



Appeal Decision

Site visit made on 10 June 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2025

Appeal Ref: APP/K0425/W/24/3356793

Coppice, Frieth Road, Marlow SL7 2JQ

- 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 Matthew Evans against the decision of Buckinghamshire Council.
 - The application Ref is 23/08004/FUL.
 - The development proposed is demolition of existing buildings and erection of replacement dwellinghouse, including landscaping and all other associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing buildings and erection of replacement dwellinghouse, including landscaping and all other associated works at Coppice, Frieth Road, Marlow SL7 2JQ, in accordance with the terms of the application, Ref 23/08004/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr Matthew Evans against the decision of Buckinghamshire Council. This application will be the subject of a separate decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - whether, if the development is inappropriate, any harm by reasons of inappropriateness would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal; and
 - the effect of the proposal on biodiversity, particularly bats.

Reasons

Whether inappropriate development

4. The appeal site comprises an agricultural storage building, a stable building, and the associated access and hard standing. The proposal is to demolish the existing buildings and replace them with a new dwelling. The appeal site lies within the Green Belt.

5. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces (154(d)), or they represent partial or complete redevelopment of previously developed land (PDL) which would not cause substantial harm to the openness of the Green Belt (154(g)).
6. Policy DM42 of the Wycombe District Local Plan, August 2019 (the LP) is generally consistent with the Framework in providing exceptions to inappropriate development in the Green Belt. The exceptions include, amongst other matters, replacement, or extension, of dwellings. However, the appeal before me is not for a replacement of an existing dwelling. Furthermore, Policy DM42 does not include either of the exceptions in paragraph 154, noted above. On this main issue I have, therefore, considered the appeal against the Framework.
7. Although I saw evidence that the first floor of the storage building has been used as a workshop, I do not have compelling evidence that the use of the whole of both buildings was either a lawful commercial use or ancillary to the dwelling. Unlike other buildings within the same ownership, where a certificate of lawfulness has confirmed that the use was ancillary to the dwelling. The existing buildings on the appeal site have been used for storage for a number of years. However, I have no compelling evidence that the storage use was not agricultural, even if the wider site is no longer in a commercial agricultural use. There is insufficient evidence that the buildings have been demonstrably used by Coppice for ancillary residential purposes for ten years. The use of the proposed development, as residential, would not be the same as the previous use. The appeal would, therefore, not fall within the exception under 154(d) of the Framework.
8. Annex 2 of the Framework sets out the definition of previously developed land as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. Previously developed land excludes, amongst other matters: land that is or was last occupied by agricultural or forestry buildings. Therefore, the agricultural use of the buildings would also mean that they would not constitute previously developed land and the proposal would, therefore, also fail to comply with the exception set out in 154(g) of the Framework.
9. For the above reasons, the proposed new dwelling would be inappropriate development in the Green Belt, would conflict with DM42 of the LP and would not comply with any of the exceptions set out in paragraph 154 of the Framework.

Other considerations

10. The appeal site has an extant planning permission for extension and conversion of the existing buildings to form one dwelling. As a conversion scheme it would not constitute inappropriate development in the Green Belt. Although the appellant has not yet applied to discharge any of the conditions on that consent, this is not an indication that they would not be likely to implement the permission.
11. Moreover, the appellant's comments in the submitted Planning Statement, relating to why a new build dwelling would be visually and environmentally beneficial, are putting forward an argument for a new dwelling. Having regard to the caselaw

quoted by the appellant, there does not have to be documented evidence that the implementation would proceed, just a greater than theoretical possibility that the development permitted would take place. The appellant's statements are not clear evidence that they do not intend to proceed should the appeal before me fail. In my judgement the previous permission represents a valid and realistic fallback position, and the appellant would be likely to implement the works if the appeal before me was dismissed.

12. The appeal scheme would have a lower height than the fallback position and would include a hipped roof, which would also reduce the overall massing of the building. The appeal proposal would be of a similar volume to the fallback position and, albeit providing one building of a larger footprint than the footprint of either of the existing buildings, would reduce the overall spread of the buildings across the site.
13. The existing landscaping and trees would minimise the effect of the proposal on the visual aspect of openness. The new building, by being spread over a lesser area and of a lower height, would have less of an effect on the spatial aspect of openness than the approved scheme. The appeal proposal which is designed to respect other dwellings in the immediate area, the dwelling at Coppice, and the agricultural history of the site, therefore, represents betterment over the fallback position. The existence of the extant permission is a significant material consideration to which I give significant weight.

