



Appeal Decision

Site visit made on 4 November 2024

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2024

Appeal Ref: APP/X0415/W/24/3343403

The Walled Garden, Cliveden Stud Cottages, Cliveden Road, Taplow, Buckinghamshire SL6 0HL

- 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 and Mrs Krishnamohan against the decision of Buckinghamshire Council.
 - The application Ref is PL/23/3619/FA.
 - The development proposed is described as “application for two family homes (Class C3), within an existing walled garden adjacent to the Cliveden Stud Cottages”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address on the application form in the banner heading above. However, I have added ‘the walled garden’ as this more accurately describes the location of the proposed development.
3. The submitted plans identify the two proposed dwellings as both Dwellings A and B, and Dwellings 01 and 02 respectively. I will refer to the proposed dwellings as Dwellings 01 and 02 in my decision.
4. As part of the appeal, the appellant has submitted amended plans¹, which seek to address the Council’s fourth reason for refusal by adding two windows to a first-floor bedroom within proposed Dwelling 01. In this case, the proposed amendment would not fundamentally change the proposal. However, accepting amendments, such as these, at appeal stage could deprive parties of the opportunity to comment. In particular, the occupants of the neighbouring cottages. Thus, taking the amended plans into account could prejudice other parties’ interests. I shall therefore determine the appeal on the basis of the plans which were before the Council when it made its decision.
5. While it may be that the Council refused to consider the amended plans as part of the application process, The Planning Inspectorate’s procedural Guide (Planning Appeals – England, updated January 2024) sets out that the appeal process should not be used to evolve a scheme. Any amendments that are considered to overcome the Council’s reasons for refusal should be made as part of a fresh planning application.

¹ Drawings Nos: 0101 Rev P03 and 0106 Rev P03

6. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further submissions. I will refer to the updated paragraph numbers where necessary in this appeal.

Main Issues

7. The main issues in this appeal are:
- whether the development would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on biodiversity, with particular regard to protected species, and whether a net gain in biodiversity would be achieved;
 - whether proposed Dwelling 01 would provide adequate living conditions for future residents, with particular regard to the outlook from and light received to a first-floor bedroom; and
 - on the basis that the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to very special circumstances required to justify the development.

Reasons

Whether inappropriate development

8. Saved Policy GB1 of the South Bucks District Local Plan (Adopted March 1999, Consolidated September 2007 and February 2011) (Local Plan) states that within the Green Belt, planning permission will not be granted for development other than some identified exceptions. These exceptions broadly reflect some of the exceptions set out at Paragraph 154 of the Framework. However, the policy only permits the construction of new residential buildings within the Green Belt where they would comprise limited infilling in existing villages and there is no specific exception regarding the infilling or partial redevelopment of previously developed land. Also, unlike the Framework, saved Policy GB1 of the Local Plan does not permit inappropriate development in the Green Belt in very special circumstances. It is therefore not consistent with the provisions of the Framework. As the Framework is more up to date than the Local Plan, I give greater weight to the policies in the Framework in this regard and have assessed the appeal on this basis.
9. There is no dispute between the parties that the appeal site constitutes previously developed land. From the evidence before me and my observations on site, I can find no reason to disagree.
10. Paragraph 154 (g) of the Framework establishes that the limited infilling or partial redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) is not inappropriate in the Green Belt, provided that it does not have a greater impact on the openness of the Green Belt than the existing development.

11. The appeal site comprises a garden space surrounded by 4 metre brick walls. I saw on my visit that the garden currently contains some children's play equipment and trampolines, as well as some wooden sheds/storage units and the remnants of what appeared to be a polytunnel. Other than these modest items and a few mature trees, the garden space was open. None of these items could be seen from outside the garden space.
12. I understand the appeal proposal is a revised scheme that sought to overcome the reasons for refusal relating to a previous scheme at the site². The revisions included, but were not limited to, a reduction in the number of dwellings, the footprint of the scheme and the amount of hardstanding, lower roof heights and the introduction of green roofs.
13. Nonetheless, the appeal proposal would result in permanent built form taking up space which is currently open or occupied by more modest temporary items. It would therefore have a significantly greater impact on the spatial openness of the Green Belt than the mostly undeveloped garden space.
14. In terms of visual openness, the appeal site is screened from public vantage points by existing trees. However, although the garden space is well contained by the brick walls, the upper parts of the proposed dwellings would be visible above the walls from the surrounding parts of Cliveden Stud, including the access road running through the Stud and the neighbouring cottages. There would also be views of the proposed dwellings through the site entrance when the proposed gates were open, as well as over the gates when closed, as they would be shorter than the brick walls. I appreciate that the external surfaces of the dwellings would be constructed mostly of brick and have been designed to blend with the existing brick walls. Nonetheless, the introduction of built form would be evident. It would therefore have a greater visual impact on the openness of the Green Belt, albeit the impact would be relatively localised.
15. For the reasons above, despite the revisions made to the previous scheme, the proposal would have a greater impact on the openness of the Green Belt than the existing walled garden. It would therefore conflict with Paragraph 154 (g) of the Framework and would constitute inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt.
16. The appellant refers to a previous appeal decision on land South of Huntswood Lane³ not far from the appeal site (Huntswood Lane Appeal). In this case the Inspector concluded that a new building would not have a greater visual impact upon openness. However, unlike the appeal proposal, the new building was replacing an existing equestrian building. The assessment of openness therefore centred on whether the new building would have a greater impact on openness than the existing building. As such, the Huntswood Lane Appeal is not comparable in this regard, and I afford it limited weight in my decision.

