



Appeal Decision

Site visit made on 16 January 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/L3245/W/22/3300234

High Barn, Four Ashes Estate, Six Ashes, Bridgnorth, WV15 6EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Thompson against the decision of Shropshire Council.
 - The application Ref 21/04271/FUL, dated 25 August 2021, was refused by notice dated 1 December 2021.
 - The development proposed is the conversion of existing Dutch Barn to provide 1no. dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

1. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - The effect on biodiversity;
 - Whether or not the type and amount of enabling development is justified; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether Inappropriate Development and Openness

2. The appeal site comprises a detached agricultural barn that is open on all sides with a corrugated steel roof and unmade floor. Several five bar agricultural gates were located inside the building during my site visit. The agricultural barn is located in a field in an area that is largely agricultural in character and is accessed via a single lane track stemming from Batfield Lane. A farmstead and associated buildings adjoin the site to the south, with agricultural land surrounding the appeal building on all other sides.

3. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS) states that new development in the Green Belt will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt.
4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Framework lists several exceptions which includes Paragraph 149 (g) the limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use. Paragraph 150 lists forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include at 150 (d) the re-use of buildings, provided that the buildings are of permanent and substantial construction.
6. The appellant contends that the principle of converting agricultural buildings to residential use is established by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order (England) (as amended) (GPDO). The appellant asserts that development which includes construction of new external walls, roofs, windows and doors is permitted and there is no explicit requirement for the existing structure to be fully relied upon since new external walls would be a permitted operation and could be used to reinforce the structural stability of the building.
7. The Council contends that the works required to facilitate the appeal scheme would, effectively, constitute a rebuild rather than a conversion. In this regard, my attention has been drawn to the Hibbitt¹ case, which considered the difference between conversion and rebuilding. That case, however, involved a conversion of a building under Class Q of the GPDO rather than full planning application. Nevertheless, it involved a proposal to convert a steel framed barn which was largely open on three sides, and the proposed building works included the construction of all four exterior walls. Similarly, the appeal proposal involves a building that is open on all sides. The proposed development would involve the construction of all new floors, walls, and the removal and replacement of the roof. The appeal building would therefore appear as a skeletal structure, as in the Hibbitt case.
8. No structural information has been provided with the submission. Alterations would include the insertion of floors, external walls and windows, replacement of the roof and single storey extension. All that would remain of the original structure would be the steel elements. Although it is recognised that to facilitate a conversion that some works would be required, the proposed development, would require significant internal and external works. Due to the substantial amount of work required to facilitate the proposed development I am not satisfied that the building is of a substantial construction. The proposal would therefore not meet the requirements of Paragraph 150 (d) of the Framework.

¹ Hibbitt and Another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

9. I note the appellant has referenced previously developed land and considers that the appeal building, being historically linked with the adjoining farm buildings and residential uses there, would comply with Paragraph 149 (g) of the Framework. However, the definition of previously developed land excludes agricultural uses. From my site visit the building appears as an agricultural building on agricultural land, indeed the appellant has sought permission for the change of use from agriculture and has referenced Class Q of the GPDO in their supporting submission. As such, I consider that the redundant or continued use of the land is agricultural and therefore the exemption on Paragraph 149 would not apply.
10. The proposal does not fall within the forms of development in Paragraphs 149 and 150 of the Framework. As such, the proposal would comprise inappropriate development in the Green Belt.

Openness of the Green Belt

11. A fundamental aim of Green Belt policy, as set out in Paragraph 137 of the Framework, is to keep land permanently open. The appeal building, being open on all sides, allows for views through it to the wider countryside. The conversion of the building to create a dwelling on the site would result in the blocking of views through the building. Additionally, the building would be extended, therefore introducing built development into an area where there is currently none. The footprint of the proposal, its bulk and the accompanying domestic accoutrement such as formal access track, parking and residential garden and, would inevitably lead to a loss of openness.
12. I note that a condition could be used to limit certain elements, such as domestic outbuildings, however the formal access and parking arrangement would remain. Additionally domestic paraphernalia such as washing lines, swing sets etc that would impact on the openness of the Green Belt.
13. Consequently, the development would lead to encroachment of development into the countryside and result in a moderate loss of Green Belt openness.

Character and Appearance

14. When travelling along the access road to the site the area has a rural character, with agricultural fields, mature trees and hedgerows adding to its character. The site is located on a single-track road and the proposed access track across the field would slope up towards the appeal building.
15. The existing building and associated agricultural field make a positive contribution to the area. The introduction of a formal curtilage, with associated domestic paraphernalia, and parking area along with a long track across an open agricultural field would erode the contribution that the building and field make to the open countryside. At the time of my site visit, I noted people leisurely walking along the quiet lane which leads to a number of footpaths. Such users are sensitive receptors to change.
16. For these reasons the development would have an adverse impact on the character and appearance of the area. The proposal would be contrary to CS Policies CS5 and CS17 and SAMDev Policies MD6 and MD12, which seek, amongst other things, to ensure that development maintains and enhances countryside vitality and character and contributes positively to local

distinctiveness. It would also fail to accord with the paragraph 130 of the Framework that seeks good design sympathetic to local character.

