
Appeal Decision

Site visit made on 24 June 2014

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 July 2014

Appeal Ref: APP/T0355/A/14/2216665

Land east of Holyport Lodge and to the rear of Melville to Morris Cottages, Holyport Street, Holyport, Maidenhead, Berkshire

- 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 Neil Burgess against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 14/00120, dated 9 January 2014, was refused by notice dated 14 March 2014.
 - The development proposed is 'conversion of existing structure to residential dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing structure to a residential dwelling at land east of Holyport Lodge and to the rear of Melville to Morris Cottages, Holyport Street, Holyport, Maidenhead, Berkshire in accordance with the terms of the application, Ref 14/00120, dated 9 January 2014, subject to the conditions listed in the schedule at the end of this decision.

Procedural Matters

2. The appeal site's address given on the application form is rather vague and the address used by the Council is more explicit and has been accepted by the appellant. I have therefore adopted the address used by the Council for the purposes of my decision.
3. At my request the Council has provided an extract from its Local Plan's¹ Proposals Map showing the settlement boundary for Holyport. The Council has also provided copies of the Local Plan policies referred to by it and the appellant in their appeal cases, which were not included with the Council's appeal questionnaire. I have considered this policy material as clarifying information, without causing prejudice to the parties.
4. A planning obligation in the form of a deed has been submitted with the appeal. This undertaking would secure financial contributions towards, amongst other things, the provision of: education; community and youth;

¹ The Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating Alterations adopted in June 2003) (the Local Plan)

library; sport and open space; and highways and transportation facilities. This undertaking is a material consideration and is a matter I return to later.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including any effect upon its openness, for the purposes of the National Planning Policy Framework (the Framework); and
- whether the appeal proposal would preserve or enhance the character or appearance of: the Holyport Conservation Area; and the setting of the Listed Holyport Grange real tennis court.

Reasons

6. The appeal site comprises a single storey, L shaped, building set within a plot measuring 23 by 21 metres², which is located to the north of Holyport Lane. This building is constructed in brickwork and has a clay roof tile covering. The site additionally includes a strip of land, measuring 76 by 4 metres, which provides access, on an informal basis, to the appeal building. The site forms part of an area of open grassland and the consensus view is that it historically formed part of the 'kitchen garden' of Holyport Lodge, a substantial building to the west that is now occupied as a residential care home. The Holyport Grange real tennis court, a Listed Building, is situated to the north of the appeal site and the site therefore forms part of this Listed Building's setting. To the east and south of the appeal site there are residential properties in Holyport Street.
7. The appeal site is situated within the Holyport Conservation Area (the CA), which is primarily residential in character, but also includes the extensive village green and some farmland.
8. The proposal would involve the conversion of the appeal building into a two bedroom dwelling, with a parking area immediately to the north of the building and a garden area to its rear (west). The proposed conversion would utilise the building's existing window and door openings, albeit that to the rear it is proposed that existing door and window openings would be swapped with one another. The proposed garden area would be enclosed by a combination of post and rail fencing and native hedge planting.
9. The existing access to the building is a dirt track, with its first 20 metres or so having been reinforced with a surface cellular system and it is proposed that this reinforcement system would be laid along the entire length of the access, which would allow grass to grow through the cells.

Whether inappropriate development in the Green Belt

10. Paragraph 87 of the National Planning Policy Framework (the Framework) states that inappropriate development within the Green Belt is, by definition, harmful to it and should not be approved except in very special circumstances. Substantial weight is therefore to be given to any harm to the

² Paragraph 2.1 of the Council's appeal statement

Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraph 88). However, certain forms of development will not amount to inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within Green Belt (paragraph 90). The re-use of buildings of a '... permanent and substantial construction...' falls within one of the categories of not inappropriate development under paragraph 90 of the Framework.