Biodiversity

17. The Preliminary Ecological Appraisal (PEA) submitted as part of the application identified sections of the brick wall surrounding the appeal site and a nearby tree as having potential roost features that could be used by bats. It also considered the vegetated boundary walls and adjoining/overhanging woodland and mature trees on site to provide high-quality foraging and community

² Application reference: PL/23/1070/FA

³ Appeal reference: APP/N0410/W/22/3311441

habitat for bats. The PEA also found the appeal site to contain habitat that could support common reptile populations. As such, the PEA recommended further surveys were undertaken to determine the presence or absence of bats and reptiles at the site. The appellant does not dispute the need for these surveys rather they contend that the required surveys could be secured by appropriately worded conditions.

18. Nevertheless, Circular 06/2005⁴ advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. The need to ensure that ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. While it may not have been possible to undertake some of the surveys required at the time of year when the application was submitted, the timing of the application does not negate the necessity to establish the presence of protected species before planning permission is granted. Thus, this does not constitute an exceptional circumstance that would justify securing the surveys by condition.
19. Given the above, I find that insufficient information has been provided to demonstrate that the proposal would not have an unacceptable adverse effect on protected species.
20. Core Policy 9 of the South Bucks Local Development Framework Core Strategy Development Plan Document (2011) (Core Strategy) seeks to ensure development proposals conserve, enhance, and result in a net gain in Biodiversity. However, while the Design and Access Statement⁵ submitted with the application details potential opportunities for biodiversity net gain, there is no substantive evidence before me to demonstrate that the proposal would achieve this. Again, the appellant contends that this information could be secured by an appropriately worded condition.
21. The appellant refers to the Huntswood Lane Appeal to support the use of conditions to secure the additional surveys and evidence to demonstrate a net gain in biodiversity. In this case, the Inspector imposed a condition securing biodiversity enhancement and another securing a method statement to ensure protected species were protected during the proposed development. Nonetheless, while I do not have the full details of the Huntswood Lane Appeal before me, the decision states that a biodiversity net gain assessment and ecological mitigation and enhancement strategy had been submitted with the appeal. Thus, there was some evidence supporting the imposed conditions, in particular an assessment of biodiversity net gain, which has been omitted from the appeal proposal before me. Moreover, neither of the conditions required additional surveys to be undertaken to establish whether protected species were present on the site, and the imposition of a condition requiring a method statement would likely only be reasonable if the presence of protected species had been established. As such, the Huntswood Lane Appeal is not comparable in this regard, and I afford it limited weight in my decision.

⁴ Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, dated 16 August 2005.

⁵ Cliveden Stud – Walled Garden Design and Access Statement, Mr and Mrs Krishnamohan, 9 November 2023 7:50pm, prepared by RHAR.

22. Accordingly, in the absence of further surveys and an assessment of biodiversity net gain, the proposal would conflict with Core Policy 9 of the Core Strategy, which seeks to conserve and enhance the biodiversity resources within the district.

