



Appeal Decision

Site visit made on 29 February 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Appeal Ref: APP/N0410/W/23/3324893

Land to the East of Chalk Pit Lane, Chalk Pit Lane, Burnham SL1 8QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Doherty against the decision of Buckinghamshire Council.
 - The application Ref is PL/23/0326/OA.
 - The development proposed is described on the application form as 'Outline application with all matters reserved except access and scale for redevelopment of a previously developed site to provide a single residential dwelling'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Doherty against Buckinghamshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. Since the appeal was lodged, a revised version of the National Planning Policy Framework was published (19 December 2023). This does not materially change the planning policy context in respect of the main issues.
4. The planning application was submitted in outline with some matters reserved. I have had regard to the submitted plans but have regarded all elements of these drawings as indicative, apart from access and scale.

Main Issues

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

6. The site comprises a parcel of land containing an open-sided agricultural building. The building is set within a large open field and accessed via a private lane. The site lies within the Green Belt.
7. National Green Belt policy in the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, however, certain exceptions. One of those, at paragraph 154, is the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt. Policy GB1 of the South Bucks District Local Plan (LP, 1999) conforms to the general thrust of national Green Belt policy insofar as it seeks to avoid inappropriate development in the Green Belt, and includes certain exceptions. However, it is undisputed that the policy, due to its age, is inconsistent in its detail when compared with the Framework. This is a matter I return to subsequently.
8. On the matter of previously developed land, I note the dispute between the appellant and Council in this respect. The Framework sets out, in its glossary, a definition of previously developed land. This specifically excludes land that is or was last occupied by agricultural buildings. Although, during my site visit, it was evident that horses have been kept in the area surrounding the site, the building itself was used for the storage of hay, timber and agricultural equipment. I have no conclusive evidence before me to demonstrate that the existing building, or area forming the appeal site, is in a lawful non-agricultural use. Such a use is typically demonstrated through a certificate of lawful development. Even were I to accept that the proposed development would meet the definition of previously developed land, it must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
9. In that respect, intervening features in the landscape and the unadopted nature of Chalk Pit Lane are such that there is fairly limited visibility of the site from surrounding public vantage points. Nevertheless, the openness of the Green Belt is readily apparent within the immediate area through the existence of mature trees and surrounding open fields. The Framework indicates that openness is an essential characteristic of the Green Belt and a fundamental aim of Green Belt policy is to keep land permanently open.
10. Moreover, the openness of the Green Belt has a spatial as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from public vantage points.
11. Notwithstanding the existence of some other buildings within the wider vicinity, the proposal would introduce additional built development to the site, spreading across a wider area. The proposed development would have a greater solidity and presence than the open sided building that currently exists on the site. These features, in my view, would inevitably reduce the existing visual and physical openness of the site. Domestic paraphernalia associated with the proposed use would further contribute to a loss of openness here.

12. Overall, the proposed development would not fall within an exception under paragraph 154 of the Framework as it would fail to preserve the existing openness of the Green Belt. I therefore conclude that it would be inappropriate development in the Green Belt which is harmful by definition. This is in a similar vein to the relevant provisions of LP Policy GB1 in respect of the protection of the Green Belt.

Other considerations

13. My attention is drawn to an extant permission at the site which was approved under Ref APP/N0410/W/22/3297740. This allowed the use of the barn as a two-storey residential dwelling, including external alterations such as the enclosure of the currently open sides. The appellant sets out that this forms a fallback position, noting caselaw¹.
14. I accept that the proposed development, when compared to that fallback scheme, would result in an overall reduction in volume and height. These aspects, on their own, would amount to a reduction in harm to openness relative to the extant scheme. However, I do not consider the referenced internal floor area of the extant scheme, which includes a mezzanine level, to be a strong indicator in this particular case of the impact on openness.
15. Notwithstanding the reduction in volume and height, it is clear that the overall footprint of the building would considerably exceed that of the existing building and extant scheme (an undisputed increase of 32.8%). I am mindful that the submitted site plan is indicative and that layout is reserved. However, that plan is the only evidence before me of how the appellant intends on developing the site and how that could realistically be achieved. I also note that no other parameter plans are before me in that respect. The proposal, as submitted, would result in the introduction of built form where this does not currently exist, having a harmful spatial effect on openness. Although the introduction of domestic paraphernalia at the site would be similar under either scheme, the appeal scheme would effectively draw development closer to the site access than it is presently, resulting in greater visual prominence from public vantage points. This would have a harmful visual effect on openness.
16. Having regard to my reasoning above, I consider the effect of the permitted (fallback) scheme, overall, would be less harmful than the appeal scheme. In this respect, I attach moderate weight to the permitted scheme as a fallback position.
17. The appellant further sets out that it is an option to convert the existing, unconverted building, into a flexible commercial use. However, this is based on a hypothetical eventuality, and I cannot be certain that there is any greater than a theoretical possibility that such a scheme would come forward if the appeal were to fail. In any case, that proposal is not before me. Accordingly, I afford this matter only limited weight.
18. That there are no objections to the scheme, including from highways and waste specialists, is neutral in my determination of the appeal and I afford this matter limited weight.
19. As noted above, LP Policy GB1 is, in part, inconsistent with the Framework. This means that the policies which are most important for determining the

¹ Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314

proposal are out of date in accordance with paragraph 11.d) of the Framework. However, bullet (i) of paragraph 11.d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. I give this matter very limited weight.

Other Matters

20. In respect of the site's potential effect on the Burnham Beeches Special Area of Conservation (SAC), I acknowledge the appellant's arguments and their attempt to make the necessary mitigation payments to the Council prior to the determination of the application. I also note their comments in respect of the costs associated with entering into a legal agreement and that the fallback scheme is not subject to such payments. Whilst mindful of my duties under Habitats Regulation 63(1), the appeal is dismissed for other reasons. Accordingly, there is no requirement upon me to consider this matter any further. Even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case and would not overcome or outweigh the harm identified above.

Green Belt Balance and conclusion

21. The proposed development would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
22. Cumulatively, I attach no more than moderate weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt and the very special circumstances necessary to justify the development do not exist. By extension, Green Belt policy provides a clear reason for refusal within the terms of Framework paragraph 11.d.i, and consequently no other material considerations in favour of the scheme justify allowing the appeal.
23. I have also had regard to the fallback position. However, for the reasons given above, this has not led me to an alternative conclusion on the main issue.
24. I therefore conclude that the appeal should be dismissed.

A Price

INSPECTOR