

Planning Development Control
Welwyn Hatfield Borough Council Offices
The Campus
Welwyn Garden City
Hertfordshire
AL8 6AE

Att P Jefcoate

Dear Mr Jefcoate

**Re: Application S6/2013/0916/FP- Erection of two storey side extension
Oshwal Centre, Coopers Lane Road**

Further to our telephone conversation earlier this week I have researched the issue of interpretation of the Framework and would be grateful if you would take the following into consideration with respect to the above application.

It is noted that saved policies of the 2005 Local Plan do not refer to the extensions to non-residential buildings in the green belt. The emerging Core Strategy, whilst at an early stage is also material, contains no draft policies that refer to the extension of individual buildings regardless of location, save those for retail purposes. There are no specific policies that can readily be applied to the Oshwal Association's use of the Oshwal Centre for religious, community and ancillary purposes. It is therefore necessary to consider the application on its merits having regard to all material considerations.

The Framework is a material consideration. Paragraphs 87-89 are worth reciting in full:

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the 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.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

...

- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*

The pertinent elements in this instance are that *inappropriate development* would by definition be harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should to be regarded as *inappropriate development* but extensions may be acceptable subject to the stated criteria. The criterion in

relation to extensions does not refer to the assessment of cumulative effects, merely to the requirement that the extension is not disproportionate to the original building.

It follows however that even if a proposed development is considered *inappropriate development* by virtue of not being one of the specified exceptions, it may still be found acceptable in the Green Belt in the event that *very special circumstance* pertain – the instance where 'harm' is clearly outweighed by other material considerations.

The test in paragraph 89 specifically does not refer to any cumulative assessment needing to be applied, merely to a judgement of the scale of the proposal in relation to the host building. No other part of the Framework in relation to Green Belt policy refers to a consideration of cumulative effects.

The sole pertinent issue is therefore whether the proposed extension is *disproportionate* to the existing building. In this case the extension is modest in terms of the additional floor area that is created. It is not disproportionate.

With reference to the dimensioned drawing 6842/03/PO the overall footprint of the building is 1078.5m² whilst the footprint of the proposed extension is 99.3m² including the fire exit lobby, an addition of 9.2%. The total increase in (net) floorspace is 187.4m² (approximately 201m² gross). This represents an increase of 8.6%. Related to this, the application is not intended or expected to lead to increased levels of use of the building. No intensification therefore arises and consequently no further car parking is proposed or likely to be needed which would contribute to demonstrable harm. It is my view that this degree of extension is not disproportionate.

There are few comparable recent appeal decisions that can be identified which address the issue of disproportionate development and the incidence of harm. I attach two such decisions which may assist your consideration.

Appeal Ref: APP/P1805/A/12/2173341 Avoncroft Arts Society, Bromsgrove, B60 4JS

This appeal concerned one of a group of buildings (paragraph 4). A structure demolished 30 years ago stood on the site but the relevant measure is the increase in the floorspace of the building proposed to be extended (paragraph 7). An increase of 51% would be disproportionate (also paragraph 7) and therefore inappropriate (paragraph 9).

Notwithstanding that the proposal is disproportionate it would have limited visibility (paragraph 11) as part of a group of buildings such that although it would reduce the openness of this part of the Green Belt, this would be to a very limited degree which would not have an adverse effect on the character and appearance of the area and, as a result, would not conflict with the Framework in that respect (paragraph 12)

Mitigating circumstances included the fact that the use of the site as an Arts Centre provides a valuable community resource (paragraph 13) and the community and cultural benefits of the proposed development weighed heavily in favour of the proposal (paragraph 15).

In balancing his conclusion however, the Inspector found that the community benefits, whilst they weighed heavily in favour of the proposal but did not outweigh inappropriateness based upon the disproportionate scale of the extension.

Appeal Ref: APP/K3605/A/12/2175724 Bull Riding Farm, Cobham, KT11 3LA

This case differs from the current proposal insofar as it involved the demolition and rebuilding of one of a group of buildings which the parties agreed would have minimal impact on the openness of the Green Belt and be therefore not inappropriate development (paragraph 7).

This was because the resultant increase in the floorpace following reconstruction was 4% (6-7% volume) and this was deemed not disproportionate (paragraph 8). The appeal was upheld.