Living conditions of future occupants

23. The Design and Access Statement states that the proposal would include generous window openings and excellent daylight to all rooms within the dwellings. However, proposed Dwelling 01 includes one bedroom that is not served by any windows, meaning that the room would not benefit from any light or outlook.
24. Paragraph 6.5.4 of the Council's Residential Design Guide Supplementary Planning Document (2008) (SPD) recognises that windows need to work for views and light inside the home, as well as enhance the appearance of the dwelling. Paragraph 126 of the National Design Guide (2021) advises that well designed homes and communal areas within buildings provide a good standard and quality of internal space, including, among other things, sunlight, daylight, and ventilation. The lack of any outlook, light, or ventilation to the bedroom with no windows in proposed Dwelling 01 would not provide a good standard and quality of internal space. Given this, the proposal would not provide acceptable living conditions for the future occupants of Dwelling 01.
25. Accordingly, the proposal would conflict with the advice set out in the National Design Guide (2021) and subsequently Paragraph 139 of the Framework that directs development to reflect government guidance on design. It would conflict with Paragraph 135 (f) of the Framework, which seeks to ensure that developments create places with a high standard of amenity for existing and future users. It would also not accord with Paragraph 129 (c) of the Framework, which encourages a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site, but only where the resulting scheme would provide acceptable living standards. I note the Decision Notice refers to a conflict with Paragraph 127 (c) rather than Paragraph 129 (c) of the Framework. However, this reference appears to be an error as the quoted text is from Paragraph 129 (c).
26. Both parties have referred to saved Policy EP5 of the Local Plan in this regard. However, while this policy deals with sunlight and daylight it does not refer to the levels of sunlight or daylight received by the internal space of a proposed dwelling or building. Neither does it deal with outlook. Policy EP5 of the Local Plan is therefore not applicable in this regard. This is the same for saved Policy EP3 of the Local Plan which it refers to.

Other Considerations

27. In terms of benefits, the proposal would deliver two new dwellings through the redevelopment of previously developed land. I note that the Council does not currently have a five-year supply of deliverable housing sites. The latest housing figures show a supply of 1.3 years for the South Bucks area, which is a chronic shortfall. The provision of any additional housing therefore carries significant weight. Nonetheless, while a meaningful benefit, the two dwellings in this case would only make a modest contribution towards the District's housing supply.

28. Furthermore, from my observations on site, the proposed dwellings would not benefit from good accessibility to local services and facilities. I saw on my visit that to access the limited services and facilities found in Taplow village, including bus stops, a pedestrian would need to walk quite a distance, likely more than the 1.5 kms suggested in the Design and Access Statement, and even further to access Taplow Station. The most direct route appeared to be along Cliveden Road and Hill Farm Road. However, the relevant sections of these roads for the majority have no pavements or streetlights, and 60 mph speed limits. As such, this would not provide a desirable route for pedestrians, and it is unlikely that occupants of the proposed dwellings would choose to access local services and facilities on foot.
29. The proposal would have modest environmental, social, and economic benefits resulting from their energy efficient and accessible design and the spending associated with the construction of the new dwellings and their subsequent occupation. While there is the potential for further environmental benefits through biodiversity enhancement, it has not been demonstrated that the proposal would achieve a net gain in biodiversity.
30. The Council also refused permission on the basis that, in the absence of a planning obligation to secure suitable strategic access management and monitoring, the proposal would result in adverse effects to the integrity of the Burnham Beeches Special Area of Conservation (BBSAC). There is no dispute between the parties that financial contributions would be required to mitigate recreational pressure on the BBSAC resulting from the proposal. As part of the appeal, I have a signed unilateral undertaking before me to secure the required financial contributions. However, given I am dismissing the appeal for other reasons, no pathways to significant likely effects on the BBSAC would arise from my decision. I therefore do not need to consider this issue further.
31. The financial contributions required to mitigate recreational pressure on the BBSAC and the material selection for the proposed dwellings are neutral in this case.

Green Belt Balance

32. Paragraph 152 of the Framework states that inappropriate development should not be approved except in very special circumstances. Paragraph 153 goes on to explain that very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
33. I have found the proposal would be an inappropriate form of development within the Green Belt, which Paragraph 153 of the Framework states I should afford substantial weight to. In the absence of sufficient evidence to the contrary, I am not satisfied that the development would not result in significant harm to protected species and biodiversity. It would also not provide acceptable living conditions for the future occupants of Dwelling 01.
34. The modest contribution that two dwellings would make to the District's housing supply, together with the modest environmental, social, and economic benefits resulting from their design, construction and occupation do not clearly outweigh this harm. Thus, there are not the very special circumstances necessary to justify the proposal. The proposal would therefore conflict with the aims of the Framework with regards to Green Belt.

Planning Balance and Conclusion

35. Given the shortfall in housing supply, paragraph 11d) of the Framework falls to be considered. Nonetheless, I have found the proposal would be an inappropriate form of development within the Green Belt. Consequently, in this case, the application of policies in the Framework that protect the Green Belt provide a clear reason for refusing the development proposed. The proposal would therefore not benefit from the presumption in favour of sustainable development outlined at paragraph 11 of the Framework.
36. Accordingly, for the reasons above, the proposal would conflict with the development plan, read as a whole. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR