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## Appeal Decision

Site visit made on 4 March 2025

**by N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 25<sup>th</sup> March 2025**

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**Appeal Ref: APP/P0240/W/24/3353544**

**Land at Oakfield House, Woburn Lane, Aspley Guise, Milton Keynes MK17 8JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Graham & Felicity Holloway against the decision of Central Bedfordshire Council.
  - The application Ref is CB/24/01613/OUT.
  - The development proposed is 1 Custom self build retirement 1.5 storey dwelling and tractor shed.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes to the Framework affect the main issues in the case, the parties were invited to make further comments in this regard. I have taken these comments into account in reaching my conclusions here. References to paragraph numbers of the Framework in this decision pertain to the most recent version.
3. The application was submitted in outline, except for access. Appearance, layout, scale and landscaping are reserved for subsequent approval. I have dealt with the appeal on that basis and treated the detailed plans provided as illustrative.

### Main Issues

4. The main issues are:
  - 1) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies including the effect of the proposal on the openness and purposes of the Green Belt,
  - 2) the effect of the proposed development on the character and appearance of the area with particular regard to the effect on the Aspley Guise Conservation Area (AGCA),
  - 3) whether sufficient information has been provided to consider the effect of the proposed development on archaeological remains,
  - 4) the effect of the proposed development on highway safety, including any required works to vegetation on the boundary with the highway,

- 5) whether sufficient information has been provided to show that the site would be suitable for residential development with regard to ground contamination, and
- 6) 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 the Green Belt and the AGCA*

5. The site is within the Green Belt wherein Policy SP4 of the Central Bedfordshire Local Plan 2021 (CBLP) applies. This policy sets out that there is a general presumption against inappropriate development and any such proposals within the Green Belt will be assessed in accordance with Government guidance contained in the Framework and Planning Practice Guidance (PPG). For the purposes of this appeal, I have taken this to mean Chapter 13 of the Framework and related sections of the PPG.
6. Paragraph 142 of the Framework identifies that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Paragraph 154 establishes that new buildings would be inappropriate unless it meets a listed exception. Although not explicitly identified by the appellant, it appears to me that it has been suggested that the proposed development would meet the exception under paragraph 154 e), limited infilling in villages. I note that the site comprises part of a substantial open parcel of land. This wider open parcel is well vegetated with a mix of trees and other flora to all boundaries and provides an expansive grassed area towards the centre, albeit recently planted with young trees. The wider site is surrounded by residential development to all sides although the surrounding homes are set a noteworthy distance away. It is not immediately enclosed by surrounding development in any meaningful way that could give the proposed dwelling the character of being infilling.
7. Nevertheless, as a consequence of its position within Aspley Guise and being fringed by development in some form, I find that the site falls within the village. However, this having been noted, the open land on which the site is located remains large. The proposed dwelling would occupy a small portion of this wider open site. It would be distant from neighbouring homes and retain substantial gaps to all sides. The overall space between the proposed dwelling and neighbouring homes is such that it could not be regarded as infilling.
8. I have had regard to the other decisions cited by the appellant which are located in and around Aspley Guise<sup>1</sup>. Setting aside that these decisions pre-date both the current adopted development plan for the area and the most recent version of the Framework, I do recognise some similarities. There is however a distinct difference between all the nominated schemes and this proposal as these other sites all amounted to limited infilling within the village. Whereas, in this instance, due to the size of the open space here and the distance to neighbouring homes, I must conclude that the proposal does not amount to limited infilling and therefore it must fail on this ground in relation to paragraph 154 e).

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<sup>1</sup> APP/P0240/W/20/3262804, APP/P0240/W/18/3195894, APP/P0240/W/17/3185864

9. I have further considered the case law provided by the appellant. I find there is no conflict in my approach here as in the case of *Wood v SoS*<sup>2</sup>, an important factor was the position as it is on the ground. That is how I have approached this case in recognising the size of the open space together with the distance to, and relationship with, surrounding buildings. The *Lee Valley*<sup>3</sup> case hinged upon the effects upon openness from limited infilling. However, in this instance, I have already concluded that the proposed development would not be limited infilling.
10. Other exceptions under paragraph 154 include a) buildings for agriculture and forestry and g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
11. In this regard, I have noted that the description of development included reference to a tractor shed. This does not appear to be intended as an agricultural structure or in connection with an agricultural operation. Regardless, it is a small part of the overall scheme and I do not believe it is put forward here in pursuance of an agricultural workers dwelling. No arguments have been presented to me in this regard under paragraph 154 a).
12. Under paragraph 154 g), I have already concluded that the proposal is not limited infilling. I recognise that there are small parts of the wider site (within the 'blue edge' of the appellants ownership) that may be regarded as previously developed land. However, the footings to a former cottage and the stable building fall outside of the red edge of the application site. No evidence has been provided to indicate that there is previously developed land within the definition given at Annex 2 of the Framework on the application site itself.
13. The proposed development would be harmful to the openness of the Green Belt through its introduction of additional built form that would be visible in the public realm and from neighbouring homes. I accept that this would most likely be quite contained, particularly in summer months due to the presence of the screening on site boundaries and separation from the road. Even so, it would still be visible and therefore have an adverse effect on openness from a visual perspective. The creation of a new dwelling on this open parcel of land would also be detrimental to openness from a spatial perspective due to the introduction of this form of inappropriate development.
14. As I noted in my preliminary matters above, the Framework was revised in December 2024. This included the new provisions of (inter alia) paragraphs 155 to 157 of chapter 13. I have considered the comments of both parties on this matter.
15. Paragraph 155 states that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Grey belt land is defined at Annex 2 comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. Grey belt excludes

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<sup>2</sup> *Wood v Secretary of State for Communities and Local Government* [2015] EWCA Civ 195

<sup>3</sup> *Lee Valley RPA v Epping Forest DC & Valley Grown Nurseries Ltd* [2016] EWCA Civ 404

land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development. Footnote 7 includes designated heritage assets and this includes conservation areas.

16. I therefore turn to the effect of the proposed development on the character and appearance of the area, with particular regard to the AGCA. As I have touched upon above, the site comprises a relatively open grassed area of land which is surrounded by a variety of mature vegetation. It is set within the AGCA and towards the southeastern edge of this area. The core of the AGCA is broadly set around The Square where buildings are relatively closely knit. Leading away from this central point in most directions, buildings typically become a little more dispersed and are heavily fringed by verdant streets and a woodland backdrop. This, along with the traditional design and use of materials in many buildings, commonly narrow lanes and the rural setting are the defining characteristics which give it its significance. The AGCA Appraisal highlights these features in greater detail and the appraisal includes reference to the area of land on which the appeal site is set. The mapping of the AGCA identifies this as significant landscape space.
17. The introduction of a new dwelling to this area of greenspace would represent an erosion of the open aspect in part of the village. The site is set at a point within the AGCA where the tight knit grain around the Square quite swiftly evolves to a more open and dispersed area where the dominance of traditional buildings gently gives way to a more open and rural character before transitioning into open countryside beyond. The proposed building would be set in a fairly exposed location on the upper slopes of a hill that overlook Woburn Lane. As I have noted above, the views of this would no doubt be fairly contained due to the sylvan setting but this does not eliminate the semblance of harm.
18. The development of a new dwelling in this location would erode an important contributing element to this part of the AGCA through the loss of the landscaped space. The proposal would be detrimental to the heritage asset as it would fail to preserve or enhance the character or appearance of the AGCA or that of the surrounding area. I therefore find that the proposal would conflict with policies HQ1 and HE3 of the CBLP and the principles of the Central Bedfordshire Council Design Guide 2023 (CBDG) in that it would not have sufficient regard to the special character and significance of the heritage asset. Owing to the scale and nature of the proposal, the degree of harm to the significance of the AGCA would be less than substantial. I consider this further in the overall heritage and planning balance set out below.
19. I do appreciate that there has been recent substantial planting on the site and evidence of care of this important area of landscaped space. Whilst this will certainly, in time, screen the proposed dwelling from most views, I am unable to regard this as sufficient mitigation to warrant a new building which would disrupt the pattern of development in the AGCA.
20. Returning to the assessment under paragraph 155, as I have concluded that the proposal would be detrimental to the AGCA as a designated heritage asset, this would provide a strong reason for refusing or restricting development. Accordingly, for this reason, the land cannot be considered to be grey belt land under the provisions of paragraph 155 of the Framework.

