



Appeal Decision

Site visit made on 25 June 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2024

Appeal Ref: APP/X0415/W/24/3336436

**Maisie Cottage, Bottrells Lane, Chalfont St Giles, Buckinghamshire
HP8 4EQ**

- 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 Balaam against the decision of Buckinghamshire Council.
 - The application Ref is PL/22/1564/FA.
 - The development proposed is conversion and extension of existing stable building to create a one bedroom dwelling served by the existing access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the consideration of the planning application the appellant submitted an amended block plan showing a larger red edged curtilage for the proposed dwelling and amended floor plans and elevations showing a larger extension and the bedroom being for single occupancy only. However, although the appellant's Appendix A indicates that the Council accepted the amended plans, I have no evidence that the amendments were the subject of a full re-consultation. The appellant's own evidence also notes that the amended plans and other additional documents they submitted were not included on the Council website. The Council subsequently determined the proposal on the basis of the originally submitted scheme.
3. In considering whether to accept the additional information, I have had regard to Holborn Studios Ltd¹. The amended plan would result in a fundamental change to the nature of the proposal over what was considered at the planning application stage. The increase in the red edged area is a substantive change as the boundary of the proposed site now extends to the boundary of the adjacent field. I also have no evidence that the owner of the adjacent land was consulted on the amended scheme and, consequently, the adjacent landowner would be unfairly prejudiced if I were to accept the amended plans.
4. In this case, the changes in the amended plans would result in a substantial difference to the application and the interested parties have not had an opportunity to consider the scheme, as amended. Consequently, I have not accepted the amended plan for the purposes of this appeal. In the interests of natural justice, I have determined the appeal on the basis of the plans as considered by the Council.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

5. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". AONBs have been renamed and rebranded as National Landscapes to reflect "their national importance: the vital contribution they make to protect the nation from the threats of climate change, nature depletion and the wellbeing crisis, whilst also creating greater understanding and awareness for the work that they do." However, the legal designation and policy status of these areas are unchanged. I have, therefore, referred to the Chilterns Area of Outstanding Natural Beauty as the Chilterns National Landscape throughout my decision.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies, including considering the effect of the development on the openness of the Green Belt and the purposes of including land within it;
- the effect of the development on the Chilterns National Landscape;
- whether the proposed development would provide appropriate living conditions for the occupiers of the unit, with particular regard to internal space; and
- 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 inappropriate development & effect on openness

7. The appeal site comprises an existing stable building located adjacent to a roadside hedge on the edge of a wider field. The stable is timber clad and has a concrete base. There is an existing gated access leading directly into the field. The building and field sit between Maisie Cottage and Frog Hall in an area defined as open countryside for planning purposes and also within the Metropolitan Green Belt and Chilterns National Landscape.
8. The National Planning Policy Framework (the Framework) advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 155 of the Framework advises that certain other forms of development in the Green Belt, other than the construction of new buildings, is not inappropriate development. One of these, subsection d) of 155, advises that the re-use of buildings, provided that the buildings are of permanent and substantial construction, and providing that the development preserves the openness of the Green Belt and does not conflict with the purpose of including land within it, is not inappropriate.
9. Policy GB2 of the Chiltern District Local Plan Written Statement (LP) seeks to protect the Green Belt from inappropriate development but includes an exception for change of use of existing permanent and substantial buildings, in accordance with, amongst other policies, GB11. Policy GB11 of the LP advises that the Council regard a proposal to re-use a non-residential building in the

Green Belt as residential accommodation as not inappropriate subject to a number of criteria.

