



Appeal Decision

Site visit made on 2 January 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/W0530/W/23/3318514

Land adjacent to The Barn, Fen Road, Milton, Cambridge CB4 1UN

- 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 John Simmons against the decision of South Cambridgeshire District Council.
 - The application Ref 21/01197/FUL, dated 10 March 2021, was refused by notice dated 16 September 2022.
 - The development proposed is erection of barn (amendment to scheme approved pursuant to 20/02492/PRI06A and 20/03883/PRI06A).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 19 December and updated on 20 December 2023. While changes have been made to the paragraph numbering, those parts of the Framework most relevant to this appeal remain broadly the same. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party has been prejudiced by my approach.
3. While concerns have been raised by a third party regarding the address of the appeal site, the site is clearly identifiable from the postcode and site location plan. I have therefore used the address given on the planning application form in the banner heading above.
4. The appellant submitted a revised plan during the course of the planning application, which was not accepted by the Council. The Council's decision notice and statement of case, reference drawing number 2238/L0(-)15A, which is the original plan. In the interests of fairness, this appeal must be determined based on the plans considered by the Council, which were subject to public consultation. To do otherwise could prejudice the interests of other parties who have not been consulted and may have observations to make.

Main Issues

5. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt and the effect of the proposed development on the openness of the Green Belt, having regard to the Framework and any relevant development plan policies;

- the effect of the proposed development on the character and appearance of the area; and
- the effect of the proposed development on protected species and their habitats.

Reasons

Inappropriate development and openness

6. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
7. The construction of new buildings is deemed to be inappropriate development within the Green Belt, unless it falls within one of the exceptions set out in paragraphs 154 and 155 of the Framework. One such exception is listed at paragraph 154 a), which relates to buildings for agriculture and forestry. The proposal seeks to provide a barn, which would be used for agricultural purposes. While the Parish Council raises concerns that the proposed development would not be used for agricultural purposes, the Council has determined the application on the basis that it was submitted. Based on the evidence before me, I see no reason to take a different approach. As a result, I conclude that the proposed development would not be inappropriate development in the Green Belt.
8. Policy NH/8 of the Cambridgeshire Local Plan September 2018 (the Local Plan) requires that development proposals are located and designed so that they do not have an adverse effect on the rural character and openness of the Green Belt. However, there is no requirement within paragraph 154 a) of the Framework to consider the actual effect of the development on openness. The impact on openness is implicitly taken into account within the exceptions in the Framework. As I have found that the proposal would not be inappropriate development in the Green Belt, it is not necessary for me to consider the effect of the proposed development on the openness of the Green Belt.
9. For the reasons given above, I conclude that the proposal falls within exception 154 a) of the Framework. As a result, it would not be inappropriate development in the Green Belt and there would be no conflict with paragraphs 152 and 153 of the Framework. Given that the proposal is not inappropriate development in the Green Belt, it follows that the proposal would not be harmful to the openness of the Green Belt or the purposes of including land within it. The proposal therefore complies with Policy NH/8 of the Local Plan, which among other things requires that development proposals do not have an adverse effect on the openness of the Green Belt.

Character and appearance

10. The appeal site relates to a field, which is located on the southern side of Fen Road. The appeal site and surrounding landscape are generally open in character and rural in appearance. The River Cam is located to the rear of the

appeal site. The appeal site lies on higher ground than the public realm surrounding the River Cam. The rear boundary treatment consists of a post and rail fence, which is modest in height. Views are available over the fence into the appeal site from the public realm adjacent to the River Cam. The appeal site and surrounding landscape provide a green and attractive backdrop to the River Cam. The front boundary is also relatively open, with views available from the highway into the appeal site.

11. Adjacent to the appeal site is a modest sized bungalow. To the rear of the adjacent bungalow are a number of single storey buildings, which appear to be in commercial use. The land on the opposite side of the road is of a different character and more densely developed, comprising of a range of uses including industrial, commercial and residential. There is sporadic residential development and a caravan park a short distance from the appeal site.
12. Prior approval was granted in July 2020 (Ref: 20/02492/PRIO6A) for an agricultural building of 3 metres in height on the site. Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) restricts the height of an agricultural building to 3 metres, where, as in this case, the site lies within 3km of an aerodrome. Another prior approval scheme is referenced in the proposal description, but I have not been provided with details of this scheme. Nevertheless, the other prior approval scheme would have been subject to the same height restrictions.
13. The appellant argues that the prior approval scheme would not meet the functional needs of the holding, but there is no pertinent evidence in support of that assertion. The appellant is now seeking planning permission for a new agricultural building, which would have the same footprint as the prior approval scheme, but would be 8.2 metres high.
14. Like the prior approval scheme, the proposal would occupy a central position in a relatively open plot. The proposed development would be significantly higher and bulkier than the modest sized development approved under prior approval. As a result of its increase in height and bulk at roof level, the proposed building would appear significantly more prominent in views from the highway and from the public realm surrounding the river than the development granted under prior approval. The proposal would appear as an intrusive and incongruous feature, which would cause significant harm to the rural and open character of the site and the surrounding landscape.
15. The proposal would appear out of scale with neighbouring buildings which are modest in scale and height. While the proposal would be constructed with high quality materials, this does not outweigh the harm that I have identified to the character and appearance of the area.
16. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area and would conflict with Policy HQ/1 of the Local Plan. This policy among other things requires that new development preserves or enhances the character of the local area and responds to its context in the wider landscape.

Protected species

17. The appeal site is located a short distance away from the River Cam, which is a designated County Wildlife Site. The Council's Ecological Officer advises that

the site has been flagged by Natural England as potential floodplain grazing marsh, which is a priority habitat. The appeal site lies within the Impact Risk Zone of a statutory protected site. A number of protected species have been recorded in the locality, including great crested newts, barn owls, other bird species, reptiles, bats, badgers, otters, water vole and hedgehog.

18. Based on the evidence before me, there is a reasonable likelihood of the proposed development affecting protected species and their habitats. I appreciate that the prior approval scheme represents a fallback position, which may also have an impact on biodiversity.
19. Nevertheless, as this appeal relates to a planning application, I have a duty to consider whether there is a reasonable likelihood of protected species being present and affected by a development. I am required to determine this planning appeal in accordance with the development plan and all other relevant material considerations, including the Framework. Policy NH/4 of the Local Plan requires that new development maintains, enhances, restores or adds to biodiversity. Paragraph 180 of the Framework requires that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
20. An ecological assessment was not submitted as part of the application or appeal. The presence of protected species and the extent that they may be affected by a proposed development is a material consideration in determining this appeal. In the absence of such information, it is not possible to assess the implications of the proposal on biodiversity and ecology.
21. For the reasons given above, there is insufficient information before me to conclude that the proposed development would preserve protected species and their habitats. The proposal therefore conflicts with Policy NH/4 of the Local Plan, which requires that new development aims to maintain, enhance, restore or add to biodiversity.

Other Matters

22. The appellant argues that the proposal is significantly lower in height than what otherwise would be permitted development should the site not fall within 3km of an aerodrome. Nevertheless, the GPDO restricts the height of an agricultural building in this location to 3 metres. I therefore give this argument limited weight in my decision.
23. The appellant also advises that a building with a greater floorspace could be constructed under permitted development rights. However, there are no alternative schemes before me to consider and I therefore give this argument limited weight.

Conclusion

24. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR