



Appeal Decision

Site visit made on 11 January 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/X0415/D/23/3323388

The Pheasant, Village Road, Ballinger, Buckinghamshire HP16 9LF

- 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 Wright against the decision of Buckinghamshire Council (Chiltern Area).
 - The application Ref PL/23/0757/FA, dated 6 March 2023, was refused by notice dated 28 April 2023.
 - The development proposed is a single-storey outbuilding to the north of the site, for the storage of 2 vintage cars, with additional WC.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Wright against the decision of Buckinghamshire Council (Chiltern Area). This application is the subject of a separate decision.

Preliminary Matter

3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2023 version of the Framework.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
 - The effects of the proposal on the openness of the Green Belt, and;
 - Whether any 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

5. The Framework at paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions set out in paragraph 154. One such exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. Policy GB2 of the LP¹ lists types of development which it considers are not inappropriate and this includes the limited extension, alteration or replacement of existing dwellings in accordance with other listed policies in the Local Plan. Of those policies listed, Policy GB15 relates to ancillary residential buildings within the curtilage of a dwelling in the Green Belt and sets out circumstances where they will be permitted. This includes where they are separate from a main dwelling and both small and subordinate in scale to the original dwelling.
7. Policy GB15 goes on to state that such developments will be considered on their merits, principally of siting, design, external appearance, location in relation to the existing dwelling and its surroundings and the impact on the landscape rather than on specific Green Belt policy considerations. This part of the policy would appear not to be entirely consistent with the Framework and I return to this matter below.
8. Given the position of the proposed building and its intended purpose, I am satisfied that it could be considered as an extension to the building. In order to establish whether the proposal would not be inappropriate, it is therefore necessary to establish what constitutes the original dwelling or building, and how the scale of the proposal would relate to it. The LP and the Framework define the original building as being a building as it existed on 1 July 1948 or, if constructed after that date, as it was built. The Council accept the conversion of the building from a Public House into a dwelling started a new planning chapter, and as such the original building should be that which existed at the time it was converted, approved in February 2018. This approach is not contested by the appellant.
9. Based on the evidence before me, there is uncertainty as to what constituted the original building. The Council state the original building comprised 112sqm in area, and the appellant has not disputed this. The appellant argues that the original building is a two-storey brick and flint building, which would be limited to only the eastern side of the existing building. The planning history refers to extensions to the eastern side of the dwelling² and suggest that there were single storey elements existing to the western side of the building at that time, which may have formed part of the original building.
10. The proposed outbuilding would be of a modest height and would include a gentle sloped roof with low eaves level. Its footprint would, however, be approximately 52sqm. If the original building were 112sqm in area as suggested, then the proposed outbuilding would represent a very significant uplift beyond the original footprint of the building. While the proposal would not

¹ The Chiltern District Local Plan, adopted 1997 including alterations adopted 2001 and consolidated 2007 and 2011

² ² Approved under ref PL/19/0586/FA

affect the main building itself, given the lack of clarity regarding the size and nature of the original building, it cannot be concluded with the necessary certainty that the proposal would be proportionate, small or subordinate to the original building for Green Belt purposes.

11. The Council have not raised objection to the effects of the proposal on the landscape or matters including its design. As such the proposal would comply with the second part of Policy GB15. However, as above, I find that part of the policy not to be entirely consistent with the Framework as it suggests proposals for outbuildings would be assessed on their merits rather than Green Belt Policy. In any event, the proposal would conflict with the first part of the policy, insofar as it requires outbuildings to be both small and subordinate in scale to the original building, and the proposal would conflict with the policy when read as a whole.
12. In the absence of evidence to the contrary, the proposal would be inappropriate development in the Green Belt as it would not conform to the exceptions to inappropriate development as set out in local or national policy. The proposal would conflict with LP Policies GB2 and GB15.

Openness

13. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. The courts have established that the openness of the Green Belt has a spatial aspect as well as a visual aspect³. Therefore the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. A number of factors are capable of being relevant in its assessment.
14. The appeal site lies among other residential properties which together form a cluster of buildings which are otherwise surrounded by largely open countryside comprising fields and areas of woodland. The openness of the residential area is derived from the set backs of the buildings from the roads and the gaps between the buildings. In many cases the spaces between the buildings have been infilled to varying degrees by extensions and outbuildings, which further dilutes the appreciation of openness around the properties.
15. The proposal would decrease the spatial aspect of the site's openness, through introducing built form with a footprint of 52sqm in a location where no built form currently exists. The visual effects of the proposal on openness would, however, be limited, due to the combination of its low level, set back position on the site and its enclosure by surrounding boundary treatments. The existing close boarded fencing which encloses the parking area would provide screening of much of the building in views from the street.
16. As such, the proposal would cause some harm to the spatial aspects of the Green Belt's openness. However, given the site's context, the degree of harm would be at the lower end of the scale.

Very Special Circumstances

17. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential

³ Turner v SSCLG & East Dorest Council [2016] EWCA Civ 466

- harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
18. In addition to being inappropriate as defined by the Framework, the proposal would cause limited harm to the openness of the Green Belt. In line with the provisions of paragraph 153 of the Framework, any harm to the Green Belt should be given substantial weight.
19. The appellant suggests that the proposal is of the size necessary to facilitate storage and maintenance of the appellant's two vintage cars as well as some household storage. I have no reason to doubt that is the case and the proposal would provide benefits to the occupants as well as those who appreciate their vintage cars. However, it has not been demonstrated that this would be the only solution and together I ascribe these benefits moderate weight.
20. The appellant states that the proposal would replicate a structure which previously existed alongside the public house and that a shed was permitted as part of the 2019 planning permission⁴. A former structure in this position can be seen on ariel photographs of 2006 and 2014. However, this has since been removed from the site and, in any event, would appear to be notably smaller than the current proposal. There are not details of the shed which was approved with the 2019 planning permission and I cannot be satisfied that it was similar to that now proposed or could still be implemented. As such I ascribe these circumstances little very weight.
21. The appellant has highlighted a significant number of outbuildings across the local area. I observed several of these during my site visit and find some to be similar in scale to the development proposed. However, I do not have details of the circumstances under which those buildings were constructed, including whether or not they required planning permission or were considered under current Green Belt policy. In any event, the application of Green Belt policy discussed above, relates to the site itself and the nature of the original building. As such I cannot be certain that the same circumstances were applicable to those other examples.
22. The appellant asserts that if permitted development rights for the property had not been removed then the proposal could be implemented without the need for planning permission. Nonetheless, such rights were removed and prevent this from being a legitimate fall back position at this time. Even if the concurrent appeal⁵ relating to that matter were to be allowed and permitted rights reinstated, there is not substantive evidence here that the proposal would conform to all the requirements of the General Permitted Development Order, which are addressed only briefly within the evidence and exclude consideration of all parts of Class E. As such I ascribe this very little weight as a fall back position for the appellant, based on the information before me.
23. The proposal has been found to be policy compliant in other respects, for example in terms of its effects on the neighbouring occupiers and effects on the Area of Outstanding Natural Beauty. However, these matters are neutral and do not weigh in favour of the proposed development. I note the appellant has engaged with the Council to attempt to find an agreeable solution.

⁴ PL/19/0586/FA

⁵ Appeal Ref: APP/X0415/D/23/3330553

However those discussions similarly would not amount to a reason to grant planning permission.

24. Overall, the weight of the other considerations in this instance would not be sufficient to outweigh the harm to the Green Belt, to which I am required to give substantial weight. As a consequence, the very special circumstances necessary to justify the development do not exist.

Conclusion

25. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore the appeal is dismissed.

C Shearing

INSPECTOR