



Appeal Decision

Site visit made on 13 January 2025

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2025

Appeal Ref: APP/P0240/D/24/3356318

Glebeland, Sharpenhoe Road, Streatley, Luton LU3 3PS

- 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 A Shahid against the decision of Central Bedfordshire Council.
 - The application Ref is CB/24/02181/FULL.
 - The development is described as the erection of a detached annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both parties have drawn my attention to a previous appeal decision in relation to the same building¹ (the 2024 Appeal Decision), in which the Inspector considered the use of the building to be consistent with its description as a residential annexe to the main dwelling. The development is described as erection of a detached annexe and I have considered it on that basis, as did the Council.
3. The annexe has been built and therefore I am considering the appeal retrospectively. Apart from some minor differences in fenestration, the building I observed on site appeared to correspond with the drawings provided. For the avoidance of doubt, I have based my decision on the submitted plans.
4. A new National Planning Policy Framework (the Framework) came into effect in December 2024. The parties have had the opportunity to comment on whether the changes made have any relevance to their cases and I have taken comments received from both parties into account.

Main Issues

5. The main issues are:
 - whether the annexe is inappropriate development in the Green Belt as defined in the Framework and any relevant development plan policies,
 - the effect on the openness and purposes of the Green Belt, and
 - 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 required to justify the development.

¹ Appeal ref: APP/P0240/D/23/3327109

Reasons

Inappropriate Development

6. Policy SP4 of the Central Bedfordshire Local Plan adopted 2021 includes a general presumption against inappropriate development in the Green Belt and states that proposals will be assessed against the Framework and Planning Practice Guidance. Paragraph 154 of the Framework defines development in the Green Belt as inappropriate unless one of a number of defined exceptions apply. Of relevance to the issues raised in this appeal, these include the partial or complete redevelopment of previously developed land ... which would not cause substantial harm to the openness of the Green Belt (paragraph 154g).
7. Annex 2 of the Framework provides a definition of previously developed land, which includes the curtilage of a permanent structure, such as a dwelling, but excludes land in built-up areas such as residential gardens, parks, recreation grounds and allotments. The annexe is described in the evidence as being within the curtilage of the dwelling and it is in an area of the site which includes typical garden uses such as a patio, driveway and areas of soft landscaping. The Council argues that it falls outside the definition of previously developed land on that basis, but the appellant disagrees, citing the site's rural location.
8. While case law has established that residential garden land *outside* a built-up area can be regarded as previously developed land², the question of whether a particular residential garden falls within or outside a built-up area for this purpose is a matter of planning judgement. Furthermore, the definition in Annex 2 does not specify the scale of built-up area which is relevant.
9. The appeal site is located within the village of Streatley. There are neighbouring dwellings along both Church Road and Sharpenhoe Road, with an additional street of dwellings along Stanley Road, slightly further to the south. The village hall and recreation ground are directly adjacent to the site and the public house and church are on the opposite side of Sharpenhoe Road. As such, the site is in a central part of the village, where there is a collection of local amenities, including a significant concentration of housing.
10. Although the village as a whole is within a rural area, and there are areas of undeveloped land including a field directly to the east of the appeal site, there is nevertheless a coherent built-up character to the part of the settlement where the appeal site is located. On that basis, drawing on the evidence before me, I conclude that the appeal site is within a built-up area for purposes of the definition in Annex 2. Consequently, the residential garden where the annexe is located is excluded from the definition of previously developed land and the development does not benefit from the provisions of paragraph 154g.
11. The December 2024 Framework introduced the concept of Grey Belt land, which is also defined in Annex 2. However, paragraph 155 of the Framework requires that, for development on Grey Belt land to be considered as not inappropriate, there should be a demonstrable unmet need for the type of development in question.
12. The type of development in this case is a residential annexe. While the Planning, Design and Access Statement alludes to evidence cited in the Central

² Dartford BC v SSCLG [2017] EWCA Civ 141

Bedfordshire Local Plan of unmet needs for affordable housing for adult children, that evidence draws on the findings of the Strategic Housing Market Assessment (SHMA) 2017. The Council's Officer Report states that the relevant section of the SHMA refers to separate dwellings such as affordable homes or shared ownership properties, and not to annexes. Furthermore, since the SHMA is dated 2017, it is now several years old. More particularly, it pre-dates adoption of the Local Plan in 2021, which was informed by the evidence referred to. As such, I cannot be confident that the sections quoted reflect current conditions within the Housing Market Area, in the intervening years since the Local Plan was adopted.

