The Planning Inspectorate

Appeal Decision

Site visit made on 13 March 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 4 April 2017

Appeal Ref: APP/F0114/W/16/3165378
1 Sleight View, Bloomfield Road, Timsbury, Bath BA2 0LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Dr Barbara Roy against the decision of Bath & North East Somerset Council.
- The application Ref 16/03384/VAR, dated 30 June 2016, was refused by notice dated 30 August 2016.
- The application sought planning permission for the conversion of outbuilding at rear to a residential annexe without complying with a condition attached to planning permission Ref 13/01041/FUL, dated 19 June 2013.
- The condition in dispute is No 2 which states that:
  "The accommodation hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 1 Sleight View, Bloomfield Road, Timsbury and shall not be occupied as an independent dwelling unit."
- The reason given for the condition is:
  "The accommodation hereby approved is not capable of independent occupation without adverse impact on the amenities of existing or future residential occupiers."

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - whether or not the condition is necessary and reasonable in the interests of the living conditions of the occupants of adjoining properties, with particular reference to privacy, noise and disturbance;

   - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the framework);

   - the effect of the proposal on the openness of the Green Belt;

   - 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

3. The appeal relates to a single storey outbuilding to the rear of No 1 Sleight View, which is a two storey semi-detached dwelling situated within the Bristol and Bath Green Belt.

4. Planning permission was granted on 19 June 2013 under reference 13/01041/FUL for the conversion of the outbuilding to a residential annex. Condition 2 of that permission stipulates that the accommodation shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 1 Sleight View and shall not be occupied as an independent dwelling unit. The reason given for the condition is that the accommodation is not capable of independent occupation without adverse impact on the amenities of existing or future residential occupiers.

5. The proposal seeks to remove Condition 2 to allow for short term lets of the building with the intention that it is used by tourists or professionals, rather than as a dwelling in permanent use. Be that as it may, if Condition 2 is removed, then the building would be capable of being used for any of these purposes, including as a permanent dwelling.

Living conditions

6. The residential annex is positioned in the rear garden of No 1, just beyond the mid-point of what is a very long plot. The layout of the site and the relationship with neighbouring properties is such that no direct or independent pedestrian or vehicular access would be achieved. Consequently, occupants would have to park in the front garden of No 1, walk up the relatively long shared driveway around the southern side that dwelling, close to its rear back door and parking area and through its rear garden. Therefore, even if no additional vehicular movements were to take place to the rear of No 1, this would amount to a very unsatisfactory arrangement for the appellant and any future occupants of that dwelling, in terms of general disturbance from people coming and going. Moreover, whilst separation distances between the respective dwellings would be satisfactory in terms of overlooking, this access arrangement would also be particularly intrusive in terms of privacy.

7. The arrangement would also be wholly unsatisfactory and inconvenient for any future occupants of the appeal building in terms of ease of access. In my view, given the distance between the accommodation and the proposed parking space, it is an unrealistic expectation that no vehicular movements would take place at the rear of No 1, particularly when carrying luggage or shopping etc.

8. The creation of an independent unit of accommodation would also result in a greater intensity of use of the building than the current incidental level. This would result in additional noise and disturbance to the occupants of the flanking properties at No 2 Sleight View and Bramble Lodge when using their rear garden areas.

9. I accept that the outdoor amenity space provided for the building would not be particularly visible from No 1, however, it would be readily visible from Bramble Lodge to the south as the boundary at this point is very open in nature. It would also be partly visible through the existing boundary treatment from No 2. The coming and going and use of the garden area associated with the intensified use of the building would also materially reduce the level of privacy

experienced by the occupants of the flanking properties when using their rear gardens.

10. I therefore conclude on this main issue that Condition 2 is necessary and reasonable in the interests of protecting the living conditions of the occupants of adjoining properties. Accordingly, its removal would be contrary to Saved Policies D.2 and D.4 of the Bath and North East Somerset Local Plan, which permit development if, amongst other matters, it would not cause significant harm to the amenities of existing or proposed occupiers and where buildings are capable of adaption.

11. Whilst conflict with Saved Policy HG.12 is also cited in the Council's reason for refusal, I have not been provided with the details of the policies to which it refers (Saved Policies HG.4 and HG.6). I cannot therefore be certain that it is applicable to the appeal proposal. In any case, in the particular circumstances of this case, it does not add anything further to those policies I have identified above. I have therefore given limited weight to it.

Whether the proposal is inappropriate development within the Green Belt and its effect on openness

12. Section 9 of the Framework sets out the Government's approach to protecting Green Belt land. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 89 of the Framework advises that local planning authorities should regard the construction of new buildings as inappropriate. In this case, the proposal relates to an existing building, which it is not proposed to extend. The proposal would not therefore amount to inappropriate development in this regard and the exceptions listed in paragraph 89, including that relating to buildings used for agriculture and forestry, are not relevant.

13. Paragraph 90 of the Framework also explains that certain other forms of development are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

14. The appeal building is clearly of permanent and substantial construction and no changes are proposed to the building which already falls within a residential garden with the associated paraphernalia. I am satisfied therefore that the proposal would preserve the openness of the Green Belt. Moreover, I have no evidence to suggest that the land which would be apportioned to the residential accommodation falls outside of the garden area of No 1. Therefore, the independent use of the building as a short term let, which is already in ancillary residential use, would not conflict with the purposes of including land within the Green Belt, including assisting in safeguarding the countryside from encroachment.

15. I therefore conclude that the removal Condition 2, to allow for short term lets of the building, would not amount to inappropriate development in the Green Belt. Consequently, there would be no conflict with Policy CP8 of the Bath and North East Somerset Core Strategy or the Framework, which seek to protect the openness of the Green Belt from inappropriate development. As such, it is

not necessary for me to consider the final main issue regarding whether there are other considerations amounting to very special circumstances in this case.

Other matters

16. There appeared to be significant opportunities for guests staying at the ancillary accommodation to park at the rear of No 1. I therefore see no disadvantage to this arrangement continuing or a benefit to a new parking space being provided. I accept that a condition could, in time, secure a degree of screening to a parking space such that it would not unduly affect the visual amenity of the occupiers of Nos 1 and 2 or Bramble Lodge, and that its use would not unacceptably affect the vehicular movements to either property. However, these are neutral factors in the planning balance which cannot weigh in favour of the proposal.

17. Whilst there may be a modest benefit in providing additional tourist accommodation, I have no mechanism before me to ensure that it would be used as such. In any case, I have found that the increased use of the building for such purposes would result in significant harm to the living conditions of neighbouring residents. I also have no evidence to suggest that if I were to allow this appeal that it would it would negate the need for the construction of new buildings in the countryside.

Conclusion

18. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR