



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: 09 July 2025

Appeal Ref: APP/N0410/W/24/3356211

**Fulmer Wood Farm, Farm Fulmer Common Road, Fulmer, Buckinghamshire
SL3 6AA**

- 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 on behalf of UCC UK against the decision of Buckinghamshire Council.
 - The application Ref is PL/24/1467/FA.
 - The development proposed is erection of padel court building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellants have submitted a Biodiversity Statement and Biodiversity Gain Plan¹ and a Biodiversity Metric. In summary, this additional information seeks to identify the pre-development biodiversity value and detail whether biodiversity net gain is achievable.
3. The additional information represents a change to what was considered by the Council at the application stage. Although it was available to the Council at the appeal, they have not provided detailed comments on the information submitted.
4. On this basis, having regard to the 'Wheatcroft Principles'² and the judgment in *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*, I consider that the additional information is a substantial and fundamental change to result in a different application.
5. Consequently, I have not accepted the additional information regarding biodiversity for the purposes of this appeal. In the interests of natural justice, I have determined the appeal on the basis of the information submitted to the Council.

Main Issues

6. 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, including the effect on openness;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on biodiversity; and

¹ Luscinia Ecology Biodiversity Statement and Biodiversity Gain Plan dated January 2025

² [1] *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL, 1982, P37]

- whether, if the development is inappropriate, any harm by reasons of inappropriateness, and other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development and openness

7. The appeal site lies within the Metropolitan Green Belt. The National Planning Policy Framework (the Framework) explains that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
8. Paragraph 154 of 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 are inappropriate unless, amongst other exceptions, it relates to the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport or outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
9. Policy GB1 of the South Bucks District Local Plan, adopted 1999 (the LP), seeks to resist development in the Green Belt, except in certain circumstances, including essential facilities for outdoor sport, outdoor recreation, or outdoor leisure.
10. The appeal proposal is for the erection of a padel court building. Albeit that padel can be played outdoors; by covering the court the proposal becomes a new building for indoor sport. The proposal is not a building providing facilities for outdoor sport or recreation.
11. The appeal proposal would be near to the swimming pool and the barn to be converted to a gym as part of the previously approved redevelopment of the wider site. Although this is creating a recreational area as part of the new dwelling, the proposed building is not providing facilities for the existing outdoor sport or recreation uses. For these reasons, the proposal would not fall within the definition of appropriate facilities for outdoor sport or outdoor recreation.
12. Paragraph 154(g) allows for the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt. Annex 2 of the Framework defines PDL as land which has been lawfully developed and is or was occupied by a permanent structure, including the curtilage of the developed land.
13. There is a barn and there was previously other buildings, including the original dwelling, near the appeal site, but I have no compelling evidence that the site itself was previously occupied by a permanent structure.
14. Although there are differences of opinion between the Council and the appellants as to what the appeal site was used for, the evidence before me indicates an area of garden associated with the previous dwelling on site. As garden the appeal site formed part of the curtilage of the original dwelling and would, therefore, comply with the definition of PDL set out in the Framework. It is, therefore, necessary for

me to consider whether the proposal would cause substantial harm to the openness of the Green Belt.

Openness

15. Safeguarding the countryside from encroachment and keeping land permanently open is a fundamental aim of Green Belt policy, and the essential characteristics of Green Belts are their openness and permanence. The concept of openness relates to the lack of development or built form.
16. The appeal site was previously part of the curtilage of the dwelling. However, I have no compelling evidence that the whole of the site previously contained permanent structures. Moreover, the site was free of built form at the time of my visit. The appeal site currently contributes positively to the openness of the Green Belt.
17. Although the proposal would not be readily seen from public vantage points, it would be seen from the access driveway. The visual effect of the development would be limited. Nevertheless, the building would still result in a harmful visual effect to the openness of the Green Belt when compared to the existing situation.
18. Openness also has a spatial aspect which is an absence of development, rather than an absence of a view. The proposed new padel court building would introduce development in a site where there is currently none and would therefore have a significant spatial impact on the openness of the Green Belt. The limited views of the appeal proposal do not alter the spatial impact.
19. It would have both a spatial and a visual impact which would result in a significant loss of the openness of the Green Belt contrary to Paragraph 142 of the Framework which identifies the essential characteristics of Green Belts as their openness and their permanence. I give substantial weight to the harm to the Green Belt, as required by the Framework.
20. For the above reasons, I find that the appeal proposal would cause substantial harm to the openness of the Green Belt and would, therefore, be inappropriate development, having regard to paragraphs 154(b) and 154(g) of the National Planning Policy Framework and Policy GB1 of the LP. The development would also result in encroachment into the countryside which would be contrary to one of the aims of the Green Belt.

Character and appearance

21. The scale and dimensions of the building are led by the size requirements for padel courts, the recommended clearance height, and the need to provide solid walls and space around the court. Although the building exceeds the minimum sizes detailed in the submitted guidance it would be subservient in height and footprint to the approved new dwelling, which was under construction at the time of my visit. The proposal, albeit a substantial sized structure, would appear as an ancillary building to the dwelling under construction.
22. Although, given the design of the dwelling, a modern design would be appropriate, the appeal proposal falls short of the design detailing, character, and styling of the approved dwelling, even with the interesting shape of the roof and the tall windows. The proposal would not have to be designed the same as the dwelling, however I find that its current design and scale would not reflect or respect the design

approach of the approved dwelling and would detract from the character and appearance of it.

