
Appeal Decision

Site visit made on 26 February 2024

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 8 April 2024

Appeal Ref: APP/P0240/W/23/3321719

Rollings Ley, Luton Road, Toddington, Bedfordshire LU5 6HT

- 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 P Whitehurst against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/05696/FULL, dated 24 December 2021, was refused by notice dated 8 December 2022.
 - The development proposed is the change of use of barn for ancillary accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of barn for ancillary accommodation at Rollings Ley, Luton Road, Toddington, Bedfordshire LU5 6HT in accordance with the terms of application Ref CB/21/05696/FULL, dated 24 December 2021, subject to the attached schedule of conditions.

Procedural matters

2. Prior to my determination of this appeal, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 which replaced the previous version. I have taken into account the relevant provisions of the revised version in the determination of the appeal and any references to the Framework in this decision relate to the revised document. In having regard to the matters that are most relevant to this appeal, there are no material changes to the Framework of relevance to the substance of this appeal. Therefore, I am satisfied that no party to this appeal would be prejudiced by the changes to the national policy context.
3. Other than the replacement of an existing rear window with a fire escape window, the submitted plans do not show any other external alterations to the existing building. Therefore, I have determined the appeal on the basis that the proposal is for a change of use only and, other than the fire escape window, it does not propose any other external changes to the building.

Main Issues

4. The main issues are:
 - Whether the proposal represents a self-contained dwelling.
 - Whether the proposal would be inappropriate development in the Green Belt.

- The effect of the proposal on the openness and the purposes of including land within the Green Belt.
- The effect of the proposal upon European Protected Habitat Sites.

Reasons

Whether a self-contained dwelling

5. The appeal property comprises a single storey, timber boarded barn located to the southwest of the appellant's existing dwelling house known as 'Rollings Ley' and is located within the Green Belt and partially within the Chilterns Beechwoods Special Area of Conservation (SAC). The Council indicates that the barn is located approximately 55m from the rear of 'Rollings Ley'.
6. The proposal sought the change of use of the barn to ancillary accommodation with no external alterations proposed other than the installation of the aforementioned fire escape window. The internal elements of the building would be configured to include a bedroom, bathroom and lounge/kitchen.
7. I have taken into account the Council's view that the proposal would tantamount comprise a separate independent dwelling. However, although not physically attached to the main dwelling, any future occupiers of the barn would share a number of facilities with the occupiers of the main dwelling. This would include the relatively substantial gardens of the property, the access and the existing internal access track, parking and manoeuvring areas.
8. The planning application was submitted on the basis of it being an ancillary addition to the main dwelling. In my view, although not physically attached to 'Rollings Ley', it would be intrinsically linked to the main dwelling and would share the facilities of the 'Rollings Ley' curtilage as a whole.
9. I have taken into account the Council's views in respect of the difference between incidental use and ancillary use. In my view, there is a clear distinction between permitted development that is incidental to the enjoyment of the dwellinghouse and a change of use of an existing building to ancillary accommodation. The examples of incidental development that are provided primarily relate to permitted development that are related to the enjoyment of the dwellinghouse. The Permitted Development Rights for Householders - Technical Guidance 2019 that is referred to by the Council is helpful in identifying that "incidental" is not primary living accommodation such as bedroom, kitchen and bathroom. I consider that the proposal does not represent incidental use but is ancillary accommodation.
10. The Council Officer's Report refers to the Central Bedfordshire Design Guide Supplementary Planning Document (SPD) which advises that an annex must form part of the same planning unit and share facilities, including access parking and garden areas. I have no evidence to suggest that the barn is located within a separate planning unit other than being part of the residential curtilage of 'Rollings Ley' and being sited within the garden of the property. Furthermore, the submitted evidence indicates that the proposal would share access, parking and garden areas of the main dwelling.
11. I have also taken into account the Council's concerns regarding the separation distance between 'Rollings Ley' and the barn. I observed at my site visit that there is good and level access between the existing dwelling and the barn and

evidence of some degree of domestic use in the barn. Whilst the separation distance of 55m is noted, I do not consider that this is any impediment to the barn being used as ancillary accommodation or that this distance would tantamount to the barn being used as a separate dwelling.

