy GB2 of the Chiltern District Local Plan¹ (LP) are broadly consistent with the aims of Green Belt policies within the Framework.
6. The appeal site is currently free from development and as such the proposal cannot possibly constitute a replacement building. Therefore, the exemption at paragraph 149 (d) is not met. Accordingly, the proposal would comprise inappropriate development in the Green Belt. As far as relevant, the proposal would be contrary to policy GB2 of the LP. I am required to attach substantial weight to this harm.

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. The construction of a building on land where there is currently no development would inevitably lead to a loss of openness.
8. Paragraph 148 of the Framework is clear when considering any planning application, the decision-maker needs to ensure that substantial weight is given to any harm to the Green Belt.
9. Consequently, the development would lead a significant loss of Green Belt openness which attracts substantial weight against the proposal.

Character and appearance

10. The Council report that the site is within the AONB. The AONB is categorised by the chalk escarpment that gently slopes towards Greater London with the district being located on the "dip-slope" consisting of steep-sides mostly dry valleys separated by ridges and plateau areas. It also consists of broadleaved woodlands and vernacular buildings in brick, flint and dark timber. The appeal sites large, open plot with its densely vegetated boundaries and surrounding woodland gives the area an open and verdant character and appearance which contributes positively to the qualities of the AONB. Paragraph 176 of the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty Areas of Outstanding Natural Beauty.
11. I note that previous buildings existed on site and there is an extant permission for an office building. However, at present the appeal site is a vacant parcel of land with no built development.
12. The proposal is to build a two storey building which would be located centrally within the plot. Buildings are generally sporadic along Shire Lane and are mostly dwellings and some agricultural buildings. Immediately next to the site is a single storey building of wooden construction and as a result, the proposed two storey building would stand out in this context.
13. The proposal would be located further forward than the neighbouring building which is located towards the back of the plot and have a covered porch area which would form the entrance to the building and extend further forward. Furthermore, the proposal would include extensive hardstanding to the front of the site which would be used for car parking and access.

¹ Chiltern District Local Plan Written Statement Adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011

14. The Council suggest that an additional three parking spaces would be required than what was previously approved as a result of recently adopted guidance². The plans submitted with the appeal do not show the precise number of parking spaces that would be provided and as such I cannot be sure that the correct number of spaces could be accommodated on the proposed hardstanding to the front of the site. While this could be controlled by a suitably worded condition it would likely result in further hardstanding.
15. Overall, the proposals' location, being further forward than the neighbouring building and the extensive hardstanding required for parking would result in a prominent feature that would erode the open and verdant character and appearance of the area.
16. The mature trees and vegetation that border the site would provide some screening. However, there are generally gaps between the trees which allow views into the site and in the winter months, vegetation would be much less dense which would further open views into the site.
17. I therefore conclude that the proposal would harm the character and appearance of the area and the AONB. I attach great weight to this harm. It would be contrary to policies GC1 and LSQ1 of the LP and policies CS20 and CS22 of the Local Development Framework Core Strategy for Chiltern District adopted November 2011 (CS). Amongst other things, these policies seek to ensure development conforms with the height of adjoining buildings and structures, conserve and/or enhance the special character or appearance of the AONB and is of a high standard of design.

Other considerations

18. The appellant has put forward a fallback position in the form of an extant planning permission³. This is for the construction of office/workshop and I accept that the fallback position is available.
19. The appellant has stated their intention to carry out the fallback position should this appeal fail and have also commenced work through the demolition of the existing buildings on the site, I therefore accept that there is a greater than theoretical possibility that the fallback would be implemented should the appeal scheme be 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.
21. The proposal would result in an overall reduction in footprint, width and length. However, the overall height would increase and as a result the overall volume of the building would be greater than the extant permission. It would also be in a different position on the site.
22. I have already found that the proposal would harm the character and appearance of the area due to the height of the building and its forward position. While I note the reduction in footprint, width and length, this does not

² Buckinghamshire County Council Transport, Economy and Environment – Buckinghamshire Countrywide Parking Guidance September 2015

³ Council reference: PL/19/3504/FA

mitigate the harm I have identified from the height increase and its forward position. I therefore find that the proposal would be more harmful than the fallback position.

23. The appellant contends that the extant permission is too small to attract businesses to use the building. While the evidence to show this is limited, the economic benefits of providing more useable business space attracts moderate weight in support of the proposal.
24. The Council have found that the proposal would have an acceptable access and not harm the living conditions of neighbouring occupiers for which I have no reason to disagree. These are however neutral matters which do not outweigh the harm I have identified.
25. The appellant has provided an appeal decision⁴ whereby an Inspector considered an increase of 33% in volume of a building would not constitute inappropriate development. However, that appeal concerned the demolition of an existing dwelling and outbuildings which differs from the proposal in front of me where no replacement building is proposed. I therefore give the other appeal decision only little weight.
26. I also note that the Council have granted planning permission⁵ for larger buildings than the appeal building. I do not have the full details of these before me. However, both included the demolition of existing buildings and relate to extensions to existing dwellings which differs from the new office building proposed as part of this appeal. I therefore give these appeals and planning permissions limited weight.
27. The appellant has referred to several planning policies from neighbouring Council's which set out specific percentages for increases to buildings in the Green Belt. While I note that the Councils may have been previously combined, this is no longer the case, and each Council is within their right to have different policies and thresholds within them. I have therefore given limited weight to these policies.

Green Belt balance and conclusion

28. 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 to the Green Belt and AONB. Consequently, the very special circumstances necessary to justify granting planning permission for development in the Green Belt do not exist.
29. In conclusion, the proposal conflicts with policies GB2, GC1 and LSQ1 of the LP, policies CS20 and CS22 of the CS 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 and planning permission is refused.

D Wilson

INSPECTOR

⁴ APP/FO114/W/17/3178000

⁵ Council reference: PL/20/2235/FA and PL/21/4446/FA