23. The proposed building would also dominate the older barn building in terms of height and footprint. The proposal would dwarf the barn and be a visually prominent building on the approach to the house drawing the eye from the retained structure.
24. The proposed building would have the backdrop of the woodland and estate land around it. It would also be seen within the context of trees along the driveway. Nevertheless, it would neither blend into the landscape nor fit in with the design philosophy of the dwelling. The new dwelling, by reasons of its scale and design, would be the dominant building on the whole of the site and the proposed padel court building would not alter this. However, it would be visually discordant and incongruous when viewed with the new dwelling and the retained barn.
25. For these reasons, the proposal would have a harmful effect on the character and appearance of the wider site and the area contrary to the requirements of Policy EP3 of the LP and Core Policy 8 and Core Policy 9 of the South Bucks Local Development Framework Core Strategy Development Plan Document, adopted 2011 (the CS). Collectively these policies seek to ensure that development is only permitted where its scale, layout, siting, height, design, external materials, and use are compatible with the character and amenities of the site itself, adjoining development and the locality in general, ensure that all new development is of a high standard of design and makes a positive contribution to the character of the surrounding area, and resists development that would harm landscape character.

Biodiversity

26. The appeal site lies within the South Bucks Heaths and Parklands Biodiversity Opportunity area. Core Policy 9 of the CS seeks to conserve and enhance biodiversity resources through, amongst other matters, seeking the conservation, enhancement, and net gain in local biodiversity resources within Biodiversity Opportunity Areas as part of development proposals.
27. Although the appeal site was hard surfaced at the time of my visit the evidence before me indicates that the appeal site was previously garden area. Moreover, the appeal site is next to estate land and woodland on two sides. As such I consider that there is a likelihood of protected species being present in the locality.
28. Based on the information submitted with the planning application, insufficient evidence has been provided to show that the proposal would achieve a net gain in biodiversity. In the absence of this information the proposal would be likely to adversely affect biodiversity contrary to the requirement of Core Policy 9 of the CS.

Other considerations

29. Paragraph 155 of the Framework advises that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate subject to compliance with all of the subsequent bullet points. The appeal site, albeit part of a larger gap between settlements, would not result in the unrestricted sprawl of a large built-up area, it would not result in neighbouring towns merging and it would not affect the setting or special character of a historic town. The appeal site would, therefore, constitute Grey Belt land, when assessed

against the definition in Annex 2, as it is land that does not strongly contribute to purposes (a), (b) or (d) in paragraph 143.

30. However, given the lack of existing structures on the site and the scale of the proposal, I find that it would result in encroachment into the countryside. The proposal would, therefore, utilise grey belt land but would fundamentally undermine the purposes of the remaining Green Belt, with particular regard to the purpose of safeguarding the countryside from encroachment. The proposal would, therefore, fail to comply with 155a).
31. Furthermore, I have no compelling evidence that there is a demonstrable unmet need for the type of development proposed, especially given that the wider site already has consent for other recreation uses for the benefit of the future occupants of the dwelling.
32. The appeal site is also not in a sustainable location. However, this would be a secondary matter to the encroachment into the countryside and the lack of evidenced need. Overall, the appeal proposal would not comply with the requirement of all of the subsections of paragraph 155 of the Framework and would be inappropriate development of grey belt land.
33. The appellants contend that the proposed building and the dwelling currently under construction would provide buildings of less volume than those previously on site. Although this may be technically correct, with the exception of the barn, the buildings have all been demolished. The consent for the new dwelling was granted partly on the grounds that the reduction in hardstanding, footprint, floor area and volume resulted in considerable betterment. The reduction of the spread of the building improved both the spatial and visual aspect of openness. Weight was also given to the fallback position of converting the agricultural buildings.
34. The buildings are no longer on site and the proposal is not part of the application to redevelop the wider site. The fallback position is also no longer a material consideration as it is no longer achievable. The approval and construction of the new dwelling is not reliant on the proposed padel court building, and it is wholly reasonable for the Council and I to consider the current appeal as a standalone proposal for a new outbuilding.
35. The appellants have also advised that the appeal proposal and the revised dwelling, approved under a Section 73 application, would provide less floorspace and volume than the originally approved replacement dwelling. However, as noted above, the appeal before me is a standalone application for a new building. Although the previous approvals represent a material consideration the appeal before me is not part of a wider redevelopment application. That there were previously buildings on the wider site would not justify the appeal before me. I, therefore, give little weight to the comparison of built form with buildings that are no longer present.
36. Furthermore, the proposed development would not result in a reduction in development or hard standing across the site, would not improve the openness of the Green Belt, or reduce the level of activity on the site. Neither would the appeal before me secure the retention of the non-designated heritage asset or biodiversity enhancements as these were secured through the previous permissions. These matters are not benefits of the appeal before me and do not provide any weight to the proposal.

Green Belt balance

37. The Government attaches great importance to Green Belts. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt. In this case, I have found harm to the Green Belt by reason of the proposal being inappropriate development and its impact on openness. These matters attract substantial weight.
38. The same reasons also lead me to conclude that the proposal would be contrary to the development plan as a whole and I attribute significant weight to the conflict with the development plan policies.
39. 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.
40. In this case the limited weight given to the other considerations would not clearly outweigh the harm that I have identified to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

41. For the reasons given above I conclude that the proposal would conflict with the development plan as a whole, including the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, the appeal should be dismissed.

K Townsend

INSPECTOR