12. Taking the above factors into account, I conclude that the use of the barn as ancillary annex accommodation would not represent a separate self-contained dwelling. Consequently, the proposal would not be contrary to the relevant provisions of the SPD as outlined in the Officer Report.

Whether the proposal would be inappropriate development

13. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It further advises that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
14. Paragraph 155 of the Framework advises that certain forms of development are not inappropriate in the Green Belt provided they preserve openness and do not conflict with the purposes of including land within it. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.
15. In this case the building is already there and it was clear from my site inspection that it is both permanent and substantial in its construction. Consequently, I consider that the proposed use of the building as ancillary accommodation would not be inappropriate development in the Green Belt subject to consideration of the impact on openness and the purpose of including land within the Green Belt.

Openness and Green Belt purposes

16. Given that the building is already there, and no additions are proposed to the built footprint, there would be no encroachment into the countryside nor would the proposal conflict with any of the other purposes of including land within the Green Belt as set out in paragraph 143 of the Framework.
17. I have taken into account the Council's concerns that the proposal would tantamount to an independent dwelling and that its use could entail the provision of car parking, hardstanding and other domestic paraphernalia that may have a detrimental impact on openness. However, I do not consider that this would be the case.
18. I have found above that the proposal can be considered to be ancillary accommodation which is the basis of the submission of the planning application. Whilst there may be elements of domestic paraphernalia associated with its use as ancillary accommodation, there are no planning reasons that have been brought to my attention why such hardstanding, car parking and domestic paraphernalia could not be installed in proximity of the existing barn associated with its current use within the curtilage of 'Rollins Ley'.
19. In my view, given the nature of the appeal before me for use as ancillary accommodation, there would be no material greater impact on the openness of the Green Belt than that which may already occur with the use of the domestic curtilage of the main dwelling. Consequently, I do not consider that the appeal

scheme would have a material greater impact on the openness of the Green Belt than is the case at present. Furthermore, I do not consider that the proposal would lead to any material change to the character of the land in the vicinity of the barn that would cause any detrimental impact to the spatial openness of the Green Belt.

20. In this case I consider that there are clear and convincing differences in the circumstances in this appeal and those of the previous appeal which proposed the change of use of the barn to a separate dwelling (Ref: APP/P0240/W/18/3205542). In this case, the application is submitted on the basis of the use of the barn as ancillary accommodation that would be intrinsically and operationally linked to the main dwelling. It is not proposed to form an independent separate self-contained dwelling and therefore would not necessarily function independently of the existing main dwelling.
21. Moreover, a planning condition can be imposed (Condition No. 5) to ensure that the building remains as ancillary accommodation associated with the existing dwelling. Should the usage of the barn as ancillary accommodation change to such an extent that it is used as a separate dwelling then the need for a separate planning application would ensue.
22. For the above reasons the proposal would not be inappropriate development within the Green Belt, would not conflict with the purposes of including land within it and would preserve openness. Consequently, I do not find any conflict with the relevant provisions of the Framework or Policies SP4 and HQ1 of the Central Bedfordshire Local Plan 2015 – 2035 (2021) (the Local Plan).

European Protected Habitat Sites

23. The Conservation of Habitat and Species Regulations 2017 (as amended) (the Regulations) require that where a project is likely to have a significant effect on a European site, either alone or in combination with other projects, the competent authority must make an Appropriate Assessment of the project's implications in view of the relevant conservation objectives.
24. The Council states that Natural England have advised of emerging evidence which identifies pressure on the Chiltern Beechwoods Special Area of Conservation (SAC), more specifically the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI). The evidence identifies significant recreational pressures on the SAC arising from the Zone of Influence (ZOI) of 12.6km from the Ashridge Commons and Woods SSSI.
25. The appeal site is located within the ZOI and the Council indicate that the change of use of the existing barn to an independent dwelling would have an impact on the SAC for which no appropriate mitigation, in the form of a planning obligation, is provided.
26. I have consulted Natural England (NE) during my determination of this appeal. NE considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. I also note that as part of the consultation on the planning application, the Council's Tree and Landscape Officer and Ecology Officer raised no objections to the proposal.
27. I have found above that the proposal would not constitute an independent self-contained dwelling. As such there would be no material additional impact

on statutorily protected nature conservation sites or landscapes than that which already exists with the host dwelling.

