



Appeal Decision

Site visit made on 7 March 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th April 2024

Appeal Ref: APP/X0415/W/23/3324067

**Great Kingshill Farm, Mellow Cottage, Stag Lane, Great Kingshill,
Buckinghamshire HP15 6EW**

- 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 Watson against the decision of Buckinghamshire Council – East Area (Chiltern)
 - The application Ref is PL/22/4097/FA.
 - The development proposed is demolition of existing dwelling and outbuilding and erection of two residential bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published on 19 December 2023. References to the Framework in this decision are to the new paragraph numbers.
3. The site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). AONBs are now known as National Landscapes therefore I refer to it as the Chilterns National Landscape in this decision. However, the legal designation and policy status of these areas remains unchanged by the name change.
4. Stag Lane runs approximately west to east through Great Kingshill. The appeal site is located at the northern end of a spur of Stag Lane that runs approximately south to north, also known as Stag Lane. In this decision I refer to that spur as the Access Road, to distinguish it from the Stag Lane that runs through Great Kingshill.
5. A previous appeal on this site was decided in June 2023 for a single dwelling (Ref APP/X0415/W/22/3313490). In this decision I refer to it as the Previous Appeal.

Main Issues

6. 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 effect of the proposal on the character and appearance of the surrounding area, having regard to its location within the Chilterns National Landscape;
- whether or not it has been demonstrated that the proposal would be acceptable with respect to its impact on biodiversity, with particular regard to Great Crested Newts (GCN);
- 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 or not inappropriate development

Limited Infilling

7. The Framework establishes exceptions to inappropriate development in the Green Belt, which includes limited infilling in villages (paragraph 154.e.). The Framework does not define limited infilling. For the purposes of considering the effect of the appeal proposal on the Green Belt, it is not a matter in dispute between the main parties that the scale of the proposal would be limited and the site is within a village. I see no reason to conclude otherwise. However, there is disagreement over whether the proposal amounts to infilling.
8. Saved Policy GB2 of the Chiltern District Local Plan (originally adopted September 1997) (Local Plan) also sets out certain forms of development that are not inappropriate in the Green Belt. Criterion d. includes limited infilling that accords with other Policies of the Local Plan, including Policy GB4. Policy GB4 is said to define infilling as development in a small gap in an existing row of buildings, which form an otherwise fully developed frontage to a road. Whilst that definition goes further than the requirements of the Framework, and the Local Plan predates the Framework, it is a relevant consideration. Albeit consideration against these terms requires an element of planning judgment, having regard to the local circumstances.
9. The appeal site is located at the northern end of the Access Road. At its southern end, there is a collection of three houses that broadly front on to it, including Templar Mead. These houses are highly visible from the Access Road and read as part of the street scene, closely associated with other houses visible on Stag Lane. Beyond Templar Mead, the layout of buildings on the Access Road is considerably more ad hoc, with a noticeable gap in built form between it and Great Kingshill Farm. Although there are barns on the plot between Templar House and the appeal site, these are set well back from the Access Road. Consequently, the site frontage there is defined by undeveloped land.
10. The proposal would occupy much of the front garden of Great Kingshill Farm. However, the building line of the proposed dwellings would sit well forwards of the barns on the adjacent plot. Moreover, the proposed car barns would bring the built form closer still to the access drive. Consequently, at the Access Road frontage, there would remain a notable gap in built form between the proposal and Templar Mead. Accordingly, I cannot find that the proposal amounts to infilling. Thus, it would not satisfy the exception to inappropriate development under Policy GB2.d. of the Local Plan, or paragraph 154.e. of the Framework.

