

Appeal Decision

Site visit made on 3 September 2024

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/X0415/W/24/3337293

1 Keepers Cottage, Latimer Road, Chenies, Buckinghamshire, WD3 6EY

- 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 Mrs Svetlana Bell against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref is PL/22/2081/FA.
 - The development proposed is Retrospective application for the erection of a replacement single storey outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The single storey outbuilding has been constructed on the site.
3. The appellant states that some of the development plan policies contained within the Chiltern District Local Plan are in conflict with the Framework and as a result of these policies being drafted before the Framework, these policies should be given very limited weight. However, this approach is incorrect. The Framework is clear at paragraph 225 that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. I shall return to this matter below.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any other relevant development plan documents; and
 - The effect of the proposal on the character and appearance of the area, with particular reference to the Chenies and Latimer Conservation Area as well as the Chilterns Area of Outstanding Natural Beauty (now known as Natural Landscapes)

- The effect of the proposal on the setting of the heritage asset at 1 Keepers Cottage;
- If the development is inappropriate, whether any 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 the proposal.

Reasons

Green Belt

5. The appeal site is a spacious plot which includes a detached dwelling and garage building. A public footpath passes to the east of the site although this was not passable on the day of my site visit.

Whether the development would be inappropriate development

6. Paragraph 154 of the Framework advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The Framework goes on to outline at paragraph 154 a number of exceptions to this including, (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. In addition, part (g) also outlines the exception where the development would involve the redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development.
7. In the case of this appeal, there are two matters to consider. Firstly, whether the building constitutes a replacement building and secondly whether the building is in the same use and not materially larger than the one it replaces. The appellant has provided a google street view photograph showing a previous building in the approximate location of where the building which the subject of this appeal has been constructed. They have also provided photographs of the previous building. On this basis, I am content that the building constructed would provide a replacement building.
8. On the second point, it is common ground between the parties that the building would be in a similar ancillary use and I can see no reason to disagree with this. In terms of the size of the building, the appellant has provided details of the size of the replacement L shaped building which has been constructed. However, I have very limited information before me to enable any form of comparative assessment to be made with the previous building which was on the site. Other than estimates, there are no dimensions provided concerning the outbuilding which was removed, and the appeal is supported only by a number of historical photographs. The comparisons made by the appellant at appendix 9, 10 and 13 of the appeal statement to other appeal decisions are of little assistance as they again refer to cases where direct comparisons could be made between the existing (baseline position) and proposed buildings. There is no evidence to support the figures quoted by the appellant in relation to the increase in volume and floor area at the site. The google earth image is also of limited assistance in this regard.

9. As a result and based on the information before me, I am unable to conclude with any degree of certainty that the replacement building would meet the exception test identified at paragraph 154 (d) of the Framework.
10. For the sake of completeness, I have also assessed the proposal against part (g) of paragraph 154 of the Framework. Regardless of the fact that it is not possible to make a clear judgement in comparison terms concerning the previous structure and what now exists, the replacement outbuilding has a larger pitched roof and therefore would be visible in glimpsed views from the public footpath as evidenced by the photographs which accompany the appeal documents. It is also visible from Latimer Road however I acknowledge that the existing boundary treatment provides an element of screening which mitigates the impact of the development to some degree. The use of brick for all of the elevations of the building compared to the part timber weatherboarded cladding on the previous building as well as the pitched roof across the building means that the structure has a more prominent visual impact. In addition, the use of a large expanse of patio door glazing and windows creates a domestic appearance to the property which add to the visual prominence of the building in this location. The structure would reduce the openness of the Green Belt in both spatial and visual terms when compared to the previous structure which existed here.
11. The appellant has referred me to appeal decisions¹ at Glebe Cottage which they consider to be similar to this appeal. However, in the case of those appeals, the evidence before that Inspector included measurements in connection with the previous building on the site. The Inspector was therefore able to undertake a comparison assessment between the two buildings. That is not the case here and as such the similarities I can draw between the two cases are limited.
12. As a result, I therefore conclude that the proposal would not fall within the exceptions set out at paragraph 154 (d) and (g) of the Framework. The proposal amounts to inappropriate development within the Green Belt which is by definition, harmful to the Green Belt. The proposal would therefore conflict with policy GB15 of the Chiltern District Local Plan (1997, with alterations 2001 consolidated 2007 and 2011). Policy GB15 permits the construction of habitable buildings within domestic curtilages provided such buildings are both small and also subordinate in scale to the original dwelling. This policy is not entirely in accordance with the Framework and as a result I attach reduced weight to it.
13. The Council have also referred to policy GB2 within their reason for refusal. However, the criteria used within this policy refers to a criteria used within PPG2. Whilst the proposal before me would also conflict with this policy, the criteria listed are not in accordance with the Framework and I attach limited weight to this policy conflict.