13. The building does respond to the personal circumstances of the appellant's family, who express a clear preference for multi-generational living, with adult children living within or close to the main family home and sharing facilities in it. That is, however, largely a matter of personal preference and not an objectively evidenced unmet need for purposes of paragraph 155. While some evidence has been provided of high house prices in Streatley itself, no up to date evidence has been provided of a shortage of suitable housing for adult family members within a short travel distance, such as in the substantial urban area of Luton and Dunstable. It has also not been clearly evidenced that the extended family would be unable to continue eating together regularly, sharing childcare or supporting each other more generally, if some of the adult children are not housed on site.
14. Having considered the evidence before me, I conclude that there is not a demonstrable unmet need for the type of development under consideration. Therefore, even if I were to find that the site is Grey Belt land as defined in the Framework, the annexe does not meet the criteria set out in paragraph 155.
15. Having concluded that the annexe does not benefit from the provisions of paragraphs 154 or 155 of the Framework for the reasons given above, I conclude that it is inappropriate development as defined in the Framework and is, consequently, contrary to Policy SP4 of the Central Bedfordshire Local Plan.

Openness and Purposes of Green Belt

16. Although it is within the garden, the annexe stands somewhat apart from the main dwelling. While a Certificate of Lawful Use or Development (CLUD) was granted in September 2020³ for the proposed erection of a garage, that development has not taken place. In any case, the building detailed in the CLUD would have been sited somewhat closer to the house and would not have projected into the garden to the same degree.
17. That being the case, the annexe extends into an open part of the site where there was previously little or no built development according to the evidence before me. It also adjoins an open field. The boundary trees and hedges provide some visual screening, and the building has a shallow pitched roof and relatively low overall height. Therefore, visually, the effect on openness is limited. Nevertheless, the building has a substantial footprint and introduces additional built development into a previously open part of the site. In spatial terms, this is harmful to the openness of the Green Belt.

³ Central Bedfordshire Council Certificate of Lawful Use or Development ref CB/20/02255/LDCP issued 21 September 2020

18. The Planning, Design and Access Statement acknowledges that the 2024 appeal decision described the building as having a moderately harmful effect on openness. For the reasons given above, I have reached the same conclusion.
19. With regard to the purposes of the Green Belt, as set out in paragraph 143 of the Framework, although there is a Conservation Area, Streatley is not a historic town, so purpose (d) is not relevant. The site does not prevent neighbouring towns from merging. On the face of it, the Green Belt in this general location to the north of Luton and Dunstable could be regarded as having a role in checking the unrestricted sprawl of large-built up areas, safeguarding the countryside from encroachment and assisting in urban regeneration. However, the specific contribution of the appeal site to those purposes is limited by its relatively enclosed location on the edge of the village and current use as a garden. Nevertheless, the site's limited contribution to the purposes of including land in the Green Belt does not negate the harmful effect on openness.

Other Considerations

20. A variety of potential fallback positions have been presented, which I have considered in terms of both the likelihood of implementation and the weight which should be ascribed to the fallback position in those circumstances.
21. The CLUD was granted in relation to a different building, which would have been sited closer to the dwelling. In the 2024 appeal decision, the Inspector found that the building in question was unlikely to be implemented, due to the subsequent raising of the ground in that part of the site. A patio has now been constructed there, with a retaining wall and a substantial elevated area of paving, enclosed with stone balustrades. Therefore, there is no realistic prospect that a building would now be erected in the position shown on the drawings attached to the CLUD.
22. Since the CLUD refers specifically to the plans attached to it, it does not confirm that a building of a similar scale, but in a different location, would fall within the definition of permitted development as set out in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). While my attention has been drawn to relevant limits on height and boundary separation, as set out in the GPDO, this does not encompass all the applicable criteria, including those relevant to land within an Area of Outstanding Natural Beauty. As such, the evidence before me does not clearly confirm that a building for incidental purposes would be classed as permitted development if sited elsewhere than shown on the drawing attached to the CLUD.
23. Furthermore, the Class E permitted development rights are for erection of a building for purposes incidental to a dwelling, as defined in paragraph E.4 of the relevant section in the GPDO. The provision of primary living accommodation, in the form of a residential annexe, falls outside that definition. Consequently, even if a building of similar proportions had been confirmed to be permitted development under Class E, the fallback scenario would involve first providing a building for incidental purposes and subsequently converting that building to living accommodation. The appellant acknowledges that this would be a somewhat convoluted, multi-step approach, involving wasted time, expense and resources. The occupiers would also have to find alternative accommodation in the meantime,

potentially reducing the likelihood that they would seek to move back to the site. Consequently, there is considerable doubt whether this route would, in reality, be followed.