11. The appellant has drawn my attention to a number of other appeal decisions considered to be in support of their case, albeit those decisions and full details of those cases (aside from the Previous Appeal decision for this site) have not been provided to enable any detailed comparison. Nevertheless, for the proposal at Grooms Cottage Penfold Lane (Ref APP/X0415/W/22/3290156), infilling was taken to mean a gap between two buildings. Whereas, given the set back of the barns as described above, the proposed layout here would not infill a gap between two buildings.
12. With regard to appeal decisions Ref APP/X0415/W/22/3307200 and APP/X0415/W/23/3318105, I acknowledge that Policy GB4 does not define 'fully developed frontage'. Moreover, there may be circumstances where proposals are considered to amount to infilling despite there being a small break between buildings. Nevertheless, in this instance I have found the surrounding pattern of development is such that there would remain a considerable gap in the built form along the Access Road, between the proposal and Templar Mead.
13. Reference is made to an approval at Midge Hall Lane (Ref APP/F2360/W/19/3238776) where there is said to have been a greater distance to the nearest property than would exist here. However, that appears to relate to a scheme on a road with a more built-up frontage. Consequently, proposed development on that frontage plot would be immediately adjacent to a building on one side and a car park on the other. As such, the circumstances of that scheme do not appear sufficiently comparable to alter my reasoning.
14. I note that in considering the proposal for a single dwelling on the appeal site, the Inspector for the Previous Appeal concluded that the proposal would not amount to infilling. For the reasons given, I have also found that the proposal would not amount to infilling. Moreover, no substantive evidence is before me to indicate that I should reach a different conclusion.

Other Exceptions

15. The proposed development would be materially larger than the mobile home and outbuilding that are to be removed as part of the appeal scheme. Therefore, the exception to inappropriate development under paragraph 154.d. of the Framework would not apply.
16. The appellant also submits that the proposal would fall within the exception to inappropriate development under paragraph 154.g. of the Framework. This applies to proposals for the redevelopment of previously developed land that would not have a greater impact on the openness of the Green Belt than the existing development. Although there are storage barns at the rear of the site, the existing undeveloped lawn of the appeal site provides a sense of openness. This openness extends across the site through to the field behind Great Kingshill Farm.
17. Whereas, the appeal scheme would replace a considerable area of lawn with two detached homes each with a separate car barn and driveway. Even taking into account the removal of the mobile home and outbuilding, the proposal would have a greater impact on openness in both spatial and visual terms. Given the scale of the development, the harm to Green Belt openness would be moderate. Consequently, irrespective of whether the site constitutes previously

developed land, it would not fall within this exception to inappropriate development.

Conclusions on this Main Issue

18. Accordingly, whether or not the proposal would conflict with the Green Belt purposes, it would not comply with the exceptions to inappropriate development under Policy GB2 of the Local Plan. It would also not fall within any of the exceptions mentioned at paragraph 154 of the Framework. It would therefore be inappropriate development in the Green Belt.

Character and Appearance

19. Policy LSQ1 of the Local Plan generally requires that proposals conserve, and where possible enhance, the special qualities of the Chilterns National Landscape. Policy CS22 of the Core Strategy for Chiltern District (November 2011) (Core Strategy) also requires that proposals conserve and enhance the key features of the National Landscape. In addition, paragraph 182 of the Framework requires that I afford great weight to conserving and enhancing the scenic beauty of the National Landscape.
20. As described above, the pattern of development becomes more ad hoc towards the northern end of the Access Road. As such, in the vicinity of the appeal site there is greater space around buildings, which creates a lower density feel. Moreover, although the storage units to the rear of the site are uncharacteristic of the area, these are set well back within the site, which limits their visibility from the Access Road. The undeveloped nature of the appeal site provides a sense of openness and a degree of visual connectivity with the field to the north of the site. These features combine to provide a softness that is appropriate to its location at the edge of the settlement and makes a positive contribution to the character and appearance of its surroundings.
21. The proposal would considerably increase the density of development here, with the built form extending relatively close to both sides of the site. Furthermore, although currently residential garden land, the placement of the two dwellings would curtail the sense of openness through the site towards the field beyond. In the context of this site and its surroundings at the edge of the settlement, such a layout would appear unduly suburban and thus have an unacceptably urbanising effect.
22. Therefore, whilst the design of the buildings themselves would be acceptable, the proposal as a whole would harm the character and appearance of its surroundings. The extent of the harm would be limited by the absence of public rights of way in the vicinity of the site. Nonetheless, from the Access Road and on entering the site the proposal would be seen to create a hard edge to the built form of the settlement, and would thus fail to conserve or enhance the special qualities of the National Landscape. The Chilterns Buildings Design Guide (February 2010) (Design Guide) categorises Great Kingshill as a plateau/ridge village. Creation of a hard edge between housing and countryside is identified as a concern for both plateau and ridgetop villages in the Design Guide (pages 19 and 20).
23. Consequently, the proposal would conflict with Policy LSQ1 of the Local Plan, Policy CS22 of the Core Strategy, and paragraph 182 of the Framework. In addition, it would not accord with the approach in the Design Guide, which

generally seeks to ensure proposals are designed to respect their local context and wider landscape (paragraph 1.14).