¹ APP/N0410/D/20/3247725 and APP/N0410/D/20/3249998

Effect of the proposal on the Chenies and Latimer Conservation Area

14. The appeal site is located within the Chenies and Latimer Conservation Area. The Conservation Area is characterised in part by red brick Estate cottages set around the village green, with other more isolated residential properties such as the appeal property forming a backdrop to the Bedford Estate set within a landscaped setting and the wider views towards to Chess Valley.
15. The materials used on the building would not preserve or enhance the character or appearance of the Conservation Area. They do not match and are not similar to the type, colour or texture of the existing pallet of materials used on the host property. The appellant has suggested that the existing structure could be clad in wood. However, this appeal is for retrospective permission for the replacement single storey structure as existing.
16. In addition, the scale and mass of the building results in a bulky modern building which is at odds with the character and appearance of the Conservation Area generally. The building is visible from Latimer Road and within wider viewpoints as explained above where it appears as a dominant structure, totally at odds within the context of the existing residential garden. The existing boundary vegetation does little to mitigate the impact of the building in the context of the Conservation Area and I am not convinced that further boundary treatment would adequately address this issue. As a result, the proposal would therefore conflict with policies CA1 and CA2 of the Chiltern District Local Plan (1997, with alterations 2001 consolidated 2007 and 2011). Both policies concern development effecting Conservation Areas and require proposals to preserve or enhance the character and appearance of the Conservation Area, as well as views within or looking out of the Conservation Area. Both of these policies accord with the Framework and I give them full weight.

The effect of the proposal on the Chilterns Area of Outstanding Natural Beauty (Natural Landscapes)

17. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB, now known as National Landscapes). Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of these areas which have the highest status of protection in relation to these issues.
18. The photographs of the previous structure appear to indicate that the outbuilding was set back into the site from the boundary. This contrast with the replacement outbuilding which is set closer to the site boundary. The previous building had open windows and door areas which is not unusual for a storage outbuilding in a rural setting. Conversely, the replacement building has patio style doors and windows akin to a domestic dwelling. As a result of its position, the materials as well as the size and scale of the new building, it appears as a modern intrusive feature when viewed from the surrounding area.
19. The appellant has referred to other properties which contain outbuildings in close proximity to the appeal site. No details are provided as to where these properties are. Whilst I do not have any details concerning the planning

history in relation to these other outbuildings, none of the examples provided appear to share the same characteristics as the appeal proposal before me.