10. Policy GB11 of the LP is more restrictive than the Framework in that it requires a number of additional criteria to be met for change of use of buildings in the Green Belt. However, the general thrust of Policy GB11, in seeking to restrict development in the Green Belt and ensure its openness, is broadly consistent with the Framework.
11. The Council has not raised any substantial concerns relating to the structural capability of the existing building to be converted or any concerns with the form, bulk, and general design of the existing building. Consequently, I find that the appeal proposal would constitute the re-use of a building that is of permanent and substantial construction and is capable of being converted.
12. Paragraph 155 of the Framework also requires the consideration of such development on the openness of the Green Belt and the purposes of including land within it. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects.
13. The spatial aspect of openness includes an absence of development, rather than just an absence of sight of a development. The proposed extension and the creation of a garden and driveway, with associated hardstanding and fencing, would result in development on parts of the site that are currently undeveloped. Although this would be inevitable for any conversion scheme it is important to assess whether the proposal would harm the Green Belt.
14. Even considering the plans as originally submitted, for the small garden area, the proposed curtilage and the parking area are formal and consist of straight lines and ninety-degree corners. Moreover, the proposed boundary is fencing. This would be out of keeping with the more natural boundary lines and hedges of the existing property and field. Although the appellant contends that the existing field is separated from adjoining fields by post and rail fencing, I did not see any evidence of such fencing at my visit. The field in which the stable sits was open to the adjoining arable field. Moreover, although they could, I have no substantive evidence that the appellant would subdivide the field with such fencing and this is, therefore, not material to my decision.
15. In that regard the appeal before me is materially different to the approved scheme at Three Gates Farm referred to by the appellant in which the curtilage was created by enclosing a corner of an existing field with a new hedge boundary. Moreover, the Three Gates Farm development was originally approved with a more rural layout. Although the photographs submitted by the appellant show a formal paved area around the building and a long sweeping driveway, these are not shown on the approved plan. Furthermore, the later alterations and additions were considered on the basis of the fallback position of the original conversion consent.
16. The proposed garden and parking area for the appeal before me would reduce the spatial openness around the existing building and would not relate well to the open countryside location. The proposal would, therefore, have a spatial impact on the openness of the Green Belt and would result in encroachment into the countryside, contrary to one of the purposes of including land within the Green Belt set out in paragraph 143 of the Framework.

17. Although, given the small garden area, the impact on openness would not be significant it would, nonetheless be harmful. The preservation of openness does not mean that the Green Belt needs to be left entirely unchanged, however, the Framework requires the development to not have a greater impact. In my judgement the construction of fencing, laying of hard standing and the creation of a garden area in the form proposed would have a greater impact on the spatial aspect of openness of the Green Belt and would not preserve the openness of the Green Belt.
18. In terms of visual impact, the existing building is sited on the edge of an existing field. However, the roadside hedge has been allowed to grow and the building is, therefore, fairly well screened from the road with only views of the roof visible over the hedge. The gable end of the building is also visible through the existing access gate. The building is not exposed or prominent in views from the lane. It has blended into the rural landscape and forms part of the openness of the Green Belt.
19. Moreover, views of the existing stable building from further along the road are read alongside Maisie Cottage or Frog Hall, and their associated outbuildings. The building is not in an isolated position and is currently read as part of the sporadic built development along Bottrells Lane.
20. The hedge and the existing building would limit the visual impact of the proposed garden area, fencing and hard surfacing and the associated car parking and domestic paraphernalia. However, it would not wholly screen it and views of the formal layout of the proposed parking and garden area would be available through the access point. The visual impact would be out of keeping with the more rural character of Maisie Cottage. This would result in some degree of visual harm to the openness of the Green Belt.
21. In my judgement the roadside hedge would screen the visual effect of the proposed single storey extension, which itself is subservient to the existing building and is proposed on the gable end of the building furthest from the access point. The extension would not be visually dominant and would be read as part of the existing stable building. Consequently, the extension would not perceptibly reduce the visual openness of the Green Belt.
22. The proposed change of use would include altering the existing double doors and stable doors to glazed openings and the introduction of two new windows in the proposed extension. The development would, therefore, result in greater light emissions at night than at present. However, this would be the case for any building changed from non-residential use to residential use and both the Framework and the LP supports such changes of use and allows for alterations and work to be carried out to buildings to enable alternative uses.
23. The appeal before me only proposes using openings which face into the appeal site. The perception of light emission from outside the site would be minimised as the existing building and the overhanging eaves above these windows would act as a screen and reduce upward light spillage from all except the small gable end window, which would serve the proposed bathroom. Furthermore, from longer views across the field the light emissions from the proposed development would not be distinguishable from the light emissions from Maisie Cottage and Frog Hall either side of the site. Consequently, the appeal before

me is materially different to the appeals referred to by the Council² which, from the evidence before me, included greater amounts of glazing and, in the case of the conversion scheme, more visible elevations and windows.

24. For the reasons given above, the proposal would be inappropriate development under the exception in Paragraph 155 d) of the Framework as it would fail to preserve the openness of the Green Belt. Consequently, the proposal conflicts with Policies GB2 and GB11 of the LP which, taken together, seek to resist inappropriate development in the Green Belt, except in very special circumstances. I give the harm to the openness of the Green Belt and the conflict with the development plan substantial weight in my decision.

Effect on National Landscape

25. Policy LSQ1 of the LP recognises the national importance of the Chilterns National Landscape and sets the primary objective which is to conserve and enhance the natural beauty of the landscape. In pursuing this primary objective, the Council will aim to keep development to a minimum and LSQ1 sets a number of criteria to be used to assess whether a development will conserve and/or enhance the special character or appearance of the landscape.
26. Policy CS22 of the Core Strategy for Chiltern District, adopted November 2011 (the CS), also acknowledges the duty imposed on the Council to conserve and enhance the natural beauty of the area but seeks to carefully control development to ensure that any impact on the landscape character is kept to a minimum. The policy requires all proposals to conserve and enhance the special landscape character, heritage, and distinctiveness of the Chilterns National Landscape.
27. Section 245 of the Levelling Up and Regeneration Act 2023 (the LURA) amended the duty in the Countryside and Rights of Way Act 2000 in relation to National Landscapes to require relevant authorities, in exercising or performing any functions in relation to or so as to affect land in a National Landscape, to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
28. The appeal site lies within the "Penn Rolling Farmland" Landscape Character Area as defined in the Buckinghamshire Landscape Character Assessment, 2011 (the LCA). The site is part of a wider field, adjacent to woodland with a narrow rural road between and in an area where the density of housing is low. The appeal site is, therefore, typical of the landscape character area detailed in the LCA.
29. Notwithstanding the limited view from the road, the appeal site is just as much an integral part of the National Landscape and the countryside as the fields beyond and the woodland opposite. As with the effect on the Green Belt the proposed extension and change of use would not significantly harm the National Landscape as the scale of the extension and conversion would not be visually prominent or significantly different to the existing building and houses either side.
30. However, the proposed fencing, hard surfacing, and creation of a garden area, albeit the smaller of the two schemes, would result in an intrusion of residential

² APP/X0415/W/22/3299461 & APP/U1240/W/18/3204558

development in a form that is does not relate to the existing screening and landscape features of the area.

31. For the above reasons, the scheme would not conserve nor enhance the natural beauty of the Chilterns Natural Landscape contrary to Policy LSQ1 of the LP and Policy CS22 of the CS which, taken together, seek to conserve and enhance the Chilterns National Landscape.
32. For the same reasons, the proposal would conflict with paragraph 182 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes, which have the highest status of protection in relation to these issues. Furthermore, the proposal would not further the purpose of conserving or enhancing the natural beauty of the National Landscape as required by the LURA.