Biodiversity

17. No ecological information has been submitted in support of the appeal. Standing advice by Natural England² explains that a survey should be produced where records suggest that great crested newts may be present and there is a suitable water body up to 500 metres from the development. The advice goes on to state that there may be a high to medium level of impact on great crested newts where development occurs within 50 – 250 metres from ponds. I have had regard to the Council's Planning Ecologist response to the proposal and their identification of a pond 60 metres to the southwest of the site. The appellant has not disagreed with this.
18. Given the proximity of a pond to the appeal site, the proposed development could impact on great crested newts, including their terrestrial habitats. I consider that the additional surveys including mitigation and compensation measures is necessary in order to establish the likely effects of the proposal on great crested newts.
19. Circular 06/2005³ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On the basis of the evidence before me, I do not consider that it would be appropriate to condition the undertaking of further survey work. A condition to require mitigation in the absence of further surveying would also not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to great crested newts.
20. I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on great crested newts or that survey work can be secured by a condition. Therefore, I conclude that the proposal fails to demonstrate that its effects on the biodiversity of the site and the surrounding area would be acceptable. The proposed development is contrary to CS Policy CS17 and SAMDev Policy MD12 which seek, amongst other things, to ensure that developments identify, protect, enhance and expand environmental assets. The proposal would also be contrary to Paragraph 180 of the Framework which seeks to ensure that proposals conserve and enhance biodiversity.

Enabling Development

21. Paragraph 208 of the Framework indicates that local planning authorities should assess whether the benefits of a proposal for enabling development (which would otherwise conflict with planning policies but would secure the future conservation of a heritage asset) outweigh the disbenefits of departing from those policies.
22. Historic England guidance⁴ (the HE guidance) defines enabling development as 'development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except

² Great crested newts: advice for making planning decisions (2022)

³ Biodiversity and geological conservation: circular 06/2005

⁴ Historic England 2020 GPA 4: Enabling Development and Heritage Assets (2020)

for the fact that it would secure the future conservation of a heritage asset'. It indicates that the case for enabling development rests on there being a 'conservation deficit' - where the cost of repair of a heritage asset exceeds its market value on completion of repair and conversion, allowing for all appropriate development costs.

23. The HE guidance lists a number of criteria to assess proposals for enabling development including the carrying out a condition survey, assessment of costs of repairs, assessment of market value of the heritage asset and a development appraisal that demonstrates the financial contribution the development will make.
24. The appellants submission details a number of listed buildings that fall under the same ownership as the appeal building. An assessment of their condition has been undertaken, although the detail of the assessment has not been provided, that ranks the Grade II* listed building, among others within their ownership, as not being in use and in need of significant repair and refurbishment.
25. The submission has also provided a cost estimate for the repair and refurbishment of all listed buildings under the appellants ownership on the Four Ashes Estate. Detailed information, including the individual costing for each building has not been provided.
26. Whilst the appellant has sought to put forward the case for enabling development to support the appeal scheme, no detailed information regarding condition of the individual buildings, market value or development appraisal has been submitted. Additionally, no mechanism, such as a Section 106 agreement has been provided to secure the conservation of heritage assets. Due to the lack of detailed information it would also not be appropriate to condition any enabling works.
27. In light of the above, I am not convinced that the proposed development provides benefits that would outweigh the disbenefits nor am I confident that the scheme would secure the conservation of the heritage assets. Accordingly, the scale of enabling development proposed is not fully justified.

Other Considerations

28. The appellant has put forward a number of benefits. They state that proposed development, providing additional housing, would constitute sustainable development in terms of the objectives set out in the Framework and would provide enabling development for nearby heritage assets. These are disussed further in the overall balance below.
29. Both parties have drawn my attention to examples of similar developments within the area, however I do not have full details of these examples in front of me. I have also reviewed the extensive case law and appeal decisions submitted. However, the circumstance of each example appears to be different, such as being brick built barns or located outside the Green Belt, and does not outweigh the harm identified in this proposal.

Green Belt Balance and Conclusion

30. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development would be inappropriate development in the Green Belt. To this must be added further moderate harm arising from the loss of openness, and from being contrary to the purposes of including land within the Green Belt. Paragraph 148 of the Framework indicates that any harm to the Green Belt should be given substantial weight.
31. Very special circumstances will need to be demonstrated if developments are to proceed in the Green Belt. Whilst the appellant has outlined a number of benefits, detailed above, no information has been provided regarding the need to locate the development in this specific location. With regards to the supply of housing the Council can demonstrate a 5 year housing land supply. The scale of the scheme would accordingly limit its associated socio-economic benefits.
32. I have already discussed enabling development above and concluded that a lack of information has been submitted to ensure that the proposed development would secure the conservation of the heritage assets. I therefore attach little weight to this.
33. My analysis leads me to attach a moderate weight to the creation of a small number of jobs during the construction of the proposal. The substantial weight I have given to the Green Belt harm and the other harm I have identified is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. The proposal is therefore contrary to CS Policy CS5 which seeks to ensure that new development in the Green Belt will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt.
34. For the reasons set out above, the development would be inappropriate development in the Green Belt as defined by the Framework. Whilst I have not found harm in relation to the impact of the development on the living conditions of nearby residents the harm to the Green Belt provides a clear and overriding reason for refusing the development.
35. The proposal would therefore conflict with the development plan considered as a whole and there are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR