
Appeal Decision

Site visit made on 3 May 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 1 June 2017

Appeal Ref: APP/P0119/W/17/3168544

Tog Hill Barn Farm, London Road, Wick, South Gloucester BS30 5RU

- 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 Jeremy Milton against the decision of South Gloucestershire Council.
 - The application Ref PK16/0961/F, dated 20 January 2016, was refused by notice dated 11 October 2016.
 - The development proposed is demolition of existing farm cottage and erection of a new 2 storey detached house.
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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 and its effect on the openness of the Green Belt;
- (ii) the effect of the proposed development on the character and appearance of the Cotswold Area of Outstanding Natural Beauty ("the AONB");
- (iii) the effect of the proposed development on biodiversity; 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 or not the proposal is inappropriate development in the Green Belt and its effect on openness.

2. The National Planning Policy Framework ("the Framework") indicates¹ that, other than in connection with a small number of exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. Furthermore, the replacement of a building provided that the new building is in

¹ at Paragraph 89

the same use and not materially larger than the one it replaces is one of the listed exceptions.

3. The proposal would result in the demolition of the existing building and its replacement with a new residential dwelling. However, its overall size and volume would increase significantly. As such, I do not consider the proposal would benefit from the exemption identified above.
4. Nevertheless, Paragraph 89 also provides an exemption where the proposal involves the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, 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. 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. In view of its existing physical characteristics, I am satisfied that the appeal site falls within the definition of *previously developed land* and satisfies the first limb of the exemption.
5. Turning then to openness, the Framework indicates that this is an essential characteristic of the Green Belt. In my view, openness has both a visual and spatial dimension. The new dwelling, in view of its increased size would be visible from both the nearby A420 as well as from a number of other vantage points within the surrounding area. It would appear prominent and imposing within its surroundings and would add a considerable amount of built form to the wider complex. Its impact on both spatial and visual openness would be materially greater than that of the existing dwelling and would erode one of the key characteristics of this protected area.
6. Accordingly, although I find that the scheme would fall within the definition of *previously developed land*, I consider the increase in size and volume of the new dwelling would materially impact on the openness of the Green Belt. As such, it does not within the exemption provided by Paragraph 89.
7. Consequently, in not benefitting from any of the listed exceptions, I find that the scheme would constitute inappropriate development within the Green Belt, which the Framework states is, by definition, harmful and should not be approved other than in very special circumstances². In considering a planning application, Paragraph 88 of the Framework states that the resultant harm should be given substantial weight.

Character and appearance

8. As well as being situated in the Green Belt, the appeal site is located within the AONB. It consists of an attractive two storey stone building which the Council has identified as a non-designated heritage asset. Dating to around the 18th century, its significance is derived from its agricultural origins as part of a rural farm located in a relatively sparsely populated position within the AONB.
9. As the largest building on the site, the appeal property is already a dominant feature within the complex of buildings and is prominent within the surrounding landscape. However, it is seen in the context of the other nearby buildings and its traditional and rural nature integrates well into both the complex itself and the wider AONB.

² at Paragraph 87

10. Policy CS1 of the South Gloucestershire Local Plan: Core Strategy 2006-2027 (CS)³ – requires new development to be of the highest possible standard of design and to demonstrate that, amongst other things, its scale, height, and massing materials respect and enhance the character and distinctiveness of the site and its context. Similarly, Policy H4 of the South Gloucestershire Local Plan⁴ (LP) requires proposals which involve development within existing residential curtilages to respect the massing, scale, proportions, and overall design and character of the existing property and surrounding area.
11. In addition, CS Policy CS9 requires new development to conserve and enhance the character, quality, and distinctiveness of the landscape and ensure that heritage assets are conserved, respected and enhanced in a manner that is appropriate to their significance. Moreover, CS Policy CS34 & LP Policy L2 seek to protect, conserve and enhance the rural area's distinctive character and protect the AONB from inappropriate development by, amongst other things, restricting development that would harm the natural beauty of the AONB.
12. The proposal would involve the complete demolition of the existing dwelling and its replacement with a new, substantially larger, dwelling together with an attached garage. It would include large dormers and a raised roof which would appear at odds with the more traditional appearance of the surrounding farm complex. It would fail to enhance the character of the complex or its wider surroundings. This would be contrary to CS Policy CS1 and LP Policy H4.
13. Furthermore, although it would only be partly visible from the nearby A420, it would nevertheless be clearly visible within the surrounding landscape and from the nearby public footpath which runs along the site's western boundary. Its increased scale and size would increase its prominence and would negatively impact on the sensitive landscape. It would appear at odds with the more modest dwellings which are characteristic of this part of the AONB. While I acknowledge the proposed landscaping suggested by the appellant, this would not provide sufficient mitigation for the harm that would arise. As such, I find it would be on conflict with CS Policy CS34 and LP Policy L2. In accordance with Paragraph 115 of the Framework, I afford this great weight.
14. Furthermore, Paragraph 135 of the Framework advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset itself. In addition, the Framework makes clear that *all* heritage assets are an irreplaceable resource and that in determining applications, decision makers should take account of the desirability of new development making a positive contribution to local character and distinctiveness.
15. In this case, I consider the loss of this non-designated heritage asset would considerably alter the appearance and setting of the wider complex. Its loss and replacement with a more modern, larger form of development would erode the historical setting of the site and would negatively impact on the wider site's historical significance. Its impact would be noticeable both from within the farm complex as well as in views from the surrounding AONB. While I note that in its

³ Adopted 2013.

⁴ South Gloucestershire local Plan Written Statement (January 2006)

present state, the existing building is not fit for purpose, that does not in itself justify the loss of this heritage asset or the harm to the AONB which would result from the erection of the proposed dwelling. As such, I find it would be contrary to CS Policy CS9.

16. Consequently, I find that the proposed dwelling would fail to integrate with its wider setting, would result in a prominent addition to the landscape and would negatively impact on the character and appearance of the AONB. Furthermore, I consider it would result in the unjustified loss of a non-designated heritage asset and would negatively impact on the wider complex. As such, I consider the proposal would be contrary to CS Policies CS1, CS9 & CS34 and LP Policies H4 & L2. These policies, taken together, seek to ensure that new development integrates well into its surroundings, protect the AONB from inappropriate development and ensure that heritage assets are preserved.

Biodiversity

17. CS Policy CS9 seeks to ensure, amongst other things, that new development avoids or minimises the impacts on biodiversity. Likewise, LP Policy L9 restricts development which would directly or indirectly have an adverse effect on nationally or internationally protected species unless any damaging effects are capable of being avoided, overcome or offset by mitigation measures.
18. As part of the application a Bat Search Survey was submitted which recommended additional works be carried out to ensure that the biodiversity impacts on protected species were fully established and any impacts mitigated. However, the appellant asserts that it would be cost prohibitive to undertake such surveys at the present time.
19. DCLG Circular 6/2005⁵ ("the Circular") provides guidance on biodiversity and the impact of statutory obligations within the planning system. It advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the grant of planning permission. This is in order to ensure that all relevant material considerations have been addressed in the decision making process.
20. In view of the site's rural location, I consider there to be a reasonable likelihood that protected species may be present⁶ and, as such, might be affected by the development proposed. While I note the appellant's suggestion that this could be dealt with by means of a condition, the Circular advises that ecological surveys should only be secured by such means under exceptional circumstances. I have seen nothing which would lead me to conclude that such exceptional circumstances are present in this case.
21. Consequently, I find that there is insufficient information available to establish the presence or otherwise of protected species and, as such, consider the proposal would be contrary to CS Policy CS9 and LP Policy L9 as well as the advice set out in Circular 6/2005.

Other Considerations

⁵ Circular 6/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system; DCLG (ISBN: 9780117539518).

⁶ either on site or nearby

22. Paragraph 14 of the Framework states that where a five year supply of deliverable housing sites cannot be demonstrated, relevant policies for the supply of housing should not be considered up to date. The Council accepts that it cannot currently demonstrate such a supply. As such, there is a presumption in favour of sustainable development unless specific policies in the Framework indicate that development should be restricted.
23. I have found that the proposal would not accord with Paragraph 89 of the Framework. Although there are a number of identifiable benefits including the economic and social benefits which would result from the proposal, they are modest. Even cumulatively, they do not outweigh the harm which the scheme would cause. Furthermore, Planning Practice Guidance indicates that, in Green Belts, unmet housing need is unlikely to outweigh the harm and constitute very special circumstances justifying development⁷. On balance, I consider the limited benefits that would accrue would be significantly and demonstrably outweighed by the harm identified above.
24. In reaching my conclusions, I have noted the appellant's references to other developments which have been permitted by the Council. However, although I do not have full details of these other schemes, from the limited information available they do not appear to be sufficiently similar so as to act as a justifiable precedent for the development proposed. In any event, each application must be determined on its own merit and that is the approach I have taken in determining this appeal.

Conclusion

25. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

⁷ Planning Practice Guidance: Housing and Economic Land Availability Assessment – Para 34