



Appeal Decision

Site visit made on 9 December 2024

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/K0425/D/24/3343374

Windermere, Spurlands End Road, Great Kingshill, Buckinghamshire HP15 6JA

- 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 Byron Fundira against the decision of Buckinghamshire Council.
 - The application Ref is 23/07856/FUL.
 - The development proposed is the construction of 5 x single storey detached modular buildings comprising storage, change room and toilet/shower room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development given on the application form was extensive and I have therefore used that given on the Council's decision notice and on the appeal form. In so doing, and recognising that the development is already substantially complete, I have removed reference to the scheme being retrospective as this is not an act of development.
3. I have further removed reference to the proposal being a householder development as this is a validation matter that was discussed between the parties at the point of registration of the application. As this is pertinent to the merits of the appeal, I will return to this issue in my Reasons below.
4. The Council identified, in its determination of the application, that the submitted plans did not match the as built structure. The appellant has provided amended plans (unreferenced but dated March 2024) which show the building accurately. I have therefore considered these plans in my assessment. These amendments and substitutions can be made without prejudice to either party, having regard to the Wheatcroft principle, as there is no substantial difference or a fundamental change to the application.
5. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. Both parties were invited to comment on the implications of these revisions, and I have taken them into account in my decision.
6. The parties are in agreement that the modular building referred to as pod 1 is an acceptable form of development and planning permission has been granted for this structure. I have therefore directed my considerations here to the remaining pods set towards the south west and rear of Rossmoyne. Depending on the plans, these are annotated as pods 2, 3 & 4 or 2, 3, 4 & 5 but in any event are those shown on the unreferenced plan dated March 2024.

Main Issues

7. The main issues are:

- 1) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies including the effect of the proposal on the openness of the Green Belt,
- 2) whether the development would conserve and enhance the Chilterns National Landscape (formerly Area of Outstanding Natural Beauty), and
- 3) 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

Effect on Green Belt

8. The site is located within the Green Belt as defined by policy CP8 of the Wycombe District Local Plan 2019 (WLP). The approach to development in the Green Belt within the District is set out in policy DM42 or, insofar as it relates to householder development, in policy DM43. These policies set out that most forms of development will be regarded as inappropriate with some limited exceptions. These limited exceptions are similar to those in the Framework albeit that the most recent version of the Framework has modified these.
9. Paragraph 154 sets out that development in the Green Belt is inappropriate unless one of certain exceptions apply. One exception is at paragraph 154 d) of the Framework; the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. In this regard I have noted that the appellant has provided photographic evidence of a former building that was demolished. Whilst this structure does appear to have been in a dilapidated condition, it was clearly in existence at some point. However, it is not clear from the evidence when this building was demolished or what its use was. It was no longer in situ at the time of my site visit. Moreover, the former building is in a differing position to the newly constructed building. Due to this differing location and lack of clarity on the date of its demolition or use, I am unable to regard the proposal as a replacement building within the terms of paragraph 154.
10. This notwithstanding, policy DM42 of the WLP recognises the provisions of the Framework but, further, clarifies its provisions must meet the tests of policy DM42 1.b). This, in summary, sets out that such proposals must be for agriculture and forestry, rural workers dwellings, replacement or extension of dwellings, limited infilling only within the built-up villages or limited affordable housing. Therefore, in addition to my conclusion in the above paragraph, the development does not, in any case, comply with any of the provisions in policy DM42 1. b) as it is not within one of those limited exceptions.
11. Policy DM43 of the WLP does allow for the erection of residential outbuildings subject to certain restrictions. The appellant has nominated that the development is located within the garden of the main home at Windermere and indeed made the application on this basis. The Council disagrees with this assessment. Whilst I have noted both submissions, it remains unclear to me what the extent of the garden is and, having regard to *Burdle & Williams v SSE & New Forest DC [1972]*,

the extent and nature of the planning unit(s). However, it is not my role, in the context of this S78 appeal, to consider the extent of the garden of the property at Windermere. This would need to be established through a lawful development certificate. In any case, no argument has been presented to me that the development complies with policy DM43 which refers to, inter alia, residential outbuildings in the Green Belt.

12. On this basis, I conclude that the proposal would comprise inappropriate development in the Green Belt. The position of the building in a location beyond the main pattern of buildings along Spurlands End Road also means it is harmful to the openness of the Green Belt and would conflict with the purposes of including land within it. The development therefore fails to comply with policies CP8 and DM42 of the WLP and provisions of the Framework.

Effect on National Landscape

13. The appeal site is located within the Chilterns National Landscape (NL) where policies DM30 and DM32 of the WLP require development to conserve and enhance the natural beauty of the area. I accept that the site and building are set in a relatively secluded location and protected from longer wide-ranging views to a certain extent by well-established tree lines. Nevertheless, the proposal is still a form of development within the area covered by this designation and even a small amount of harm can contribute to wider harmful effects on the NL.
14. Due to its position beyond the general pattern of houses addressing Spurlands End Road, it is an isolated building which introduces built form which does not integrate with the surrounding landscape. It would not reinforce the positive key characteristics of the receiving landscape and existing settlement pattern or respond to the landscape character.
15. For these reasons, I conclude that the development fails to comply with policies DM30 and DM32 of the WLP insofar as it fails to conserve and enhance the natural beauty of the NL.

Other considerations

16. In reaching my conclusions here, I have been mindful of the provisions of the revised Framework and, in particular, paragraph 155 upon which both parties have commented. The appellant has nominated that the land in question is Grey Belt land.
17. Grey Belt is defined in Annex 2 of the Framework however this definition excludes areas or assets listed in footnote 7 of the Framework. One of those excluded areas within footnote 7 are NLs where this would provide a strong reason for refusing or restricting development. As the site is within the Chilterns NL and I have found the development to be harmful to it, the provisions of paragraph 155 therefore do not apply as the land cannot be regarded as Grey Belt.
18. I have been mindful of the relatively modest scale of the building, its fairly muted design and its proximity to the other buildings addressing Spurlands End Road. I am also mindful that it is not visible from Spurlands End Road. However, the evidence has not led me to form a conclusion on the use of the land on which the building is located that would allow me to attach weight to this.

Green Belt Balance and Conclusion

19. Paragraph 153 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It explains that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
20. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt. Furthermore, the development would fail to conserve and enhance the NL.
21. The proposal therefore conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

N Bowden

INSPECTOR