Green Belt Balance

14. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, are clearly outweighed by other considerations.
15. The fallback is a significant material consideration, and, for the reasons detailed, I find that the appeal proposal before me would be less harmful than the fallback position.
16. For the above reasons I find that the fallback position represents other considerations that clearly outweigh the harm that I have identified to the Green Belt. Consequently, there are very special circumstances that justify the development.

Effect on biodiversity

17. The submitted Bat Report¹ identifies the presence of night roosts, day roosts and feeding perches of several species of bat in the existing buildings. As the buildings would be demolished the proposal would adversely affect a European Protected Species.
18. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) requires the competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to the

¹ Ecologybydesign Bat Report, dated March 2024

deterioration or destruction of the breeding sites and resting places of European Protected Species (EPS) under Article 12(1). This includes bats and the places that they roost.

19. The judgment of *Morgue v Hampshire County Council [2011] UKSC2* established that planning permission should ordinarily be granted save only in cases where a proposed development would either be likely to offend Article 12(1) or unlikely to be licensed pursuant to the derogation powers. The duty to have regard to the requirements of the Directive, as set out in Regulation 9(1), remains but the judgment established that there is no need to carry out a detailed assessment as to whether there would be a breach of Article 12(1) or whether derogation from that article would be permitted.
20. Nevertheless, I am still required to consider whether or not the proposed development is likely to be licensed and to ensure that any potential harm to an EPS would be adequately mitigated.
21. The appeal proposal is for a new dwelling and would help to boost the supply of housing in an area where the Council's position on the appeal was a substantial shortfall in the five year housing land supply. The appeal proposal would have environmental benefits due to its lesser effect on the openness of the Green Belt than the fallback position. It would also have better environmental performance. I find that these are reasons of overriding public interest.
22. The alternative of converting the buildings would have the same effect on the bat habitat and, given the extant consent, the "do nothing" position is not a realistic alternative.
23. Bearing in mind the details in the Bat Report I am satisfied that the mitigation hierarchy has been followed and that mitigation measures are proposed that would ensure no significant harm to the long-term conservation status of the bat species that are present. I am also satisfied that conditions would provide the necessary detail and certainty to secure the required mitigation.
24. For the above reasons, I find that the appeal proposal, subject to conditions, would not adversely affect biodiversity, particularly bats. Consequently, the proposal would not conflict with policy DM13 of the Wycombe District Council Adopted Delivery and Site Allocation Plan for Town Centres and Managing Development, July 2013, which gives the highest level of protection to sites and species of international and national importance and only permits development which would harm protected species where there is no suitable alternative site, where the impact can be mitigated or compensated, and where it has been clearly demonstrated that the benefits outweigh the harm.

Other Matters

25. The appeal site also lies within the Chilterns National Landscape (the NL) (formerly the Area of Outstanding Natural Beauty). In determining this appeal, I am required to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
26. The special qualities of the NL include, amongst other matters, the steep chalk escarpment, and chalk streams, broadleaved woodlands, tranquil valleys, and

villages built of brick and flint. It has areas of tranquillity and visibly sensitive skylines.

27. There are already buildings on the appeal site, and it is well screened from any public vantage points by existing woodland and landscaping. The existing buildings make a neutral contribution to the special qualities and the beauty of the NL. The woodland makes a positive contribution. Subject to the retention of the trees, the proposed new building, albeit a different size and design, would not have a greater effect than the existing buildings and would, therefore, conserve the special qualities and beauty of the NL. The Council did not raise any concerns with regard to this matter and I have no reason to disagree.

Conditions

28. The Council has provided a list of conditions that it considers would be appropriate and the appellant has had an opportunity to comment on this. I have considered the Framework and the Planning Practice Guidance, and I have undertaken some minor editing and rationalisation, in the interests of precision and clarity.
29. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
30. The appeal has been submitted with a BS5837:2012 Tree Survey and Arboricultural Impact Assessment and a tree constraints plan. However, the submitted information does not provide a plan indicating the protective fencing to ensure the trees are not damaged during construction. Neither does it provide details of the services and utilities or any areas for “no-dig” construction methods. For these reasons, I find it is necessary to impose a condition to require this information to be submitted to the Council prior to the commencement of any development, including site clearance works.
31. It is also necessary and reasonable to require a plan to be submitted to detail the position of the ecological enhancements. However, this can be prior to any work above slab level. It is also reasonable to require the development to be implemented in accordance with the submitted Bat Report, including requiring the development to apply for a European Protected Species Licence.
32. In the interests of the character and appearance of the area, including the NL and the Green Belt, I have imposed a condition to require the details of the materials to be used in the construction of the dwelling to be submitted. So that the development is provided with appropriate parking and manoeuvring areas, and in the interest of highway safety, I have imposed a condition to require that such space be provided in accordance with the approved details and retained as such.
33. To ensure that the development does not increase flood risk on the site, or elsewhere, I have imposed a condition to require the development to be provided with a drainage system that either re-uses surface water or disposes of it through infiltration methods. If these methods are not achievable the condition allows for an alternative scheme to be submitted. To reduce demand on water, given the District is in an area of water stress, and to comply with Policy DM41 of the LP, it is reasonable to require the development to meet the higher standard of water efficiency, as a minimum.