Arising from these cases the measure of appropriateness is likely to be the degree of increase in the size of the individual building proposed to be extended and what is appropriate will most likely fall somewhere between 4%-50% and will need to be determined on the merits of the proposal. As noted above the increase in this instance is less than 10%. In this instance the proposed development falls wholly within the existing overall extent of the building. It occupies an inset into the existing eastern façade such that it does not extend the building further to the east than at present. Nor does it exceed the existing height or break the established roofline. It does not therefore affect the openness of the green belt in term either of comparative scale or by virtue of extending the building. Moreover the community benefit can also be regarded as weighing heavily in favour.

Overall, I would invite the conclusion that an extension of the scale proposed can be considered as proportionate and arising from that will not cause harm. That conclusion is also supported by other material considerations such as the benefits to the community use.

However, without prejudice to that argument, I consider there are also very special circumstances for the grant of permission. In the event that the Local Planning Authority were still to consider that harm may arise to the Green Belt there are other material considerations that militate strongly in favour of the grant of planning permission as an exception. These include:

- OAUK is a Charitable Foundation and the development allows an improvement in the community services and benefits which go to the heart of the Associations purpose
- The Community Halls building was permitted in 1980 in the Green Belt at which time it was not found to conflict with the objectives of Green belt policy to the extent that it could not be considered suitable
- The Derasar was completed in 2005, is the largest Jain temple in Europe and the site has become a major centre of religious devotion and is recognised as such by all other principal religions – the Community Halls are an integral part of the overall use of the site.
- The Oshwal House is the Headquarters of OAUK and they are the sole representatives of the Oshwal Community – as such the site is of significant cultural value to the Oshwal people as a centre of community and learning.
- The need for the development is driven by the demand of the Association's members and by the range of activities and functions that the Association provides for the community

The current application relates wholly to the Community Halls and to their function and the Framework and recent Planning Appeal decisions make clear that there is no need to consider cumulative impacts and therefore to take into account the recently granted extension to Oshwal House which is in any case for a different purpose.

As noted above, the scheme is not intended or expected to increase levels of membership or levels of use. It is sought as it will enable a more flexible and adaptable use of the existing space with the buildings to be made, increasing their functionality and improving the sustainability of the building. This is achieved, as noted in the DAS by confining the extension to an inset in the existing footprint such that the extension projects no further outwards than the adjoining walls, reduces the total area of external wall and allows for the replacement of existing doors and windows with more modern and thermally efficient alternatives. Internally, the floorspace added to the main meeting hall is proposed to be given over to storage to enable more efficient use to be made of the meeting hall itself or to allow the creation of 'break-out' areas for existing functions.

Overall, the scale of the extension has therefore been dictated by the form of the building, does not extend beyond the overall building footprint and will lead to functional and operational improvements. No demonstrable harm will arise that would outweigh the wide range of special circumstances that pertain specifically to the Oshwal Centre, having regard to its history, use and cultural and religious significance and moreover that no harm arises that outweighs the acknowledged exception to the presumption against inappropriate development that arises in relation to an extension which *'does not result in disproportionate additions over and above the size of the original building'*.

I am obliged to you for your consideration of these points and trust that they will enable you to consider the proposal favourably

Yours sincerely



/s/ Neil Osborn BA(Hons) MRTPI
Senior Director

Cc L Vekaria

Encl – appeal decisions



Appeal Decision

Site visit made on 10 September 2012

by **P W Clark MA MRTPI MCI**

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

Decision date: 28 September 2012

Appeal Ref: APP/K3605/A/12/2175724

Bull Riding Farm, Horsley Road, Cobham, Surrey KT11 3LA

- 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 Cobham Park Veterinary Clinic against the decision of Elmbridge Borough Council.
 - The application Ref 2012/0286, dated 26 January 2012, was refused by notice dated 21 March 2012.
 - The development proposed is an extension to the Veterinary Surgery and a change of use to Class D1 Non-Residential Institutions (Medical and Health Services).
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Decision

1. The appeal is allowed and planning permission is granted for an extension to the Veterinary Surgery and a change of use to Class D1 Non-Residential Institutions (Medical and Health Services) at Bull Riding Farm, Horsley Road, Cobham, Surrey KT11 3LA in accordance with the terms of the application, Ref 2012/0286, dated 26 January 2012, subject to the following 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: CPV/201C, CPV/202A, CPV/203B and CPV/404E.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main Issues

2. The proposal is sited within Green Belt. The Council is satisfied that the proposal would have minimal impact on the character and appearance of the area or the openness of the Green Belt. I concur with that view because the building would be located within an existing group of buildings, would not extend the spread of development into the countryside and its design would complement its context (subject to approval of materials, which could be secured by condition).
3. The site is within 5km of the Thames Basin Heaths Special Protection Area. However, the principal identified threat to the integrity of the SPA comes from

domestic predators and residents' recreational walking. Neither of these is likely to arise from the proposal and so no risk to the integrity of the SPA would arise from this proposed development.

4. Only two issues remain. The first is whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework and development plan policy. The second issue is; if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

5. Paragraph 89 of the National Planning Policy Framework acknowledges that in certain cases, the construction of new buildings in the Green Belt may not be inappropriate. These include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and limited infilling or the partial or complete redevelopment of previously developed sites (Brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
6. The appeal site is part of a cluster of buildings formerly comprising a farm house, yard, stables and two barns. At some time in the past, one barn has been converted to form a veterinary surgery. This shares the use of the farm yard and its accesses. The proposal is to demolish the former stables, to construct a somewhat larger building closer to the converted barn, to use it as an extension to the veterinary surgery and to rearrange the yard to provide car parking.
7. Examination on site confirms that the stables are of permanent and substantial construction. They are not temporary. In providing accommodation for horses they are not necessarily an agricultural use, so not necessarily excluded from the definition of previously developed land in the Annex 2: Glossary of the NPP Framework. As such, this case would comprise the partial redevelopment of a previously developed site. As noted above, the Council accepts and I concur that the proposal would have minimal impact on the openness of the Green Belt. It is contained within an existing complex of buildings, without adding to the existing range of uses and so would have no greater impact on the purposes of including land within the Green Belt than does the existing development. These considerations suggest that it is not inappropriate development within the Green Belt.
8. Looking at the proposal another way, the demolition of the stables and the addition to the veterinary surgery would result in an increase in the existing footprint of those two buildings by about 7 sq m or 4%. Their volume would increase by about 48 cu m (6-7%). Neither measure indicates a disproportionate increase addition over and above the size of the original building. This consideration also suggests that the proposal would not be inappropriate development within the Green Belt.

9. There would be a significant change in the balance of uses from stables to veterinary use but paragraph 90 of the NPP Framework recognises that the re-use of buildings is not inappropriate in the Green Belt. If this appeal were to be dismissed, it would be open to the appellant either to seek permission for a not disproportionately larger stables and then to seek permission for a change of use, or to seek permission for a change of use of the stable and then subsequently to seek permission for its replacement which, if not materially larger, would also not be inappropriate development. Either fall-back position would be likely to lead to the same outcome as allowing this appeal now.
10. I conclude that the proposal would not be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and development plan policy. Once that conclusion is reached, it would normally be necessary then to consider whether there would be any other issue, such as its effect on the character or openness of the Green Belt to be taken into account. As already noted above, in this case there is not. The second issue identified above does not arise and so the appeal is allowed in compliance with the National Planning Policy Framework and policy COM3 of the Replacement Elmbridge Borough Local Plan 2000, which sets out the criteria for permitting veterinary surgeries.
11. Revised drawings were submitted during consideration of the proposal. A condition makes it clear which are approved. The Council suggests a condition that the extension be ancillary to the veterinary surgery but this would negate the substance of the proposal because the extension is clearly intended to be an integral part of the surgery, not ancillary to it, and so the condition would be inappropriate.

P. W. Clark

Inspector



Appeal Decision

Site visit made on 6 August 2012

by **Nicholas Taylor BA(Hons) MRTPI**

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

Decision date: 20 September 2012

Appeal Ref: APP/P1805/A/12/2173341

Avoncroft Arts Society, Stoke Heath Community Arts Centre, Redditch Road, Bromsgrove, Worcestershire B60 4JS

- 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 Avoncroft Arts Society against the decision of Bromsgrove District Council.
 - The application Ref 11/0887, dated 7 October 2011, was refused by notice dated 6 December 2011.
 - The development proposed is new workshops and classroom.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was lodged, the *National Planning Policy Framework* (the Framework) has been published. Both main parties were given the opportunity to comment on any relevant implications for their cases and I have had regard to the comments received, as well as to the Framework itself, in coming to a decision on this appeal.

