



Appeal Decision

Site visit made on 9 November 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2023

Appeal Ref: APP/G1630/W/23/3321785

Lakeside Barn, Churchdown Lane, Churchdown, Gloucester GL3 2LR

- 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 Lee Dean against the decision of Tewkesbury Borough Council.
 - The application Ref 22/01329/FUL, dated 8 December 2022, was refused by notice dated 23 April 2023.
 - The development proposed is change of use of land for the stationing of a shepherds hut.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form confirms that work for the proposal has started. However, at the time of my visit, no shepherds hut was positioned on the appeal site. Therefore, I will treat the appeal as being for a proposal. I have used the description of the proposal as set out in the Council's Decision Notice, which is more concise than that used in the planning application form. I am satisfied that no parties would be prejudiced by my using this description.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt,
 - the effect of the proposal on highway safety, and
 - if the proposal is inappropriate, 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

Green Belt

4. The site lies within the Gloucestershire Green Belt and consists of largely undeveloped agricultural land adjacent to an existing dwelling. It is intended that the proposed shepherds hut would be used for tourism accommodation, to provide animal-based respite care and for visiting family members. Although

the Council refers to the proposal as being akin to a building, the plans show that it would have little attachment to the ground. I have therefore treated the proposal as being for a change of use for these purposes and for engineering operations (such as the proposed water tank), rather than for the erection of a building.

5. The Framework states that a fundamental aim of the Green Belt is to keep land permanently open. As such, Framework Paragraph 147 makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Framework Paragraph 148 advises that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
6. At Paragraphs 150(b) and 150(e), the Framework states that development including engineering operations and the change of use of land is not inappropriate, provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. These purposes include checking unrestrained sprawl and safeguarding the countryside from encroachment.
7. Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS), adopted December 2017, seeks to protect the Green Belt from harmful development, restricting it to that deemed appropriate by the Framework, unless very special circumstances can be demonstrated. JCS Policy SD5 is therefore consistent with the Framework. It is therefore necessary for me to determine whether the proposal would preserve the openness of the Green Belt. The Planning Practice Guidance¹ advises that openness can have both spatial and visual aspects.
8. The proposal would be located in a corner, close to existing areas of hardstanding, with dwellings and the M5 motorway nearby. Even so, the appeal site is greenfield agricultural land and essentially unbuilt-up. In contrast, the proposed shepherds hut and its associated development would have an appreciable bulk and mass. Although a mobile structure, there is little to suggest that the presence of the shepherds hut would be temporary.
9. As such, spatially, the proposal would introduce a built-up form that would physically intrude into and harmfully diminish the current absence of such development on the site. Accordingly, the proposal would result in additional sprawl and encroachment into the countryside. It would thus conflict with Green Belt purposes.
10. Visually, public views of the proposal would be obtainable from the footpath adjacent to the site as well as from nearby Churchdown Lane. Landscaping including trees and hedging may mitigate the visual effects of the proposal in time. However, this cannot be relied upon, especially in winter when foliage may be reduced, or in the long term. Consequently, I conclude that the proposal would have spatial and visual effects that would harm the openness of the Green Belt, conflicting with its purposes.

¹ Paragraph: 001 Reference ID: 64-001-20190722

11. For the reasons given above, the proposal would not comply with Framework paragraphs 150(b) and 150(e) and so would amount to inappropriate development. This is, by definition, harmful to the Green Belt. As I have found that the proposal is inappropriate development, it would conflict with the Framework and with JCS Policy SD5.

Highway Safety

12. Access to the site would be achieved using the existing driveway off Churchdown Lane, which also serves other properties. Space would be provided within the site for vehicles to enter and leave in forward gear. Electrically operated gates would also be used, aiding access to the site for visitors. Nevertheless, Churchdown Lane is a fast rural distributor road. In such circumstances, Government guidance in Manual for Streets (MfS) requires that adequate sight stopping distances are available to vehicles leaving the site, to avoid colliding with those already using the road.
13. When using the existing access, the visibility of oncoming vehicles on Churchdown Lane is restricted in one direction by hedgerows on the site boundary and on the roadside. These are not shown as being within the control of the appellant or the Highway Authority, and so their height may well impede visibility. The gradients and vertical plane of the carriageway of Churchdown Lane may also hinder visibility for those leaving the site.
14. Little substantive evidence has been provided to demonstrate the full extent of obtainable visibility, or that traffic speeds would justify a reduction in the length of the necessary sight stopping distances. As such, visibility for those leaving the site may well be below the distances required by MfS. On this basis, I am concerned that an increase in traffic using the access would represent a very real risk of collision with road users on Churchdown Lane.
15. The proposal would create additional accommodation that would be used by guests, amongst others. Future occupiers may only stay occasionally or for single days. Even so, the proposal would nevertheless generate additional traffic movements using the access. Moreover, there would be little to prevent a more intensive use of the hut over time, with a greater number of vehicular trips to and from the site.
16. Consequently, based on the information available to me, the proposal may well have a harmful effect on highway safety. It would therefore be contrary to JCS Policy INF1, which requires that safe access to the highway network is provided.

Other Considerations

17. The hut would use a traditional design, built to high environmental standards including in respect of electricity generation and water use. The site and its surroundings include wild meadow and new planting, to encourage wildlife, insects and bees on the site. It would also contribute to tourism and so to the wider economy, as well as having social benefits. However, given the small scale of the proposal, these benefits would be minor and so I give them only moderate weight.
18. The appellant has expressed concern about the Council's handling of the case, including that insufficient publicity has meant that local people have not been able to show their support for the proposal. However, the Council has

confirmed that the application was advertised by means of a site notice and that representations were received. This does not therefore change my consideration of the proposal, which is based on its planning merits.

Planning Balance and Conclusion

19. The proposal would be inappropriate development in the terms set out by the Framework. I attach substantial weight to this harm, in accordance with Framework paragraph 148. For the reasons given above, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
20. For the reasons given, there would be conflict with the Development Plan, read as a whole. It would also conflict with the Framework. No other material considerations have been shown to have sufficient weight to outweigh this conflict. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR