



Appeal Decision

Site visit made on 5 March 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2024

Appeal Ref: APP/K0425/D/23/3330804

94 Chalkshire Road, Butlers Cross, HP17 0TJ

- 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 and Mrs Close against the decision of Buckinghamshire Council.
 - The application Ref 23/06781/FUL, dated 14 July 2023, was refused by notice dated 7 September 2023.
 - The development proposed are works of demolition, the erection of a two-storey side extension, alterations to fenestration and existing porch and the provision of a detached outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". AONBs have been renamed and rebranded as National Landscapes to reflect *"their national importance: the vital contribution they make to protect the nation from the threats of climate change, nature depletion and the wellbeing crisis, whilst also creating greater understanding and awareness for the work that they do"*. However, the legal designation and policy status of these areas are unchanged, so I have proceeded on this basis.
3. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework. Any references to the Framework hereafter in this decision are to the latest version.

Main Issues

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

- The effect of the proposal on the character and appearance of the Chiltern AONB; and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify it.

Reasons

Whether inappropriate development

5. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. The appellant contends that the following exceptions are relevant to this appeal: criterion c) 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; criterion d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces and criterion e) limited infilling in villages. I shall deal with each of these in turn.
6. In regard to criterion c) the Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement. Policy DM43 of the Wycombe District Local Plan (WDLP), adopted August 2019 is generally consistent with the Framework insofar as it seeks to restrict inappropriate development within the Green Belt. The policy also provides further guidance on disproportionality, providing threshold calculations in respect to appropriate additional volume created to the original building. For the appeal site, criterion 1.e) of policy DM43 is most relevant which states the total volume of the resulting building should be no more than 50% of the original building.
7. The baseline in each case is the 'original building'. This is defined in WDLP Policy DM43 as the building as it existed on 1 July 1948 or, if the first building was constructed later than this, the first building constructed. In this case, the Council highlight the original building consisted of a volume of 302m³. Both parties acknowledge that the original building has been subject to several extensions over time. These extensions include the erection of a detached garage building¹ in 1949 and an erection of an extension to the rear of the dwelling² in 1977.
8. From the information before me, in terms of volume, the existing extensions including the garage would cumulatively increase the overall volume of the original building to approximately 804m³ (166%). The appellant highlights that as a result of the proposals the volume of built development at the site would be approximately 872m³ (188%). Taken together, these increases would amount to substantial additions to the property, significantly in excess of the 50% figure requirement set out in WDLP Policy DM43 1.e) and one which I find to be disproportionate over and above the size of the original building.

¹ Buckinghamshire Council Planning Ref: W/121/49

² Buckinghamshire Council Planning Ref: W/912/77

Accordingly, the exception set out in paragraph 154 c) of the Framework would not apply.

9. The exception as highlighted in criterion d) of the Framework indicates that the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces would not be inappropriate development in the Green Belt. The proposal does not seek to demolish and replace the existing dwellinghouse, but partially remove and replace a single storey side elevation and the garage subject to the 1949 permission. As these features have been included as extensions for the purposes of assessment under criterion c), they cannot be considered as an exception under criterion d).
10. Nevertheless, even if I was to consider that the garage was a building to be replaced, the proposed pool and gym would have a volume of approximately 204m³, which is materially larger than the building it would 'replace'. As such, it would be inconsistent with paragraph 154 d) of the Framework and also the figures contained in WDLP Policy DM43 2.a) and 2.b). As a result, the exception at paragraph 154 d) of the Framework does not apply.
11. With regard to criterion e) I have not been provided with a village boundary as defined on a proposals map, however this should not be determinative, and a planning judgement needs to be made to the extent of the village on the ground. This would include the location of the site itself, and also its relationship to other existing development in the nearby vicinity.
12. The area adjoining the appeal site to the east and west have a distinct rural feel containing verdant and relatively undeveloped land, in comparison with the more built-up character to the south. The appeal site has a peripheral location rather than appearing within a village, given it is located within a ribbon of development along Chalkshire Road amongst a rural background. There is also a distinct lack of communal facilities and services within the immediate area of the appeal site, albeit there are limited services within walking distance to the south. Consequently, the appeal site could not reasonably be described as representing a village setting.
13. Even if I was to consider that the appeal site was within a village, consideration would need to be given as to whether the proposal would amount to 'limited infilling'. Neither term is defined in the WDLP or the Framework and no definition has been put before me by the appellant. They are essentially questions of fact and planning judgement for the planning decision-maker. Given that the space is already occupied by the existing garage, the proposal could not be construed as infill development. Consequently, the proposal would not meet the exception set out in paragraph 154 e) of the Framework.
14. Bringing these strands together, I find that the proposal would not meet the exceptions in the Framework paragraphs 154 c), d) or e). In not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which paragraph 152 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

