



Appeal Decision

Site visit made on 23 July 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/P0240/W/23/3329864

Land Off Sewell Lane, Sewell, Dunstable, Bedfordshire LU6 1RP

- 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 Michael Beary against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/00876/FULL.
 - The development proposed is described as i) Change of use from agricultural to mixed agricultural/equestrian use; ii) Construction of slabbing, including stables, tack room, feed and fodder storage; iii) Concrete apron, hardstanding & vehicle parking & site access; iv) Soft/hard landscaping scheme.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the heading above has been taken from the planning application form. A different wording has been entered on the Council's Decision Notice. However, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended.
4. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement. While these proposed changes can only be given limited weight at this stage, those parts most relevant to the appeal are not proposed to be amended. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issues

5. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the Framework, including the effect upon the openness of the Green Belt;

- ii) the effect of the proposed development on the character and appearance of the area with particular regard to the Totternhoe Chalk Escarpment landscape;
- iii) the effect of the proposed development on the safe and efficient use of the local highway network, including in relation to public rights of way; and
- iv) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

6. The appeal site is within the South Bedfordshire Green Belt. Policy SP4 of the Central Bedfordshire Local Plan 2021 (LP) states that within the Green Belt there is a general presumption against inappropriate development. It states that development will be assessed in accordance with government guidance.
7. The Government attaches great importance to Green Belts. Paragraph 143 of the Framework sets out the five purposes of the Green Belt. The fundamental aim being to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The construction of new buildings within the Green Belt are inappropriate development with the exception of development types listed in paragraph 154 of the Framework.
8. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 and 155 of the Framework establish that buildings and other forms of development would be inappropriate unless they meet a listed number of exceptions. The proposed stable would be a facility for outdoor sport and recreation and would therefore be subject to Paragraph 154 b).
9. This exception explains that such development would not be inappropriate development provided that it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. The five purposes of including land within the Green Belt are identified at paragraph 143 of the Framework. Of those, the Council maintains that the development would result in encroachment of development into the countryside.
10. The Planning Practice Guidance (PPG) provides advice on the factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt, with openness being capable of having both spatial and visual aspects.
11. The stable building would be located within an existing agricultural field that is devoid of development. It would comprise a sizeable building of an L-shaped layout and would include 5no stables, a corner feed, fodder store and a tack room, along with a large area of hardstanding and a vehicular access and parking spaces. In spatial terms the footprint of the building and associated hardstanding would reduce the openness of the Green Belt.

12. The rear of the long side of the stables would be parallel to the adjacent northern boundary which runs parallel with BOAT 35, a By-way Open to All Traffic. The proposed stable building would be single storey, of a dark wooden construction and of a modest height. Nevertheless, given the proximity of the BOAT to the proposed development users of the BOAT would be afforded with a clear view of the development. This is recognised in the submitted Landscape and Visual Appraisal (LVA) that there would be moderate-major adverse visual effects observed by users of the public right of way network, in particular where the BOAT passes to the north of the site and the footpath which runs parallel to the appeal sites southern boundary.
13. It is accepted that the backdrop of vegetation to the north of the BOAT would provide some mitigation from long-range views. Nevertheless, even with the proposed landscaping adjacent to the proposed stables and hardstanding the development would be highly prominent in localised views. As such, the change arising from the development would amount to harm to the openness of the Green Belt. Consequently, the proposal would not meet the requirements of the Framework in this regard.
14. The scheme's additional built-form encroachment into the site would be harmful to the Green Belt purpose of safeguarding the countryside. This harmful impact would be intensified by the scheme's public visibility.
15. I have assessed the scheme's impact upon the openness of the Green Belt and concluded that it would cause moderate harm to the openness and purpose of including the land within the Green Belt.
16. For the above reasons, the scheme would not meet with any of the Framework exceptions for the construction of a new building. Accordingly, the proposed development would comprise inappropriate development within the Green Belt and would not preserve openness. Conflict therefore arises with Policy SP4 of the LP and Section 13 of the Framework. Collectively, these policies seek to prevent inappropriate development in the Green Belt. The harm to the Green Belt is a matter to which I attach substantial weight.

Character and appearance

17. The appeal site is located within Totternhoe Chalk Escarpment Landscape. The supporting documents describe the appeal site as being chiefly chalk grassland. I observed the site to be an open and undeveloped parcel of land. The landscape in which the appeal site sits is generally undulating open fields set within a quarry face. The field boundaries are predominately hedgerows and woodland tree belts, with the quarry face forming a backdrop to views across the farmland, which is an integral part of the landscape character. This creates a verdant rural character.
18. It is recognised that the proposed development has been positioned to the northeastern corner of the land which would minimise the amount of hardstanding and access required. Nevertheless, the proposed stables and hardstanding form a relatively substantial area. The LVA identifies moderate adverse visual effects rising from the proposed development. Planting could be incorporated to the rear of the stables adjacent to the alignment of the BOAT. However, such planting would take a number of years to reach a height that would be sufficient to screen the proposed building. In any event screening should not be used to conceal what is an otherwise unacceptable form of

development. Furthermore, such landscape features are not characteristic of the surrounding landscape.

19. I accept that the proposal would affect a small proportion of the landscape character area. Nonetheless, the proposed development, including the large area of hardstanding, would not conserve and enhance the landscape.
20. The appellant submits that the proposal does not include jumps, schooling areas or floodlighting. However, such equestrian related paraphernalia would be unlikely to require the benefit of planning permission. Whilst a condition could be imposed to restrict means of floodlighting the use of the land would likely result in some paraphernalia within the plot, which would give rise to a suburban appearance contrary to the character and appearance of the site and open countryside.
21. For the reasons stated, the proposed development would have a harmful impact upon the character and appearance of the area, with particular regard to the Totternhoe Chalk Escarpment landscape. Accordingly, I find conflict with policies HQ1, DC4 and EE5 of the LP. Policy DC4 requires equestrian developments to be well screened from the surrounding countryside, and to avoid adverse impact on the public rights of way network. Amongst other things, policy HQ1 of the LP, seeks to reinforce local distinctiveness and policy EE5 of the LP requires proposals to respect, retain and enhance the character and distinctiveness of the local landscape.

Public right of way

22. Vehicular access to the site would be via BOAT 35 which is subject to a motor vehicle restriction, except for access. It is not disputed between the parties that the appellant has a vehicular right of access to the site via the BOAT.
23. I observed BOAT 35 to be narrow and hard surfaced up to the proposed vehicular entrance. Beyond the appeal site access the BOAT continues in a westerly direction where its surface is unpaved and reverts to a grass surface.
24. It is asserted that the proposed stables are for private use. Nevertheless, the development would attract owners to provide daily care for their horses. The appellants advise that this would typically be twice daily with the potential for more trips at weekends and when attending horse shows and sales and when attended to by veterinary professionals. Additional trips associated with hay deliveries and waste collection are also likely.
25. Whilst I have no reason to dispute that there are some vehicle movements currently associated with the land, I have no evidence before me of the level of activity. Furthermore, at the time of my visit I observed that the site was not secured by fencing or similar boundary treatments to its northern boundary adjacent to the BOAT, and I saw no evidence of livestock on the land. Based on the information before me I therefore cannot be satisfied that the proposed activity at the site is comparable to existing vehicular movements.
26. Given the limitations of the BOAT, particularly in terms of its narrow width, through additional traffic movements the proposal would intensify the vehicular use of this restricted section of the BOAT. Thereby materially increasing the potential for conflict with vulnerable users, including pedestrians, cyclists and horse riders.

27. The Council has raised concerns regarding for a potential increased risk of anti-social behaviour as a result of the barrier being left open. However, I have no substantive evidence in this regard.
28. Any disturbance during demolition and construction would be for a temporary period only and a condition regarding construction management could be imposed should I be minded to allow the appeal.
29. For the reasons set out above, I conclude that the proposal would not protect or enhance the local highway network, including in relation to public rights of way. Accordingly, conflict would arise with policies T2 and EE12 of the LP and Section 9 of the Framework. Policy EE12 seeks to protect or enhance the rights of way network and, amongst other matters policy T2 seeks to retain or enhances existing footpaths and provide safe and convenient access. I find conflict with policy DC4 of the LP insofar as it seeks to ensure that proposals for equestrian developments do not adversely impact upon the Rights of Way network.

Other Considerations

30. The Framework advances that substantial weight be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
31. No very special circumstances have been explicitly advanced by the appellant. However, the benefits arising from the grazing and management of the wider site and landholding advanced by the appellant, in the Contribution to the Purpose of the Green Belt Appraisal, would be limited.

Other Matters

32. It is not disputed that grazing is an appropriate use within the countryside or that certain agricultural type buildings benefit from permitted development rights. However, I have not been presented with any details of any certificate of lawfulness confirming any alternative development would be a genuine and realistic alternative option.
33. Additional landscaping could be planted around the proposed building to increase the environmental value of the area. However, I consider that any ecological gains would be modest.
34. Whilst the appeal site may be of poor quality for agricultural purposes this does not outweigh the harms identified.
35. Matters of drainage, ecology and living conditions did not form the Council's reason for refusal. Based on the information before me I see no reason to reach a different view. Nevertheless, the absence of harm is a neutral factor, weighing neither for nor against the proposal.
36. I recognise the proposal would support the appellant and their family in pursuing their hobby.
37. The development site is proximate to the scheduled ancient monument (SAM), a designated heritage asset of the highest significance, known as Maiden Bower Hillfort (list entry no. 1015593) which lies approximately 400m to the southeast of the appeal site. In accordance with the Framework great weight

should be given to the SAM's conservation. I note the Council's Archaeologist has not identified any harm to the SAM, and based on the evidence before me and my observations on site I consider that the proposal would not harmfully compromise the wider setting of the designated heritage asset or affect the ability to experience or appreciate its significance. As such, it would preserve the setting of the nearby SAM.

38. The appeal site lies approximately 150m away from the Sewell Conservation Area (CA). The CA derives its significance from a rich collection of buildings that form part of the rural settlement. Given the location of the site in relation to the CA boundaries the appeal site currently has a neutral impact on the significance of the CA. The Council did not include a reason for refusal based on the development's impact upon the setting of the CA. Based on the plans before me, and as observed at my site visit, I do not consider the proposal would have an adverse impact upon the setting of the CA.
39. The appellant refers to the use of adjoining land and the BOAT for motorcycle and car events. However, I have no further information in this regard. In any event the use of adjoining land is not determinative to the appeal proposal before me.
40. My attention has been drawn to planning approvals¹, which the appellant considers provide support to the appropriate location of the site. The importance of determining similar cases in a similar manner is acknowledged. However, in respect of both cases, from the limited information before me these sites are physically removed from the appeal site and as such lie within a different context. It is also understood that both permissions were determined a significant time ago under the provisions of a previous version of the development plan and prior to the first publication of the Framework. Furthermore, I am not party to the evidence before the decision-maker to reach a view as to whether they are comparable or not. In any event, I have considered the appeal proposal on its own merits based on the evidence before me.
41. I note the evolution of the proposal from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me.

Green Belt Balance

42. The proposed development would be inappropriate development in the Green Belt, which, by definition, is harmful. The Framework requires that the harm by reason of inappropriateness be given substantial weight, and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
43. I consider the benefits of the proposal to be limited and do not clearly outweigh the development's moderate harm to the openness of the Green Belt, which I have given substantial weight to in my assessment.
44. In view of this, I conclude that the proposed development conflicts with the development plan and the Framework which seek, amongst other things, to protect the Green Belt from inappropriate development.

¹ SB/88/00914 Cowslip Crescent, Sewell Lane and SB/92/0036 Whistlebrook Stud, Meadowbank, Sewell Lane

45. The identified harm to the Green Belt provides a clear reason for refusing planning permission.

Conclusion

46. The proposal fails to preserve the openness of the Green Belt accordingly would be inappropriate development having regard to paragraph 154 of the Framework. Having taken into account the other considerations outlined above, they do not outweigh the substantial weight which must be given to Green Belt harm, and therefore they are not sufficient to demonstrate very special circumstances.
47. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.
48. For the reasons given above I conclude that the appeal should be dismissed.

R Gee

INSPECTOR