Biodiversity

24. The Council's Newt Officer advises that the appeal site is within a red impact risk zone for GCN, where there is suitable habitat and a high likelihood of GCN being present. The appellant's submitted Preliminary Ecological Assessment Report by Syntegra Consulting (2022) (the Report) identifies that there are four ponds within 500m of the site that are likely to support populations of GCN. However, due to the intervening distance between the ponds and the appeal site, and the site's limited value to GCN being closely mown grass, the Report finds that the proposals are highly unlikely to cause an offence against their legal protection. It therefore proposes that precautionary measures would be sufficient to protect the GCN. Reference is made to an ecologically lead design process, and measures such as raising construction materials off the ground.
25. In addition, the Report advises that in the event of any works to mature hedgerows or woodland on site, or in the event of the grassland becoming unmanaged, eDNA testing of the ponds would be necessary, along with an application for District Level Licensing. Nevertheless, no eDNA testing is submitted and no details of an application for District Level Licensing is provided. Furthermore, no precautionary working statement in the form of Reasonable Avoidance Measures is before me, in response to the Council's Newt Officer suggestion.
26. I acknowledge that the well maintained nature of the appeal site reduces its value to GCN. Nevertheless, the Council identified that there are GCN records within 50m of the site, but that no environmental records search is referenced in the Report. Furthermore, there is habitat of value to GCN immediately adjacent to the site in the form of the mature hedgerow and wooded land.
27. Circular 06/2005 advises that the extent to which protected species may be affected by a proposed development should be established before planning permission is granted. In addition, that ecological surveys should not be left to be addressed by planning conditions unless there are exceptional circumstances. No exceptional circumstances are before me to justify addressing the matter by planning condition in this instance.
28. Therefore, in light of the special protection required for GCN, the high risk nature of the area, and the connectivity between the appeal site and the ponds, I am unable to conclude that the proposal would provide sufficient protection for GCN. I note that the Inspector on the previous appeal decision for this site reached a similar conclusion in respect of GCN. Furthermore, no additional evidence has been provided that would justify reaching a different conclusion. Given the uncertainties in respect of the effect on GCN, it is unclear whether sufficient mitigation measures could be secured to ensure the proposal as a whole would achieve a net gain to biodiversity.
29. Therefore, I conclude that it has not been demonstrated that the proposal would be acceptable with respect to its impact on biodiversity, with particular regard to GCN. Accordingly, the proposal would conflict with Policy CS24 of the Core Strategy which generally seeks to ensure proposals conserve and enhance biodiversity. It would also conflict with paragraph 180 of the Framework.

Amongst other matters this seeks to minimise impacts on and provide net gains for biodiversity.

Other Considerations

30. The proposal would deliver two modern houses that could each accommodate a family in a generally residential area. The appellant submits that the Council's five year housing land supply position for the East Planning Area of Buckinghamshire is, at best, 2.9years. Moreover, that it should be reduced to 2.4years due to under delivery of housing within Chiltern. In any event, it is clear that there is a considerable housing shortfall. Therefore the delivery of two houses, although a modest contribution, attracts significant weight.
31. I have found harm in respect of its effect on the character and appearance of its surroundings, with regard to the Chilterns National Landscape. Moreover, the proposal is not acceptable with respect to its potential impact on a protected species. An absence of harm in respect of matters such as the living conditions of neighbouring occupants, drainage, flood risk, highway safety, and suitability of the accommodation for future occupants are neutral considerations. A lack of objection from individual members of the public is also a neutral consideration.

Green Belt Balance

32. The proposal would be inappropriate development and by definition would harm the Green Belt. It would also harm Green Belt openness. I afford substantial weight to this harm. Therefore, whilst I afford significant weight to the delivery of the new homes, the harm to the Green Belt and other harms would not be clearly outweighed by the other considerations. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusions

33. Framework paragraph 11.d.i. states that there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provides a clear reason for refusing a proposal. Footnote 7 confirms Green Belt and Areas of Outstanding Natural Beauty are such assets. As the Green Belt alone provides a clear reason for refusal in this case, the presumption in favour of sustainable development under paragraph 11.d.ii. of the Framework does not apply.
34. Having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. Consequently, the appeal should be dismissed.

Rachel Hall

INSPECTOR