20. Whilst I accept that the existing vegetation in the area provides an element of screening, this factor alone does not sufficiently mitigate the development. As a result, the proposal causes harm to the identified rural character of the area and the landscape character of the area. The proposal therefore conflicts with policies GC1, LSQ1 of the Chiltern District Local Plan (1997, with alterations 2001 consolidated 2007 and 2011) as well as policies CS20 and CS22 of the Core Strategy (2011). Policy GC1 is a design policy which requires development to be in scale with its surroundings. In particular, the policy notes that windows, doors and roofs should relate to one another in such a way as to maintain the scale and proportions of the surrounding buildings. Policy LSQ1 states that development within the Chilterns AONB should conserve and where considered appropriate and practicable, enhance the special landscape and high scenic quality of the area. The policy goes on to set out 5 criteria against which development proposals will be assessed. These policies are broadly consistent with the Framework and I attach full weight to them.
21. Policy CS20 relates to design and environmental quality. It requires that all new development has a high standard of design which respects the character of the surrounding area. Policy CS22 refers to the Chilterns Area of Outstanding Natural Beauty (AONB). This policy requires, in the round that proposals must conserve and enhance the special landscape character, heritage and distinctiveness of the area. Furthermore, the policy states that all proposals must protect the setting of the AONB and safeguard views into and out of the area. I consider that these policies are consistent with the Framework and give them full weight.

The effect of the proposal on the heritage asset at 1 Keepers Cottage

22. I have had special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses in accordance with sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
23. 1 Keepers Cottage is an Estate Cottage and is a Grade II listed property. Its significance is derived from its architectural form and fabric, being a typical example of an Estate Cottage in this location. The spacious garden and grounds of the property also contribute to the buildings setting, given the sites location which is recognised for its landscape and high scenic quality.
24. The appellant contends that the L shaped outbuilding has been constructed to reflect the design and character of the heritage asset concerned. Whilst I acknowledge that the structure is L shaped, the outbuilding does not reflect in any way any of the built form or fabric of the heritage asset. It is a modern addition to the plot, dominant in scale and form when compared to the host property. The use of a standard red brick and plain roof tile which bear little resemblance in the type, colour or form to the existing detailing evident on the listed building add to the mismatched approach to the outbuilding as constructed and cause material harm to the setting of the listed building as a result. This approach is in stark contrast to the timber

weatherboarded detailing on the previous structure which was utilitarian in appearance. This characteristic helped the building blend into the existing gardens and wider landscape of the area. The materials used for the full patio doors also bear no resemblance to the fenestration detailing on the host property.

25. Although the appellant states permitted development rights could be utilised to erect patio doors lawfully in this building, I am only able to assess the proposal as it appears before me. Similarly, the argument that there would be a detrimental impact on the heritage asset due to a rotting, deteriorating and unsightly outbuilding if the previous building was not replaced is of little merit as that building has been removed.
26. As a result, the proposal causes harm to the setting of the listed building. It would fail to preserve the special architectural and historic interest of the listed building, contrary to the clear expectations of the Act. This harm would be at the lower end of less than substantial harm. The proposal conflicts with policies LB1 and LB2 of the Chiltern District Local Plan (1997, with alterations 2001 consolidated 2007 and 2011). Policy LB1 states, amongst other things, that in assessing the effect of proposal on the special architectural or historic interest of a building, consideration will be given to the buildings setting and its contribution to the local scene. Policy LB2 states that permission will not be granted for proposals which would adversely effect the setting of a listed building. Both of these policies accord with the Framework and I give them full weight. Reference has also been made to policy H20 of the Local Plan however this policy is not directly relevant to the main issues before me.
27. In accordance with paragraph 208 of the Framework, I have weighed this harm against the public benefits of the proposal. The appellant has stated the previous building was subject to crime and suffered significant levels of water infiltration. The appellant also states that the patio doors provide a view of the local scenery and landscape. In light of the domestic scale of the proposal, I consider these to be private not public benefits envisaged by the Framework.

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

28. I have concluded above that the proposal would be inappropriate development. This is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As set out at paragraph 153 of the Framework, 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.
29. The proposal would conflict with the development plan and there are no other considerations which would clearly outweigh the harm I have identified. As a result, very special circumstances do not exist.

Conclusion

30. The proposal would fail to meet the statutory duty in regard to the heritage asset concerned. The proposal would conflict with the development plan as well as the Framework taken as a whole. For the reasons given above the appeal should be dismissed.

C Masters

INSPECTOR