15. Openness can have both spatial and visual aspects and the proposal would introduce new development consisting of a two-storey side extension and a pool and gym. Thus, the proposal would provide a larger quantum of built development than currently exists on site. Whilst modest, it would nevertheless have an adverse impact on the openness of the Green Belt in spatial terms.
16. With regard to the visual aspect, there would be limited public views of the proposal given the existing closed board fencing and gated boundary treatment. Furthermore, the site itself is located in an established ribbon of residential development, which contrasts with the much less developed open spaces to the east and west. Given this context, its location amongst existing development and the screening from the existing boundary treatments I conclude in visual terms, that the appeal scheme would have no significant effect on the visual aspect of openness of the Green Belt.
17. Overall, whilst I find there would be no harm to the visual dimension of the openness of the Green Belt, there would be to the spatial dimension. Therefore, the proposal fails to preserve the openness of the Green Belt.

Character and appearance

18. The appeal site is located within the Chilterns AONB. Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs. The character and appearance of the immediate area consists of a ribbon of development along Chalkshire Road surrounded by open fields. The properties consist of mainly detached two-storey dwellings located in close proximity to one another, with a mixture of ridge heights, materials and finishes.
19. The proposed scheme provides a domestic feel and appearance and, in this context, would conform to the general pattern of development and would not appear out of place. Furthermore, the proposed design, scale and spacing would reflect that of the other properties in the vicinity and would occupy a position tucked in amongst the established residential units. Given that the proposal would be viewed in the context of these residential properties, there would be no harm to the visual qualities and essential characteristics of the Chiltern AONB in terms of its landscape and scenic beauty, notwithstanding my findings in terms of openness in the Green Belt.
20. Overall, any adverse effects of the development would be seen within the context of the existing ribbon of residential units that the appeal site forms part. As such, the proposal would at the very least conserve the landscape character and valued landscape in accordance with WDLP Policy DM30 and Section 15 of the Framework which seek to protect and enhance valued landscapes. The proposal would also accord with WDLP Policies DM35 and DM36, the aims and objectives of the Householder Planning and Design Guidance Supplementary Planning Document, adopted January 2020 and paragraph 135 of the Framework, which amongst other things, seek new development to be visually attractive and requires development to be sympathetic to local character. Given that I have found no harm to the character and appearance of the area, this would be a neutral factor in the planning balance.

Other considerations

21. The appellant refers to a fallback position and has presented a Lawful Development Certificate (LDC)³ for the erection of a single storey garden room within the curtilage of the appeal site. The appellant highlights that the LDC scheme would have a larger volume (244m³) than the appeal proposal. As such I accept that the fallback position is available and a material consideration in the assessment of the proposal. Furthermore, I accept that there is a real possibility that it would be implemented should planning permission for the appeal scheme be refused.
22. 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. With regard to impact on spatial openness, it is acknowledged that the appeal scheme would represent a more modest quantum of development than that proposed under the LDC. I also accept that there would be little difference regarding the impacts of the respective schemes in each of the proposals on the visual openness of the Green Belt, given the screening effects of the existing dwellinghouse and the boundary treatments.
23. However, as there is no mechanism before me to prevent the buildings approved under the LDC from being constructed, in addition to the appeal proposal, there is no certainty that both schemes would not be built. In such circumstances there would be a greater impact on the openness of the Green Belt than either the individual LDC scheme or the appeal proposal. As such, the cumulative loss of openness would lead to a greater harm. Consequently, the fallback position does not amount to very special circumstances necessary to justify the development in the Green Belt. Therefore, I apportion this fallback position limited weight.
24. My attention has been drawn to other appeal decisions referenced⁴. I am not aware of the full circumstances and/or planning history associated with these cases, but it is evident from the limited details presented that they turned on their own particular merits. I therefore give these examples moderate weight, as I cannot be certain that these are directly comparable. In any case, each scheme must be considered on its own merits. While consistency in decision making is important, ultimately, what constitutes an exception under Green Belt policy needs to be determined in the light of the specific circumstances and context of each case.

Green Belt Balance and Conclusion

25. 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.
26. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in limited harm to the openness of the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.

³ Buckinghamshire Council Planning Ref: 22/07992/CLP

⁴ PINS Refs: APP/K0425/A/04/1147609 and APP/K0425/A/03/1118607

27. As explained above I give limited and moderate weight to the other material considerations cited in support of the proposal. However, I conclude these circumstances do not clearly outweigh the harm the scheme would cause. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. Thus, the proposal would not accord with WDLP Policies CP9 and DM43 and the relevant section of the Framework.
28. The proposal would therefore conflict with the development plan taken as a whole and there are no other considerations that outweigh this. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR