



Appeal Decision

Site visit made on 6 August 2024

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

Appeal Ref: APP/A1910/W/23/3332517

Plot 1, Cupid Green Lane, Hemel Hempstead, Hertfordshire, HP2 6HN

- 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 Joseph and Mrs Denise Adisa-Olabode against the decision of Dacorum Borough Council.
 - The application Ref is 22/03069/FUL.
 - The development proposed is 'Building an agricultural barn from timber wood for animals and its care takers'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Dacorum Borough Council against Mr and Mrs Adisa-Olabode. That application is the subject of a separate Decision.

Procedural Matters

3. On 19 December 2023 the Government published a revised version of the National Planning Policy Framework (the Framework). However, the Green Belt policies that are relevant to this appeal have not changed and there was no need, therefore, to invite the parties to make further submissions in response to the revised Framework. The paragraph numbering for the Green Belt policies has changed and I have highlighted those changes in my decision.
4. Since then, on 30 July 2024, the Government has issued a Written Ministerial Statement¹ accompanying proposed reforms to the Framework and other changes to the planning system. Although no policy changes have taken place to date, as relevant considerations, I sought the further views of the parties in relation to potential changes to Green Belt policy. I have had regard to the views submitted in coming to my decision.

Main Issues

5. 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 on the character and appearance of the locality

¹ Angela Rayner, Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government: 'Building the homes we need' 30 July 2024.

- the effect on the Chiltern Beechwoods Special Area of Conservation (SAC)
- 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

Green Belt

6. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
7. Section 13 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CS1 of the Dacorum Borough Core Strategy 2006-2031 [2013] (the CS) imposes a spatial strategy for the location of new development that is compatible with Green Belt policy. Policy CS5 states that national Green Belt policy will apply to Green Belt areas.
8. Paragraph 154² of the Framework makes it clear that new buildings are inappropriate in the Green Belt. However, a number of exceptions are made, including buildings for agriculture or forestry.
9. The appellants describe the proposal as an 'agricultural barn for animals and its caretakers'. The single-storey building would provide 3-bedroom accommodation with a bathroom, kitchen, lounge, lobby and storage areas over about two-thirds of its floorspace. The remaining floorspace of some 38m² is annotated as storage/livestock space on the submitted plans. The building would be constructed of blockwork with an outer timber cladding and a dual-pitched green roof cover. Domestic scale double-glazed windows and door openings would be incorporated into the elevations.
10. The s336 of the TCP Act 1990 defines 'agriculture' as including 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes'. It does not therefore provide for the residential use of land, even if such residential use is associated with an agricultural use.
11. The plans show all the facilities to provide for day-to-day living at the site for several people. Although the appellants describe the building for agricultural purposes, the majority of its internal space is designed for residential use. Alongside the area shown for storage/livestock, it would provide for a mixed agricultural and residential use.
12. Mixed use buildings are not a listed exemption in Paragraph 154 of the Framework. Furthermore, the Framework is clear that planning decisions

² Previously Paragraph 149 as referred to by the main parties

should avoid development of isolated homes in the countryside unless a qualifying circumstance applies.

13. I note the appellants reference to use the of the land for horticulture, including the growing of fruit, and the raising of livestock. However, without more, that does not provide the necessary justification for the change of use of the land for a mixed use of agriculture and residential.
14. There is no dispute that the development would be located centrally in an otherwise previously undeveloped site. Visible from a broad field entrance adjacent to the site, the presence of the building would reduce both the visual and spatial openness of the Green Belt.
15. Additionally, the appellants reference an alternative access, track and hardstanding areas required in conjunction with the proposed uses. These are not shown on the proposal plans. Although areas of hardstanding could be minimised, they would nevertheless increase the developed area of the site so increasing the detrimental effects on openness. This would conflict with the aforesaid aims of Green Belt policy.
16. For the reasons set out above, I conclude that the development would constitute inappropriate development within the Green Belt that would erode its openness. As such it would be contrary to Policies CS1 and CS5 of the CS which seek to protect the openness and permanence of the Green Belt. For similar reasons, the development does not fall within the exceptions outlined in the Framework.

Character and appearance

17. The area is characterised by gentle rolling countryside of predominantly arable fields and pockets of woodland bordered by hedged and treed boundaries. Built development is generally dispersed as isolated dwellings and farmsteads.
18. The proposed simple form and external cladding of the building are reflective of some traditional rural buildings visible in the locality. In addition to the existing frontage hedging, which could be retained and augmented by additional boundary landscaping secured through planning conditions, the green roof proposal would go some way to limiting the visual impact of the building.
19. However, the number, form and treatment of the building's openings would cause it to appear distinctly of domestic character. In contrast to the predominant layout of agricultural development, it would be sited centrally in a small plot. These aspects of the proposal would distinguish it from the more utilitarian appearance and practical layout of traditional and modern agricultural buildings nearby. Furthermore, the design would fail to reflect the vernacular residential buildings which contribute positively to this part of the Dacorum landscape character.
20. The appellant refers to Para.88³ of the Framework which seeks to enable the growth and expansion of all types of business in rural areas through well-designed, beautiful new buildings. However, as a building designed primarily for residential purposes, and little to demonstrate any established agricultural enterprise capable of sustainable growth on the site, this an argument of limited weight.

³ Formerly Paragraph 84

21. Taking the above matters together, I find that the proposal would result in harm to the character and appearance of the locality. There would be a conflict with Policies CS1, CS5 and CS12 of the CS as they seek new development to conserve the rural character of the borough, the character and appearance of the countryside and Dacorum's natural and historic landscape.

Chiltern Beechwoods SAC

22. The site lies within the Zone of Influence of the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI), an element of the Chiltern Beechwoods SAC, a European Designated Site. This is an important habitat area representing the most extensive area of native beech woodland in England. It includes species-rich chalk grasslands and a key habitat for the 'near threatened' Stag Beetle.
23. The Conservation of Species and Habitats Regulations 2017 (as amended) (the Habitats Regulations) requires the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
24. The Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest (the Strategy) identifies various forms of degradation of the SSSI caused by recreational users. The research underpinning this strategy recognises that any additional dwellings within the defined Zone of Influence of the SAC would be likely to result in significant effects on the protected habitats and species. As the development would provide residential accommodation the Strategy leads me to the conclusion that, in combination with other residential development, it would compromise the conservation objectives of specific qualifying features and contribute to an adverse effect on the integrity of the SAC.
25. In conjunction with other local planning authorities in the locality, the Council have worked closely with Natural England and the National Trust in identifying the measures necessary to ensure compliance with the Habitats Regulations at Ashridge Commons and Woods SSSI.
26. The Strategy states that where new residential development is located within the wider 500 metre - 12.6km Zone of Influence (as in this case), Natural England has advised that impacts can be sufficiently mitigated (or avoided) through measures detailed in the Strategy. It sets out financial obligations for the delivery of Strategic Access Management and Monitoring (SAMMS) and Suitable Alternative Natural Greenspace (SANG). The Strategy requires that this is secured by way of a unilateral undertaking or planning obligation under s106 of the TCP Act 1990.
27. However, as the appellants have not provided such an undertaking, the contribution towards the mitigation measures is not secured. Consequently, I conclude that the proposal would adversely affect the integrity of the SSSI and SAC. It therefore conflicts with Policies CS25 and SC26 of the CS as they seek to conserve and enhance the borough's natural and historic landscape and the green infrastructure network and the provisions of Regulation 63 of the Conservation of Habitats and Species Regulations.

Other Considerations

28. I acknowledge that the use of the building could be carried out without harm to other amenity of other nearby land uses. It could potentially be used without harm to highway safety and provide sufficient parking for the occupants. However, as requirements of the development plan, these are not benefits in favour of the proposal.
29. The appellants suggest that the development could be made acceptable by use of planning conditions to restrict its use for agriculture. However, further to my finding that the larger part of the building would fall outside the definition of 'agriculture', as a building proposed as including accommodation for care-takers, such a restriction would unduly limit the development as applied for. It would not therefore pass the test of reasonableness as set out in Paragraph 56 of the Framework.
30. In support of the proposal the appellant refers me to other instances where restrictions on use have been imposed by the use of planning conditions. As little detail of those cases has been provided to enable me to draw similarities, or otherwise, they are of limited weight to the case before me.
31. The development could meet a local housing need. However, there is little to demonstrate a need in this particular locality. Furthermore, such need should not be without regard to the Council's adopted spatial strategy and restrictions to housing in Green Belt locations. As a single residential unit, the benefit therein is a matter of only modest weight.
32. In support of the proposal the appellant draws my attention to the provision at paragraph 88 of the Framework which supports the development and diversification of agricultural and other land-based rural enterprises. They contest that it could support the rural economy and produce from the site could be donated to local food banks.
33. Mixed-use development including residential accommodation to support agriculture is subject to other policy considerations set out in Section 5 of the Framework. It requires demonstration of essential need. In the absence of any such demonstrated need, or the anticipated extent of agricultural production on the site, the benefits therein have not been demonstrated. It is therefore a matter of limited weight.
34. The appellant asserts that the proposal would be sustainable development. However, against the Framework's advice to avoid isolated homes in rural areas and direct them close to existing local services, there is little before me to qualify that argument.

Very Special Circumstances and the Planning Balance

35. The proposed mixed-use building is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The building and associated external hard surfaces would also cause harm to the openness of the Green Belt, which is one of its essential characteristics. Additionally, it would contribute to identified adverse effects on the integrity of the Chilterns Beechwoods Special Area of Conservation.

36. The considerations presented by the appellant, including its contribution to housing need and facilitation of agriculture to support the rural economy and contribution to food production, whether taken singularly or together, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist and the development is contrary to policies of the Dacorum Borough development plan and the Framework when read as a whole.

Conclusion

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

R Hitchcock

INSPECTOR