



Appeal Decision

Site visit made on 8 May 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4TH June 2024

Appeal Ref: APP/F1610/W/23/3335846

Land North of Greenway Lane, Ullenwood GL53 9QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Bunner against the decision of Cotswold District Council.
 - The application Ref is 23/01338/FUL.
 - The development proposed is the construction of a new self-build dwelling (and associated site enhancement works) following removal of the existing building and hard-standing.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - whether or not the proposed dwelling would be located within a suitable location for housing having regard to the relevant development plan policies; and
 - if the proposal is inappropriate development, whether or not the resulting harm and any other harm, is clearly outweighed by the other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether or not inappropriate development

3. The Framework 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.
4. Policy SP1 of the Cotswold District Local Plan 2011-2031 adopted on 3 August 2018 (CDLP) is consistent with the Framework as it sets out that inappropriate development within the Green Belt will not be permitted having regard to national planning policy.

5. 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. This includes paragraph 154(g) which deals with limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.
6. It is common ground between the main parties that the appeal site is previously developed land. It is therefore necessary to consider whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.
7. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appellant highlights that the development would lead to a reduction of above ground-built volume of approximately 10m³, when compared to the existing building.
8. However, that does not take adequate account of the lower ground floor. Although, the appellant highlights this element would be entirely subterranean, it would involve the introduction of a Cotswold stone retaining wall and a significant portion of the north and east elevations of the lower ground floor would be above ground. Also, four lower floor windows serving bedrooms and a window serving the bathroom would be introduced into the east elevation. Notwithstanding, that the existing building sits on a brick plinth which is also visible, it follows that there would be an overall increase in floor space and volume.
9. Moreover, although the appellant highlights that the roof height would be reduced when compared to the existing building, that is measured from the existing ground floor and does not take sufficient account of the sloping site. When the sloping site is taken into account, the building height of the proposed dwelling would be materially higher when measured from the base of the north and east elevations than the building height used by the appellant for comparison purposes. As a result, overall, the height of the proposed building does not materially reduce the impact on openness in comparison to the existing building.
10. I accept that much thought has been given to the landscape strategy, the introduction of a planted roof, relocation of the footprint of the proposed building and the architectural design to blend the proposed building into its surroundings. Moreover, the proposed north and east elevations would have limited presence in public views from Greenway Lane. Nonetheless, although there would be a level of screening, the increased volume at the lower ground floor of the proposed building and other features such as the retaining wall and the windows would be perceptible from outside the appeal site, particularly from the fields to the north-east. As a result, the proposal would have a greater impact on the openness of the Green Belt than the existing development.
11. In reaching that view, I note there is an extant planning permission for a development that includes a basement and in relation to that case, the Council found that the basement did not have an impact on openness. Clearly, that is an entirely separate and materially different proposal. The fact that the Council reached a certain view in relation to the impact on the Green Belt in that case does not alter my findings on the impact of this proposal on openness. I have

also had regard to the fact that there has been a previous appeal decision¹ in relation to a proposed dwelling at the appeal site and I note the appellant has amended the proposal in an attempt to address the previous Inspector's findings. However, notwithstanding those amendments, for the reasons set out above, I find that the proposal would have a greater impact on the openness of the Green Belt than the existing development.

12. It follows that the proposal would be inappropriate development in the Green Belt, which paragraph 152 of the Framework states is, by definition, harmful to the Green Belt and consequently I give substantial weight to that harm. Given that there are no exceptions available, the proposed development would conflict with Policy SP1 of the CDLP.

Suitable location for housing

13. Policy DS4 of the CDLP sets out that new build open market housing will not be permitted outside principal and non-principal settlements unless it is in accordance with other policies that deal with residential development in such locations. The explanatory text clarifies that any land that falls outside development boundaries and non-principal settlements is referred to as countryside, even, as here it is technically previously developed land.
14. The policy does not preclude all open market housing in rural locations, for example dwellings resulting from the replacement or sub-division of existing dwellings or housing created from the conversion of rural buildings.
15. The appeal site is not located within a principal or non-principal settlement and would not fall within any of the exceptions. The appellant accepts that the proposed development conflicts with the development plan, although they consider that any conflict is a technical one, that no harm arises as they do not consider that the proposal amounts to inappropriate development in the Green Belt and given the existence of a legitimate fallback option. As outlined above, I have found that the proposal would amount to inappropriate development within the Green Belt, and I will deal with the potential fallback position later in the decision.
16. As a result, the proposal would not be located within a suitable location for housing and would be at odds with the CDLP's development strategy to promote sustainability which would result in significant harm.
17. I therefore conclude that the proposed dwelling would result in significant harm as it would not be located within a suitable location for housing and would conflict with Policy DS4 of the CDLP for the reasons set out above. The proposal would also be at odds with the Framework as the proposal would be located within an isolated location in the countryside.

Other Considerations

18. I have considered the submissions of the main parties on the fall-back position on the appeal site, including case law. The appeal site has a significant planning history, but of particular relevance is that planning permission was granted in 2022 for the conversion of the existing building to residential use to include the construction of a basement (the permitted dwelling).

¹ APP/F1610/W/20/3249568

19. I am satisfied that the appellant has a long-term desire to build their own home and to live at the appeal site and note that they have expended a significant amount of effort and money in readiness for implementing the permitted dwelling. As a result, there is a greater than a theoretical possibility that the alternative permitted development might take place and will be implemented if this appeal is dismissed. Bearing that in mind, if implementing the permitted development would be more harmful than implementing the proposed development, that could weigh significantly in favour of allowing the appeal.
20. However, of significant importance is that unlike the proposal before me, the permitted development was determined on the basis that it was not inappropriate development within the Green Belt. As outlined above, inappropriate development is by definition harmful to the Green Belt and as required by the Framework I have afforded substantial weight to that harm.
21. In finding that the proposal was inappropriate development I have found that the proposal would have a greater impact on the openness of the Green Belt than the existing development. Bearing in mind that the permitted scheme was found not to be inappropriate development within the Green Belt, the permitted scheme would not be regarded as harmful to the openness of the Green Belt. Clearly that also means that the proposal would have a greater impact on the openness of the Green Belt than the permitted scheme.
22. Similarly, based on the particular circumstances the permitted development was not considered to be located within an unsuitable location for housing as it fell within an exception set out in the development plan. So, unlike the fall-back position the appeal proposal conflicts with the development plan and the Framework in relation to both Green Belt and housing location matters.
23. As a result, given that the permitted development has not been found to be inappropriate development, harm the openness of the Green Belt or be located in an unsuitable location for housing, I find that the fall-back position would not be more harmful than implementing the proposed development and that limits its weight in the determination of the appeal.
24. In reaching that view I have taken account of the appeal decisions that have been brought to my attention by the appellant at Pook Barn² and Broadlake³, as well as the nearby development that was granted planning permission by the Council at Ullenwood Court. In relation to the two appeals there is no indication that the sites are located within the Green Belt and certainly the relevant Inspectors did not find that the proposals amounted to inappropriate development.
25. In relation to Ullenwood Court, again the Council did not find that the proposed development amounted to inappropriate development within the Green Belt. Further, in all the cases the decision makers found that the relevant fall-back position weighed in favour of each proposal and in the case of the Broadlake appeal, the Council were unable to demonstrate a 5-year supply of housing land. As a result, the factors in the case before me are materially different from these other cases and therefore they have limited weight in the determination of the appeal.

² APP/B3830/W/20/3246048

³ APP/M2270/W/21/3275924

26. I have taken account of the fact that the proposal would secure landscape enhancements, biodiversity enhancements, energy efficiency and sustainability benefits, the re-use of previously developed land and the provision of self-build development. Bearing in mind, that the permitted development would also involve the appellant self-building a dwelling for their own use, cumulatively I have afforded these benefits moderate weight in the determination of the appeal.
27. The Council refused the application on the basis that without appropriate mitigation the proposal would have an adverse effect on the integrity of the Cotswolds Beechwoods Special Area of Conservation (SAC). However, during the appeal process the appellant has submitted a legal agreement which secures a recreational impacts mitigation contribution. The Council accept that the appellant has made the appropriate financial contribution in accordance with the adopted recreation mitigation strategy.
28. In the event that I had been minded to allow the appeal, it would have been necessary for me to undertake an appropriate assessment as the competent authority. However, given my overall conclusion that is not necessary. However, even if I had ultimately found that any significant adverse effects on the SAC could be fully mitigated, that finding would have had neutral weight in the determination of the appeal.

Green Belt Balance

29. Notwithstanding that I have afforded some considerations weight as outlined above, overall, the other considerations do not clearly outweigh the substantial harm the proposal causes to the Green Belt and the significant harm due to the fact that the proposal would not be located within a suitable location for housing. Consequently, the very special circumstances necessary to justify the proposed development do not exist.

Conclusion

30. In summary, the proposal conflicts with the development plan and the Framework and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given the appeal is dismissed.

S Rawle

INSPECTOR