Main Issues

3. The appeal site is within the West Midlands Green Belt, therefore the main issues are:
 - i. Whether the proposal would be inappropriate development for the purposes of Section 9 *Protecting Green Belt Land* of the Framework and development plan policy;
 - ii. Its effect on the openness of the Green Belt and on its character and appearance; and
 - iii. In the event that the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
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Reasons

Whether the proposal would be inappropriate development

4. The appeal building is a fairly small, single storey building, with steeply pitched roof topped by a small cupola, accommodating a pottery workshop, classrooms and a small office. A lean-to extension contains three workshop units. It forms part of a group of small buildings, which include a community centre, 'garden room', pre-school nursery and several storage sheds, together with a car park and small area of open space. This group is situated a short distance to the south of Redditch Road, the A38, which forms the boundary of the main urban area around Bromsgrove and the boundary of the Green Belt. The intervening space is occupied by open land. To its south and west, the group containing the appeal property is adjoined by the large complex of buildings and grounds of a school. The area to the east, towards the Avoncroft Museum of historic Buildings, contains a variety of buildings scattered within the landscape.
5. The proposed development would involve the construction of an extension to the end of the existing building, to provide an additional classroom and two further workshop units. The Framework, at paragraph 89, establishes that the construction of new buildings within the green Belt should be regarded as inappropriate, subject to certain exceptions. Saved Policy D.39 of the *Worcestershire County Structure Plan (SP)*, adopted in 2001, and saved Policy DS2 of the *Bromsgrove District Local Plan (LP)*, adopted in 2004, which provide criteria governing development in the Green Belt, reflect earlier national planning policy. Consequently, I consider that the Framework is more up to date in that regard.
6. One of the exceptions referred to in paragraph 89 is the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. In this context, original building is defined as that which existed at 1 July 1948 or, if built subsequently, as it was built originally. From the statement and plan provided by the appellant, and not disputed by the Council, it appears that, at 1 July 1948, the current main structure of the appeal building then existed. A side extension, which probably existed at that date, has subsequently been rebuilt as the current accommodation for workshop units. An extension accommodating a pottery, in a similar position to the appeal proposal, and another adjoining woodshed, may also have existed in 1948. However, it is agreed by both main parties that the pottery and the woodshed were demolished some time during the 1980s. All that now remains of them is a hard-standing, where the original pottery stood, and a short length of wall.
7. Under the circumstances, given that the pottery and woodshed have not existed for some 30 years, I consider that they cannot now count as part of the original building, with regard to whether the proposed extension would be of a disproportionate size in the context of paragraph 89 of the Framework. The Council states, and the submitted plans indicate, that the proposed extension would represent a 51% increase in floor area over the currently existing building. I consider that to be a disproportionate increase.
8. The appellant contends that the proposal would constitute limited infilling of a previously developed site, as also provided for among the exceptions in

paragraph 89. In my view, the appeal building is part of a loose arrangement of related buildings which, taken together, do not amount to a coherent previously developed site. Moreover, as I have already inferred, because the pottery building has not existed for so long, its site does not, in isolation, meet the definition of previously developed.

9. Consequently, the appeal proposal does not meet any of the exceptions set out in the Framework and is, therefore, inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and, the Framework stipulates, should not be approved except in very special circumstances. Consequently, the proposal would also conflict with saved SP Policy D.38, which sets out the general extent and purposes of the West Midlands Green Belt, and saved SP Policy D.28, which provides that new business premises in the Green Belt should be permitted only within settlements identified as suitable for infilling. It would also conflict, with respect to its inappropriateness, with saved LP Policy DS13, which seeks, among other things, to protect the area's essential character and environmental assets, including the Green Belt.

Openness and character and appearance

10. The most important attribute of the Green Belt is its openness. In the context of this appeal, openness is defined as an absence of built development, not, necessarily, whether a structure is visible from outside of the site. The proposed development, though not especially large in itself, would add to the volume and mass of built development on the site and would, therefore, reduce the openness of the Green Belt, albeit to a limited degree.
11. I acknowledge, however, that the proposed development would only be readily visible at close quarters, due to the other buildings, trees and hedgerows around it. As it would be positioned on the side of the existing building facing away from the centre's car park, it would be only partially visible from there. Nor would it be easily seen, due to distance and screening, from Redditch Road or Hanbury Road, to the west. Its design would satisfactorily match that of the existing building.
12. Therefore, I conclude that the proposed development would reduce the openness of this part of the Green Belt, albeit to a very limited degree, and would conflict, in this regard, with the provisions of the Framework and with SP Policy D.38. However, it would not have an adverse effect on the character and appearance of the area and, as a result, would not conflict with the Framework or saved SP Policy SD.2, in this regard.

Other considerations

13. The Council acknowledges that the arts centre provides a valuable community resource and this is attested to by a number of third parties, including the local MP. The appellant states that it is a registered charity and a not-for-profit organisation, with a long history of providing a wide range of arts and cultural activities, including educational courses. Membership is estimated by the appellant at, currently, 180 people, with 60 using it for educational purposes. The centre also hosts various clubs and societies, provides rooms for public hire and accommodates meetings of the local Parish Council. The appellant and third parties testify to the strength of demand for new classes and other activities,

which they are currently unable to satisfy and which, they maintain, cannot be accommodated elsewhere within the locality.

14. The appellant further states that it is starting to work with the Parish Council to develop the centre for the benefit of the local community. It maintains that the proposed development, for which funding is in place, would enhance the emerging "campus" formed by the arts centre and the adjacent community centre and nursery, which is in an accessible location. The appellant also contends that, because the property is owned by a charitable trust, accommodation elsewhere would be very difficult to find on similarly favourable terms.
15. In this regard, I acknowledge that the Framework's core planning principles include promoting the vitality of our main urban areas – whilst also protecting the Green Belts around them - and supporting thriving rural communities. They also include supporting local strategies to improve health, social and cultural well-being and delivering sufficient community and cultural facilities to meet local needs. These objectives are further expanded in Section 8 of the Framework: *Promoting healthy communities*. However, saved LP Policy S28 states that the provision of enhanced community facilities will be supported, providing there is no conflict with other policies in the plan, which is not the case here. Nevertheless, given the supporting policies set out in the Framework, I consider that the community and cultural benefits of the proposed development should weigh heavily in favour of the appeal proposal.
16. I understand that two of the three workshop units built onto the centre in 2011 are let to art-related micro-businesses, whilst one is currently used by the Parish Council. The appellant and third parties maintain that demand for these units also currently outstrips supply and that the two further units proposed would help to satisfy this. I note, also, the qualified support provided by the Council's economic development adviser for the community and economic development benefits of the proposal. The Framework includes, among its core planning principles, the need to support sustainable economic development. It further states, in paragraph 19, that significant weight should be placed on the need to support economic growth through the planning system. However, I have already referred to SP policy D.28, which seeks to restrict, within the Green Belt, the provision of new buildings for business purposes. Taking account of this policy context, the very small scale of the proposed workshops and the limited evidence of potential to create numerous new jobs, I consider that the economic benefits provide limited weight in favour of the appeal.
17. The appellant refers to a number of previous developments on and around the appeal site, which, it is claimed, provide examples of the Council being prepared to allow development within the Green Belt. The Council disputes some of the appellant's interpretations of the circumstances involved. I have not been provided with detailed information on these applications and so, on the evidence before me, I am not convinced that they set precedents in favour of the current appeal proposal.

Overall balancing exercise and conclusions

18. I have found that the proposed development would constitute inappropriate development, which is, by definition, harmful to the Green Belt. Paragraph 88

of the Framework makes it clear that this is a consideration to which substantial weight should be given. It goes on to stipulate that the very special circumstances required to justify such development 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. In this case, I have also found some limited harm to the openness of the Green Belt. Although I have found that there would be no adverse effect on the character and appearance of this part of the Green Belt, the absence of harm does not weigh positively in favour of the proposal.

19. I have considered the matters put forward in support of the proposed development, in particular, the benefits in terms of the health of cultural and community life and of economic development. I have found that, together, they weigh heavily in favour of the appeal proposal. However, in the particular circumstances of this case, I consider that they do not clearly outweigh the substantial harm caused by inappropriateness, and the harm to openness of the Green Belt. Consequently, the very special circumstances that would be needed to justify the proposal do not exist in this case. Accordingly, for the reasons set out above, I conclude that the appeal should not succeed.

Nicholas Taylor

INSPECTOR