21. However, even if I were to consider the objections to the proposal under Footnote 7 to not amount to a strong reason for restricting this development, I further find that there are additional conflicts with the provisions of paragraph 155. The definition of grey belt at Annex 2 only applies where such land does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. The criteria of paragraph 143 are the purposes of including land within the Green Belt and include a) to check the unrestricted sprawl of large built-up areas, b) to prevent neighbouring towns merging into one another and d) to preserve the setting and special character of historic towns. Additional guidance is provided in the PPG. The site makes a moderate contribution under purpose a) insofar as it is partially enclosed by existing development, such that new development would not result in an incongruous pattern of development.
22. The Bedfordshire and Luton Green Belt Study 2017 highlights this area as contributing relatively strongly to purpose b) and this equates to a moderate to strong contribution having regard to the PPG. I must assume here that this is taking into account the plan area as a whole and that it is not strictly confined to its local effects. The proximity of the site to any historic towns is, to my mind, sufficiently distant such that the purpose of d) does not bite. This is despite my concerns relating the effect on the AGCA. This is following the advice in the PPG which sets out that this purpose relates to historic towns, not villages.
23. Having regard to paragraph 155 b., the Council claims a 5 year housing supply as well as a sufficient supply of self build homes and this has not been disputed by the appellant. It is not in contention between the parties that the site is not in a sustainable location and I have not, therefore explored the considerations under 155 c. The quantum of development and site size thresholds are not breached here thus the provisions of paragraphs 155 d., 156 and 157 do not fall to be considered.
24. The provision of a new dwelling in the Green Belt is inappropriate development and, by definition, is harmful to it. I have further concluded that it would be harmful to openness. The proposal thus conflicts with policy SP4 of the CBLP and provisions of the Framework as it is a form of inappropriate development.

#### *Archaeological impacts*

25. The appeal site is located within the AGCA and the Council considers it to fall in an area of archaeological interest. Conversely the recent works undertaken by the appellant in order to plant trees have not given any indication of archaeological remains. Even so, no desk-based study or trial trenching evaluation has taken place. On this basis, I have, in effect, very little evidence to base a reasoned assessment upon. Whilst I must consider that there is presently no direct evidence of archaeological remains being present at the site, equally, I cannot disregard the site's proximity to historic development and well documented and known human activities in the area.
26. Given that there is the potential for archaeological remains to be present, and that I have no evidence to indicate otherwise, I find that insufficient information has been provided to indicate whether the development would have an effect on such remains. The proposed development therefore conflicts with policy HE1 of the CBLP insofar as the development may affect known heritage assets with archaeological interest.



### *Highway safety*

27. Access to the site would be gained via an existing field access from Woburn Lane. Woburn Lane is a moderately sloping road which descends from the south to the north as it approaches the centre of the village. It is relatively narrow and is not lane marked. Along the section of the road outside the appeal site, a pedestrian footway exists on the opposing side of the road however this does not continue much further to the north or to the south of the site. The boundary with the wider site with the highway is formed of a relatively steep bank with various mature trees over. At the time of my site visit these had been trimmed back.
28. An access proposals plan (24031-101) was submitted, and this demonstrates a visibility splay of 2.4 by 43 metres in both directions. This however would no doubt require persistent attention to the boundary vegetation which could easily grow into the visibility splay, particularly in summer months. The splay does, however, remain within the control of the appellant.
29. However, being mindful of the likely low speeds along this section of road, that much of the boundary vegetation is in the form of trees with crown spreads that would overhang the highway as opposed to interfering with the splay, I am satisfied that the access proposals plan satisfactorily demonstrates such splays could be achieved and that the development would not be harmful to highway safety. Any approval would be subject to a condition relating to achieving such visibility splays in addition to a regrading of the initial access with the highway in order to avoid an excessively steep gradient on the entrance to, or exit from, the site.
30. I therefore conclude that the proposed development would not be detrimental to highway safety and would comply with policies T2 and EE4 of the CBLP insofar as it would provide appropriate access whilst also maintaining existing hedgerows and trees.