34. The Council also suggested a condition to remove permitted development rights, in the interests of the character and amenity of the locality, which I have taken to refer to the site being within the NL and Green Belt. The Planning Practice Guidance advises that conditions should not be used to restrict such rights unless there is clear justification to do so. Such rights have not been removed in the Town and Country Planning (General Permitted Development) (England) Order, 2015, for land in the Green Belt or within the NL, albeit there are limited rights in the NL. Even though the condition has been agreed by the appellant, there is no compelling evidence that alterations and extensions permitted under the rights would harm the NL or the Green Belt. I, therefore, find that there is no compelling reason to remove the permitted development rights from the scheme.

Conclusion

35. The appeal proposal would constitute inappropriate development in the Green Belt. However, the appeal proposal would provide betterment over the fallback position of the extant consent to convert and extend the buildings. I have given this benefit significant weight and find that this comprises other considerations that would clearly outweigh the harm to the Green Belt. Overall, the appeal complies with the development plan and the Framework when considered as a whole and should, therefore, be allowed, subject to the conditions set out below.

K Townend

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing no's 23 CBFR SL01, 23 CBFR PE01 and 23 CBFR SP01.
- 3) Prior to the commencement of development, including any site clearance works, a revised Arboricultural Method Statement (AMS), including a Tree Protection Plan (TPP), in accordance with the British Standard 5837:2012 Trees in relation to construction – Recommendations shall be submitted to and approved in writing by the Local Planning Authority. The AMS shall include:
 - a) Detailed plans showing the location of the protective fencing including any additional ground protection whether temporary or permanent;
 - b) Details as to the location of proposed and existing services and utilities including drainage, where these are close to Root Protection Areas (RPAs);
 - c) Details as to the method, specification, and materials to be used for any "no dig" surfacing, and the area within the development to which it applies;
 - d) All phases and timing of the project in relation to arboricultural matters and details of supervision by a qualified arboriculturist.The development shall thereafter be carried out strictly in accordance with the AMS.
- 4) No development shall take place above slab level until an Ecological Enhancement Plan with details of native trees and hedgerows to be planted, 1 integrated swift box, 1 bee brick, and 'Hedgehog highways', have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved biodiversity features, which shall have been installed prior to the first occupation of the development, and shall thereafter be retained.
- 5) Prior to their first use the details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The development hereby permitted shall not be occupied until the vehicle parking and manoeuvring spaces have been provided in accordance with the approved drawings. Thereafter those spaces shall be retained for the parking and manoeuvring of vehicles only.
- 7) The development shall be implemented in accordance with the agreed mitigation and compensation measures for roosting bats as detailed within Section 5 and Appendix 5 of the Bat Report (Ecology by Design, August 2024), including the requirement for an application for a European Protected Species (EPS) licence. A written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly shall be submitted for approval by the Local Planning Authority.

- 8) The development hereby approved shall store all additional surface water runoff within the site and either reuse it or release it into the ground through infiltration. Where the additional runoff is not to be re-used, or on-site infiltration methods are not proposed, details of the surface water drainage scheme, to ensure that the risk of flooding elsewhere will not be increased, shall be submitted to, and approved in writing by the local planning authority prior to any development taking place. The approved details shall thereafter be implemented prior to the development being brought into use and thereafter managed and maintained for the lifetime of the development.
- 9) The dwelling hereby approved shall be constructed to meet, as a minimum, the higher water efficiency standard of 110 litres per person per day using the fittings approach as set out in the 'Housing: optional technical standards' guidance and prescribed by Regulation 36(2)(b) of the Building Regulations 2010 (or any guidance or change to the Building regulations that may supersede these, that set out the requirements for water efficiency).

*** END OF CONDITIONS ***