11. The Local Plan Green Belt policies are broadly consistent with current Government policy set out in the Framework. However, the fourth criterion of Policy GB8 (re-use of buildings) requires buildings to be in a '... sound condition ...' as well as being of '... permanent and substantial construction ...' and the part of this policy requiring buildings to be of a sound condition is inconsistent with the Framework.
12. The Council has submitted that the appeal building '.... may have been substantially re-constructed shortly prior to the application' being submitted³, although it acknowledges these works may not have required planning permission. In this respect I note that in determining this application the Council gave consideration as to whether it would be appropriate for it to take enforcement action⁴ and determined not to do so. The Council suggests that had these works not been undertaken the appeal building would not be suitable for conversion and the motivation behind them was to overcome the requirements under Policy GB8. The appellant submits that the works undertaken were those of repair, following fire damage and were necessary to secure the building.
13. Limited evidence has been put before me in relation to the building's condition before its re-roofing sometime after 29 March 2011⁵. From the available photographic evidence it appears that the building was of both permanent and substantial construction, prior to it being reroofed. The appeal proposal is therefore for a conversion rather than a new building. Accordingly this proposal falls to be considered against the provisions of paragraph 90 of the Framework, as opposed to paragraph 89, which amongst other things addresses replacement buildings, and Policies GB2 and GB8 of the Local Plan.
14. As the soundness test for buildings under Policy GB8 is inconsistent with the Framework and the Local Plan's adoption predates the publication of the Framework, I attach greater weight to paragraph 90 of the Framework, having regard to the guidance set out in paragraph 215 of the Framework. Accordingly the building's soundness prior to its reroofing is not a determinative issue in this case. The appeal proposal is therefore one that can be considered as being not inappropriate provided it is neither harmful to the area's openness nor conflicts with the purposes of including the land within the Green Belt.

³ Paragraph 6.3 of the Council's appeal statement

⁴ Transcript of the Council's Development Control Panel meeting of 12 March 2014 contained within Appendix 2 of the appellant's statement of case

⁵ Dated photographs within Appendix 1 of the Council's appeal statement

15. In terms on the effect upon the openness of the Green Belt, the appeal site forms part of a wedge of essentially undeveloped grassland between the built up limbs of the village to the north west and east of the site, which extends through to the village green to the south. In my opinion this wedge of land, within the vicinity of the appeal site, has a quite enclosed character when compared with the fields to the north and the spacious village green. The building to be converted is of modest proportions and the land around it that would be used for the purposes of providing parking and garden areas would similarly be small in scale.
16. While the appeal development would result in some loss of openness to the Green Belt, as a consequence of the creation and use of the proposed garden and parking areas, I find that this would not be materially harmful to the area's openness. The removal of permitted development rights, through the imposition of a condition, is a measure that could be used to avoid a situation whereby the proposed dwelling's garden area might become occupied by built development affecting the area's openness. This is a matter I return to later in my decision.
17. I also find that the works proposed to establish a vehicular access to the proposed dwelling would not be harmful to the Green Belt's openness. This is because the cellular system, with grass growing through it, would give the access the appearance of an essentially un-engineered track passing through a field and would be little different to the current situation. I am similarly not persuaded that the provision of lighting in this instance need be harmful to the area's openness.
18. Openness is an essential characteristic of Green Belts, however, given the scale and siting of the appeal proposal, I find in this instance it would not have a material impact upon the area's openness.
19. With regard to the purposes for including land within the Green Belt⁶, as a consequence of the modest proportions of this development and the appeal site's siting relative to other development within Holyport, I find that this proposal would not amount to an unacceptable encroachment within the countryside.
20. For the reasons given above, I find that this proposal would not be inappropriate development for the purposes of paragraph 90 of the Framework, because it would: involve the re-use of a building of permanent and substantial construction; not be harmful to the openness of the area; and not be at odds with the purposes of including the land within the Green Belt. I similarly find that there would be no conflict with Policies GB2 and GB8 of the Local Plan.
21. As I have found the appeal scheme to be not inappropriate development it is not necessary for me under paragraphs 87 and 88 of the Framework to consider whether there are any very special circumstances weighing in favour of the development being permitted.