24. Taking account of all the factors above, the existence of a fallback position based on implementation of Class E rights is uncertain both in terms of the extent of those rights and the prospects that it would be implemented. Even if it was implemented, the harm to the Green Belt would be comparable to, and not greater than, that arising from the appeal building. Therefore, approval of the building as constructed would offer no clear advantage in terms of the openness of the Green Belt. Accordingly, I give limited weight to the scenarios presented which rely on the implementation of permitted development rights.
25. Use of a mobile home as ancillary residential accommodation may be a more realistic prospect, subject to how it was occupied and whether it met relevant legal definitions. However, the stationing of a mobile home or caravan would not make similarly permanent alterations to the land, so the effect on openness would be more easily reversed should the appellant's personal circumstances change. As described above, the substantial site is also screened from the surrounding landscape. The stationing of a mobile home in a form likely to suit the needs of the occupiers, close to the house where it could feasibly be used as an annexe, would have a comparable visual effect to the annexe and need not be harmfully intrusive. I therefore also give that potential fallback position limited weight.
26. Based on the limited information provided, it appears the Merchants Farm appeal decision⁴, related to compliance with the authorised plans of a dwelling which had been sited in a different position from that approved, including whether conditions remained enforceable. That is a different situation from the current appeal and therefore the conclusions in that decision do not alter my conclusions on the fallback positions in this case.
27. For the reasons given previously, the proposal does not address demonstrable unmet needs for affordable housing or other self-contained housing suitable for growing adult children. While it responds to the preference of the appellant's family for multi-generational living, many of the activities described would not be fundamentally prejudiced by some of the adult children being housed a short travel distance away. Nor has it been established that any specific care needs would be compromised. The needs of growing children cannot always be realistically accommodated on a single site and similar arguments could be advanced by many large and growing families, throughout areas designated as Green Belt, with a harmful cumulative effect on the Green Belt's essential characteristics. On that basis, while recognising the advantages of the development for the appellant's family circumstances, in this particular case these should carry no more than moderate weight.
28. While large outbuildings may not be uncommon within Streatley, that does not justify the introduction of additional development where it is defined as inappropriate in the Green Belt and harmful to openness.
29. The site is within the Chilterns National Landscape (Area of Outstanding Natural Beauty). It also includes land within the Streatley Conservation Area (CA), although the annexe itself is outside the CA boundary. In both cases, the

⁴ Appeal Ref: APP/P1805/X/17/3182300.

significance of the designated areas appears to derive from the rural landscape around Streatley, together with the organic form of the village, which includes several historic dwellings and other buildings strung out along the main road, within a leafy, rural context. While the annexe projects into a more open part of the site, it is well screened as described above. Where views exist, it is seen in the context of the more prominent host dwelling and other neighbouring development. Both parties have drawn my attention to the conclusion in the 2024 appeal decision that the development is not harmful to the National Landscape or the Conservation Area and, based on the evidence before me, I concur with that conclusion. However, that is a neutral consideration and not a matter which weighs in favour of the development.

Green Belt Balance

30. The annexe is inappropriate development in the Green Belt as defined in the Framework and development plan and results in a moderate level of harm to openness, primarily in spatial terms. The Framework states that substantial weight should be given to any harm to the Green Belt including harm to its openness. Very special circumstances will not exist unless that harm, and any other harm resulting from the development, is clearly outweighed by other considerations.
31. For the reasons given above, while I recognise and have given moderate weight to the advantages of the development for the appellant's family circumstances, the various fallback situations presented carry only limited weight. The absence of identified harm to the National Landscape or CA is a neutral consideration.
32. That being the case, even if the factors in favour of the development are considered collectively, the harm to the Green Belt is not clearly outweighed by other considerations. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

33. The development conflicts with the development plan and the other material considerations do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

Jane Smith

INSPECTOR