### *Ground contamination*

31. Whilst the Council originally expressed an objection due to potential contamination of the site, this reason was subsequently withdrawn on the basis that conditions were imposed on any planning permission granted to consider the implications of contamination if this was found on site during construction works. I have no reason to disagree with this approach and therefore I have not gone on to consider this matter in further detail. This is on the assumption that any permission granted would be subject to an appropriate condition to ensure compliance with policy CC8 of the CBLP.

### *Other considerations and very special circumstances*

32. The proposal has been put forward as Self Build and Custom Housing (SBCH). Paragraph 70 b) of the Framework supports small sites to come forward for SBCH. The Self-Build and Custom Housebuilding Act 2015 requires local planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. The Housing and Planning Act 2016 added to the above Act a duty to grant planning permission subject to exemptions at s2A. This provides that authorities must give development permission in respect of enough serviced plots

of land to meet the demand for SBCH in the authority's area arising in each base period.

33. The Council claims an adequate supply of SBCH and this has not been challenged by the appellant. I have also not been made aware as to whether the appellant is on the local SBCH register. Moreover, no completed planning obligation has been provided at either application stage or during the course of the appeal that would allow me to secure the development as such a form of housing. Accordingly, I am unable to afford this consideration anything more than very limited weight here.
34. It has been put to me that the proposal would be a single storey dwelling that is suitable for elderly persons accommodation and that this form of accommodation is in short supply in the village. I further recognise the sustainable construction of the development including the provision of solar panels and ground/air source heat pumps. Equally, I note the substantial number of trees that have already been planted and other ecological enhancements to the wider site within the appellants ownership. These are all important matters in modern construction, and I do give them moderate weight here.
35. The proposed development has received support from neighbouring residents and from the Parish Council. No doubt this is assisted by the well-maintained condition of the site and its valued contribution to the wider area. Indeed, I am not incognisant of the issues that have been put forwards by these third parties and have weighed them into the overall balance here.

### **Green Belt, Heritage and Planning Balance**

36. The Framework sets out that substantial weight must be given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.
37. The proposal does amount to inappropriate development in the Green Belt and would be harmful to its purposes and openness. No exceptions under paragraphs 154 or 155 of the Framework are applicable to the development. I have recognised the benefits of the proposal, including the provision of a new dwelling suitable for older residents, modern sustainable construction techniques, the development potentially being a form of SBCH, ecological enhancements and the support of the local community. There are further neutral considerations including there being no adverse effects upon neighbouring resident's living conditions, the site being in a sustainable location, and I have also found there would be no harm to highway safety or trees along this boundary. Ground contamination issues can be dealt with by way of condition.
38. The Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraphs 214 and 215 of the Framework require that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

39. S72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the AGCA. The introduction of this building, in a manner that would introduce additional built form to an area of significant landscaped space that is important to the significance of the heritage asset would harm the character and appearance of the AGCA. Furthermore, the lack of assessment in relation to the potential archaeological site further weighs against the proposal.
40. The public benefits in this instance are the addition of one new dwelling to the supply of housing and that this dwelling will be of a sustainable construction as I have expanded upon above. However, that benefit is limited in the context of the Borough's overall supply of housing land and cannot outweigh the identified harm to the heritage asset.
41. On balance, I find that the harm to the Green Belt by reason of inappropriateness, and other harm resulting from the proposal, including harm to the designated heritage assets, is not clearly outweighed by other considerations. Moreover, the public benefits of the scheme do not outweigh the less than substantial harm caused to the designated heritage asset. The Council claims a five year supply of deliverable housing land and, even if it could not, the provisions of paragraph 11 d) would not be invoked due to the land being within the Green Belt and the presence of designated heritage assets.

### **Conclusion**

42. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

*N Bowden*

INSPECTOR