28. I have attached significant weight to the views of NE with regard to this matter and, in the absence of any other compelling evidence to the contrary, I am satisfied that there would be no adverse effect on the integrity of the protected sites from recreational disturbance when considered alone or in combination with other development. The proposal complies with the Regulations and there are no other unacceptable environmental effects. Therefore, there would be no conflict with Policy EE3 of the Local Plan or the relevant guidance provided in the Framework.

Other matters

29. The Appellant has drawn my attention to a recent appeal decision that related to an extension to an annexe (Ref: APP/P0240/W/22/3298905) at Flitton and located within the administrative area of Central Bedfordshire. Whilst there are some similarities in the circumstances of that appeal and the one before me, I do not have full details of the nature of the proposals in that appeal decision. Consequently, I cannot be sure that this is wholly representative of the circumstances in this appeal. In any case, this has not led me to a different conclusion on the main issues of this appeal which I have determined on its own merits.

Conditions

30. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Planning Practice Guidance. As a result, I have amended some of them for clarity and also eliminated some for the reasons set out below.
31. The submitted plans show that access to the site would be via the existing access to 'Rollings Ley' and do not show any proposed amendments to this access off Luton Road. I have no evidence to suggest that there have been any previous highway safety issues associated with the use of the existing access. As ancillary accommodation, the proposal would not result in any significant intensification of the use of the access. Moreover, I am mindful that in considering the previous appeal, which involve the change of use of the barn to an independent dwelling (Ref APP/P0240/W/18/3205542), the Inspector found that the use of the access, without modification, would not result in an unacceptable impact on highway safety.
32. Taking the above into account, I consider that the Council's proposed conditions requiring improvements to the junction of the vehicular access with the highway (suggested conditions Nos. 2, 3, 4 and 5) are unnecessary and unreasonable. Consequently, I have deleted the suggested conditions.
33. Similarly, the change of use to ancillary accommodation does not materially change the transportation arrangements that the current occupants use to access local facilities. Consequently, I do not consider that there is any justifiable planning basis for the imposition of a condition requiring a scheme for the parking of cycles. In such circumstances, suggested condition No. 7 would be unnecessary and unreasonable. As such, I have deleted the suggested condition.

34. In addition to the standard time limit condition, I have imposed a condition requiring details of bin storage and collection areas particularly given that the ancillary accommodation proposed would likely generate some degree of waste associated with the use of the building (Condition No. 2). I also recognise that the proposal has the potential to require more formal arrangements for surface water drainage than those which currently exist. Consequently, I have imposed conditions requiring the submission of details, implementation of the approved details and the management of the surface water drainage system (Nos. 3 and 4).
35. A condition is also necessary (No. 5) to ensure that the change of use of the barn is only to be used as an ancillary annexe to the dwelling and shall not be subsequently occupied as a separate or self-contained dwelling unit.

Conclusion

36. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The building shall not be occupied until details of the bin [storage/collection] areas have been submitted to and approved in writing by the Local Planning Authority and the bin storage/collection areas have been implemented in accordance with the approved details. The bin [storage/collection] areas shall be retained thereafter.
- 3) The building shall not be occupied until a detailed surface water drainage scheme, to manage surface water runoff from the development for up to and including the 1 in 300 year event and a maintenance and management plan for the scheme has been submitted to and approved in writing by the Local Planning Authority. The discharge will be via infiltration. The final detailed design shall be based on the agreed drainage scheme and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2018) and shall be implemented and maintained as approved. Any variation to the connections and controls indicated on the approved drawing which may be necessary at the time of construction would require the resubmission of those details to the Local Planning Authority for approval.
- 4) The building shall not be occupied until the developer has formally submitted in writing to the Local Planning Authority a 'Maintenance and Management Plan' for the entire surface water drainage system, inclusive of any adoption arrangements and/or private ownership or responsibilities, and that the approved surface water drainage scheme has been correctly and fully installed as per the final approved details. Maintenance shall ensure the system functions as designed for the lifetime of the development.
- 5) The change of use of the barn hereby permitted shall only be used as an ancillary annexe to the dwelling and shall not be occupied as a separate or self-contained dwelling unit.