
Appeal Decision

Site visit made on 27 September 2016

by Rory Cridland LLB (Hons)

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

Decision date: 20th October 2016

Appeal Ref: APP/F0114/W/16/3150878

Rose Cottages, Kilkenny Lane, Englishcombe, Bath BA2 2SL

- 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 Richard Parker against the decision of Bath & North East Somerset Council.
 - The application Ref 16/00946/FUL, dated 26 February 2016, was refused by notice dated 29 April 2016.
 - The development proposed is change of use from garage to holiday let.
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Decision

1. The appeal is dismissed.

Main Issues

The main issues are:

- (i) whether or not the proposal is inappropriate development in the Green Belt;
- (ii) the effect of the proposal on the openness of the Green Belt;
- (iii) whether the site offers an acceptable location for the proposed development; and
- (iv) 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

Whether the proposal is inappropriate development in the Green Belt.

2. The appeal site is situated in the Green Belt. Policy CP8 of the Council's Core Strategy¹(CS) states that the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy. The National Planning Policy Framework ("the Framework") indicates² that, other than in connection with a small number of exceptions, new development in the Green Belt should be regarded as inappropriate.

¹ Bath and North East Somerset Composite Core Strategy.(2014).

² Paragraph 89.

3. The limited infilling or partial or complete redevelopment of previously developed sites³ 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 is one of the listed exceptions. The appellant has asserted that the site falls within this exception and essentially constitutes the infill of a previously developed site.
4. Annex 2 of the Framework provides a definition of 'previously developed land' which includes land which was occupied by a permanent structure, including its curtilage and any fixed surface infrastructure. However, it explicitly excludes land that forms part of a residential curtilage. The proposal would involve the conversion of a garage associated with an existing dwelling. As such, it forms part of a residential curtilage and does not fall within the definition of previously developed land.
5. However, Paragraph 90 of the Framework indicates that other forms of development are also not inappropriate in the Green Belt provided that they preserve openness and do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that are of permanent and substantial construction.
6. In this case the proposal would re-use an existing ancillary building. While I note that the Council has suggested that the term *re-use* indicates a level of redundancy, Paragraph 90 does not impose any such requirement and in the absence of anything in the Framework to indicate otherwise, I afford it its everyday meaning. Furthermore, I observed during my site visit that it was of permanent and substantial construction. It therefore follows that, provided that it preserves openness and does not conflict with the purposes of including land within the Green Belt, the proposal may not be inappropriate development.

Effect on openness and the purposes of the Green Belt

7. The Framework indicates that openness is an essential characteristic of the Green Belt. In my view, openness has both a visual and spatial dimension. It is accepted that the proposal would not result in any significant addition to the built form. Furthermore, having visited the site, I do not consider that the openness of this part of the Green Belt would be harmed.
8. Moreover, the appeal property is currently used as a garage in association with the main dwelling. Although there may be a small increase in the amount of domestic paraphernalia present, this would be located in what is already a residential curtilage where there are already no restrictions on the number or siting of such items. Accordingly, I find that openness would be preserved.
9. Having had regard to the five purposes set out in Paragraph 80 of the Framework, the proposal would not result in urban sprawl and does not involve any merging of neighbouring towns. Nor does it encroach into the open countryside, since it lies within the residential curtilage of the main dwelling. It does not affect any historic setting and the last bullet point is not relevant. As such, the proposal does not conflict with the purposes of including land within the Green Belt and there would be no harm caused in this respect.

³ whether redundant or in continuing use

10. Consequently, I find that the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. As such, it satisfies the second limb of the test set out in Paragraph 90 and would not therefore constitute inappropriate development. It is not therefore harmful in principle and the need for very special circumstances does not arise.

Acceptability of location

11. Policy HG.10 of the Bath and North East Somerset Local Plan⁴ seeks to restrict new dwellings outside of the identified settlements other than where they are essential for agricultural or forestry workers and meet a number of specified criteria. While I note the appellant's suggestion that this policy is aimed principally at the agricultural sector, Paragraph B7.77 of the explanatory text makes clear that the policy is of more general application.
12. The proposal would result in a separate unit of accommodation which would function independently of the main dwelling. Although it might reasonably be tied to the main building by means of a condition, it would nevertheless be capable of independent occupation. As such, it falls within the definition of a dwelling for the purposes of Policy HG.10. In this case, there is no suggestion that the proposal is essential for workers in agriculture or forestry. Accordingly, the provision of a new dwelling in this location would be unacceptable and contrary to Policy HG.10.

Other Matters

13. My attention has been drawn to Policy ET.9 which permits the conversion of a building to a new use subject to a number of exceptions. However, that policy is intended to support the re-use and adaptation of rural buildings. In this case, the proposal is to convert a domestic garage. Accordingly, I do not consider that Policy ET.9 provides sufficient justification to permit the development proposed.
14. While I note that tourist/visitor accommodation is often located outside of a town or village boundary, that does not overcome the policy objection identified above.

Planning Balance and Conclusion

15. Although I have found that the proposal would not be inappropriate development within the Green Belt and that the need for very special circumstances does not arise, I have nevertheless found that its location would be unacceptable and contrary to policy HG.10. Accordingly, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

⁴ Bath and North East Somerset Local Plan (including minerals and waste policies) (2007).