Living conditions of future occupiers

33. Both parties have referred to the Technical Housing Standards – nationally described space standard, 2015 (NDSS) which requires, for a one-bedroom, 2-person, single-storey dwelling the minimum floor area must be 50m². The scheme would provide 36.6m² floorspace and would, therefore, fall substantially short of the minimum within the NDSS.
34. Policy GC3 of the LP seeks to ensure that development achieves good standards of amenity for the future occupiers and resists development where amenities are impaired to a significant degree. The supporting text of the Policy notes that amenity is pleasantness of place and has a number of aspects which directly affect quality of life. The adopted policy does not refer to the NDSS or set minimum floorspace requirements. As such I am only able to give the NDSS limited weight in my decision.
35. The proposed internal layout indicates sufficient internal space for a double bed, seating and dining area, kitchen, and shower room. There would be space within the bedroom for wardrobes and storage and there is space indicated around the furniture for circulation.
36. Albeit that the proposed dwelling would fall short of the minimum within the NDSS, the proposed floorspace would not result in a development where the living conditions of the future occupiers of the development would be impaired to a significant degree, as is the test within Policy GC3 of the LP. The proposal would not adversely effect any of the matters considered within the supporting text of Policy GC3 of the LP and, in my judgement, the proposed development would result in a pleasant place.
37. For the above reasons, the proposal would provide appropriate living conditions for the future occupiers of the unit, with particular regard to internal space. Consequently, I find no conflict with Policy GC3 of the LP as detailed above.
38. Neither do I find any conflict with paragraph 135(f) of the Framework which seeks to ensure that developments create places that are safe, inclusive, and accessible and which promote health and well-being with a high standard of amenity for future users.

Other considerations

39. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would not fall under the exception for the re-use of buildings in the Framework due to the adverse effect on the openness of the Green Belt.
40. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, are clearly outweighed by other considerations. The proposal would also result in harm to the Chilterns National Landscape.
41. I acknowledge that the proposal would provide additional housing within the context of the Framework's aim of boosting housing supply. There would also be social and economic benefits both during and post construction and the scheme would also have limited effects on biodiversity and provide an opportunity for ecological enhancements which is a benefit. However, given the small scale of the development and that the future occupants would be heavily reliant on the private car for access to day-to-day services and facilities, the social and economic benefits would be limited.
42. That there were no objections from neighbours, the Parish Council, or statutory consultees, that the scheme would not result in any adverse effects on the living conditions of the occupiers of the nearest neighbouring properties; not significantly harm highway safety; and that other technical matters can be resolved through appropriately worded conditions weigh neither for, nor against, the proposal.
43. For the reasons given, the other considerations that weigh in favour of the proposal, taken together, do not outweigh the substantial weight I am to give to the Green Belt harm. Consequently, they do not clearly outweigh the harm from inappropriateness and the other harms. For these reasons, the very special circumstances necessary to justify the development do not exist.

Other Matters

44. The appeal site lies within the zone of influence for the Hodgemoor Wood site of Special Scientific Interest (SSSI) which is also identified as an Ancient and Semi-Natural Woodland. The appeal scheme would result in a net increase in residential accommodation which could result in adverse impacts upon the integrity of the SSSI through increased recreational use.
45. As the competent decision-making authority, if I had been minded to allow the appeal, I would need to examine these matters further and undertake an Appropriate Assessment of the implications of the appeal scheme upon the SSSI. However, as I am dismissing the appeal on other main issues, the outcome of an assessment would have no bearing on the overall outcome of the appeal. Therefore, it is not necessary for me to consider this matter further.

Planning Balance

46. I consider that the harm and policy conflict I have identified would be such that the proposal would conflict with the development plan as a whole. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable

housing land and the officer report notes a supply of only 2.8 years. This is a significant shortfall. I must, therefore, consider paragraph 11(d) of the Framework.

47. However, as set out at footnote 7, if the policies in the Framework relating to the Green Belt provide a clear reason for refusing the development proposed, then the 'tilted balance' is not engaged. In this case, I have found that the harm to the Green Belt would not be outweighed by the public benefits, and this provides a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the Framework, does not apply.

Conclusion

48. For the reasons given above the appeal should be dismissed.

K Townsend

INSPECTOR