⁶ Paragraph 80 of the National Planning Policy Framework

Effect on the Conservation Area

22. The CA is of mixed character within the vicinity of the appeal site, with the predominant land use being residential. The proposed residential conversion would therefore be consistent with the CA's character and thus preserve it. The appeal building is of a functional design, but its appearance is in keeping with its context. Minimal external alterations to the building are proposed and I find that this proposal would preserve the appearance of the CA. I am also of the opinion that the scale of this development is such that the provision of external illumination need not be harmful to the appearance of the CA and this is a matter that could be controlled through the imposition of a condition.
23. In conclusion on this issue I find the character and appearance of the CA would be preserved. In this respect there would be no conflict with the objectives of Policy CA2 of the Local Plan.
24. I also find that the appeal proposal would preserve the setting of the adjoining real tennis court, as a Listed Building. This is because the proposed development would involve minimal external alterations to a building with an appearance that is sympathetic to that of the neighbouring Listed Building.

Other Matters

25. The submitted Unilateral Undertaking would obligate the appellant to make contributions totalling £19,686.39 towards the provision of various forms of community infrastructure within the Council's area. The Council's committee report identifies specific projects to which the individual contributions sought would be directed, for example specific named schools and off-site highway works. The need for these contributions is not disputed by the appellant.
26. Having regard to the guidance contained within paragraphs 203 and 204 of the Framework and the provisions of the Community Infrastructure Regulations, I find that the contributions to be secured under the terms of the Unilateral Undertaking would be: necessary to make the development acceptable; directly related to it; and fairly and reasonably related to it in scale and kind.
27. Residents are concerned that the proposed development would generate unacceptable additional traffic within Holyport Street. The Highway Authority anticipates that the volume of traffic generated by the proposed dwelling would be of the order of eight movements per day. I do not find this level of traffic generation would be unacceptable in relative terms, given that it has been submitted by a resident that Holyport Street is subject to flows approaching 600 movements per day.

Conditions

28. The Council has suggested various conditions and I have considered their imposition having regard to the provisions of the Framework and the Planning Practice Guidance⁷. I have amended or amalgamated these conditions where necessary, in the interests of precision and enforceability.

⁷ This guidance has superseded, with the exception of Appendix A, the advice contained within Circular 11/95 'Use of conditions in planning permission'

29. Other than the standard time limit condition, I find it necessary that the development should be carried out in accordance with the submitted plans in the interests of the proper planning of the area and I have therefore imposed a condition to this effect.
30. In order to safeguard the external appearance of the appeal building and the CA, conditions requiring the submission of details for the Council's approval relating to the: external fenestration; surfacing materials; boundary treatment; and external illumination are necessary. The Council has proposed the imposition of an external materials condition, however apart from fenestrational alterations, no external works to the building are proposed and I therefore find that the Council's suggested condition is unnecessary, given the imposition of the aforementioned approved plans condition. In order to protect the openness of the Green Belt, a condition removing permitted development rights for additions to the dwelling and the erection of ancillary domestic buildings is necessary. A condition requiring the provision and retention of the proposed parking area is also necessary.
31. The Council has suggested the imposition of condition requiring the implementation of various sustainable development measures specified in the Design and Access Statement accompanying the planning application. Many of these sustainability measures would either be subject to the requirements of other legislation or other conditions that I am imposing and I therefore find this to be an unnecessary condition. The Council has also suggested a condition requiring the submission of details for the finished floor levels, however, as the proposal concerns an existing building and the adjoining land is essentially level, I do not find such a condition to be necessary.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

Grahame Gould

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 the following approved plans: 1:1000 scale Location Plan Revision 2; 1:500 scale Site/Block Plan; the unnumbered Existing Floor Plan; the unnumbered Proposed Floor Plan; the unnumbered Existing Elevations; and the unnumbered Proposed Elevations.
- 3) No development shall take place until drawn details for the joinery of the windows and external doors 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 and the doors and windows shall be retained as approved thereafter.
- 4) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, height, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be retained thereafter.
- 5) No development shall take place until details for the formation of the driveway and parking area, including the type and extent of the surfacing materials to be used, have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the vehicle parking area and driveway have been formed in accordance with the approved details and are available for use. The parking area and driveway shall thereafter be retained and not be used for any purpose respectively other than the parking of vehicles or providing access to and from the dwelling.
- 6) No development shall take place until details of any external lighting, including the specification for the lights, their LUX levels and operational times, have been submitted to and approved in writing by the Local Planning Authority. Only external lighting that accords with the approved scheme of details shall be installed and thereafter the lighting shall be operated in accordance with the approved details.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B and E of Part 1 to the Second Schedule of the Order shall be carried out.