



Appeal Decision

Site visit made on 6 June 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 06 July 2017

Appeal Ref: APP/P0119/W/17/3168992

Workshop, Wayside Cottage, Hollywood Lane, Easter Compton BS35 5RT

- 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 & Mrs Pearce-Lynch against the decision of South Gloucestershire Council.
 - The application Ref PT16/4968/F, dated 31 August 2016, was refused by notice dated 31 October 2016.
 - The development proposed is the demolition of existing workshops/office/storage buildings and erection of a three bedroom single storey dwelling, garage and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing workshops/office/storage buildings and erection of a three bedroom single storey dwelling, garage and ancillary works at Workshop, Wayside Cottage, Hollywood Lane, Easter Compton BS35 5RT in accordance with the terms of the application, Ref PT16/4968/F, dated 31 August 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. There is a dispute between the parties in relation to the lawful use of the site. It is not for me, under a section 78 appeal, to determine the lawful use of the site. To that end it is open to the appellants to apply for a determination under sections 191/192 of the Act and the outcome of this appeal under s78 does not affect the issuing of such a determination.
3. The Council's Officer Report states that the site is considered to be a potential wildlife habitat due to the trees, hedgerows and grassland which is well-connected to further habitats such as woodland within the wider countryside. The Council have subsequently stated that the lack of an ecological appraisal in relation to protected species should have been a reason for refusal. Both parties have been given the opportunity to comment on this matter and as such are not prejudiced by my consideration of it.
4. The Council are currently unable to demonstrate a 5 year housing land supply (HLS), and in accordance with paragraph 49 of National Planning Policy Framework (the Framework) relevant policies for the supply of housing should not be considered up-to-date. I have therefore had regard to paragraph 14 which states that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole or where specific policies in the Framework indicate development should be

restricted. I have also had regard to the recent Supreme Court¹ judgement in this respect and both parties have been consulted on this but neither considers that the judgement has significant implications for the case here.

Main Issues

5. The main issues of this appeal are:

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the Framework and the development plan, including the effect on the openness of the Green Belt and the purposes of including land within it;
- whether the proposal would be in a suitable location having regard to local and national planning policies for housing in rural areas;
- the effect on protected species;
- If the proposal is inappropriate development, 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

6. The appeal site comprises a number of single storey buildings and the associated land that was previously utilised by Avon Garden Machinery as workshops with ancillary storage and office space. The site is adjacent to Wayside Cottage and shares an access drive with that property. Due to the sloping topography the site is above the level of Hollywood Lane which is a narrow country lane flanked by tall substantial hedges and trees. Furthermore, there is a field/paddock between the eastern boundary of the site and Hollywood Lane.

Whether the proposal is inappropriate development in the Green Belt

7. Apart from certain clearly defined exceptions set out in paragraph 89 of the Framework the construction of new buildings in the Green Belt is to be regarded as inappropriate development. The listed exceptions in paragraph 89 include, amongst other things, limited infilling or the partial or complete redevelopment of previously developed sites, 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 existing development.
8. Policy CS5 of the South Gloucestershire Local Plan Core Strategy (CS) states that development in the Green Belt will need to comply with the provisions in the Framework or relevant policies in the Core Strategy. CS Policy CS34 states that development proposals will protect the designated Green Belt from inappropriate development. These policies are broadly consistent with the Framework in so far as they relate to the Green Belt. Under paragraph 215 of the Framework full weight is therefore given to them in respect of their degree of consistency with the Framework.
9. The first Reason for Refusal on the Decision Notice cites the Council's '*Development in the Green Belt*' Supplementary Planning Document (SPD). However, this document was adopted in 2007 before the publication of the Framework and as such it does not address the issue of previously developed sites. Consequently, I give this document little weight.

¹ Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council 10 May 2017

10. Both parties agree that the site can be defined as previously developed land due to its use as workshops with ancillary storage and offices. From my observations I have no reason to dispute this. There are a number of buildings mainly adjacent to the eastern boundary of the site. The largest building in footprint terms² is in close proximity to the north-eastern corner of the site adjacent to access drive. The remainder of the site is presently relatively overgrown with vegetation.
11. The buildings are currently not used as workshops and ancillary uses. The proposal would involve the demolition of these buildings and their replacement with a single storey dwelling and double garage. As such it would involve the complete redevelopment of the site.
12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Whilst the concept of openness includes the absence of buildings and development, it is a broader concept than just visibility, and levels of domestic activity can affect openness.
13. The existing buildings on the site are grouped in close proximity to each other. The siting and footprint of the new dwelling would be comparable to that of the existing workshops 2, 3 and 4. The garage would be nearer to the western boundary than workshop 1 but it would be similar in footprint. The ridge height of the dwelling would be moderately taller than any of the existing workshops on the site. However, the appellants' calculation that the proposals would result in a reduction of some 68m³ in building volume is not disputed by the Council.
14. Furthermore, the low-key development as a whole would, like the existing workshops, only be seen in glimpse views through the existing hedges from Hollywood Lane against the backdrop of the substantial domestic gardens of Wayside Cottage, Wayside Cottage itself which is a 2-storey dwelling and the existing landscaping. Thus the impact of the new buildings on the Green Belt's openness would be no greater than that of the existing development.
15. The proposal would introduce residential activity and paraphernalia to the site, including the formation of a garden. However, even though it is overgrown due to its close proximity to Wayside Cottage and the shared access, the site visually has more affinity to the residential curtilage of Wayside Cottage than the surrounding countryside. Additional hedgerow planting or a style of boundary treatment in keeping with the rural location could be appropriately sited to be largely imperceptible in the context of existing trees and hedging that surround the site.
16. Permitted development rights for extensions and for other development within the curtilage could be restricted by condition. I note that the previous Inspector³ had considered that it would be difficult to resist the introduction of ancillary buildings. However, the double garage could be utilised for the storage of garden machinery and other domestic purposes and the internal layout of the house includes storage areas. I have also borne in mind that the lawful uses of the existing workshops could involve at least as much outdoor activity as a single dwelling, and possibly more.
17. Consequently, I find no compelling grounds to conclude, in the particular circumstances of this case, that the proposed residential curtilage would have a

² Shown as Workshop 1 on drawing No 13075/002

³ APP/P0119/A/11/2156639 – 7 November 2011

- greater impact on the Green Belt's openness than the lawful uses of the existing workshops.
18. The appellants consider that as the site is previously developed it would assist with urban regeneration, one of the purposes of the Green Belt. However, the site is within the open countryside and as such its redevelopment would not be treated as urban regeneration. Nevertheless, given the nature and small scale of the proposed development, neither would it conflict to any material degree with this purpose of the Green Belt or the first purpose of checking the unrestricted sprawl of large built-up areas.
 19. There is no dispute that the appeal proposals would not conflict with the second and fourth purposes set out in Framework paragraph 80⁴. The remaining (third) purpose is to assist in safeguarding the countryside from encroachment. In this respect I note the Council's and the previous Inspector's concerns but my findings are very similar to those relating to openness.
 20. The existing low-key buildings are broadly agricultural in character but due to their design, single-storey form and proposed materials the dwelling and garage would be equally low key. I also consider that in this particular site context the proposal would have little visual impact on the wider countryside due to the close proximity of Wayside Cottage and the existing landscaping. Given also the scope to restrict permitted development rights and require boundary treatment, any urbanising impact arising from the creation of a residential curtilage is unlikely to be significant.
 21. As stated above, there is dispute as to the lawful uses of the appeal site but the previous Inspector considered that a new dwelling on the site would be likely to generate less traffic than the workshop use. The Transport Consultee for the Council also states that the number of trips generated by the proposal is unlikely to be materially different to those associated with the workshop. I find this persuasive in this case.
 22. Taking account of all relevant matters in this particular case I find it reasonable to conclude that the appeal proposal constitutes redevelopment of a previously developed site which would not have a greater impact on the Green Belt's openness or the purpose of including land within it. It would not therefore be inappropriate development in the Green Belt for the purposes of CS Policies CS5 and CS34 and the Framework. It is therefore unnecessary to consider whether there are considerations in favour of the appeal which would amount to very special circumstances necessary to justify the development.

Suitable location

23. As stated above, the Council cannot demonstrate a 5 year HLS and its Officer Report states that saved Policy H3 of the South Gloucestershire Local Plan(LP) and CS Policies CS5 and CS34 are out-of-date for the purpose of housing provision in relation to paragraphs 14 and 49 of the Framework. I have no reason to dispute this. I note that it is not part of the Council's case that the appeal proposal fails to comply with these policies on this main issue.
24. Paragraph 55 advises that to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and that (with certain identified exceptions) local planning authorities should avoid new isolated homes in the countryside.

⁴ That is, preventing neighbouring towns from merging and preserving the setting and special character of historic towns

25. The Council considers that the development would not be located in an area where it would support existing rural communities and I have very little detailed information in front of me in relation to services and facilities within the vicinity of the site. Nevertheless, the settlement of Easter Compton is around 1km from the site and Cribb's Causeway, which is a large retail/leisure area, is around 1.5km from the site.
26. Hollywood Lane is narrow country lane with no pavements and is mainly unlit. However, during my site visit the lane was very quiet as there were relatively few vehicles using it. At other times of the day it may be busier but there is no evidence before me to suggest that the road is normally heavily trafficked. I accept that due to the distances involved and the nature of the lane that there is a high probability that future occupiers would not walk to the services and facilities in either Easter Compton or Cribb's Causeway. However, they are within an acceptable cycling distance and this could be an alternative mode of travel for some residents. Nevertheless, future occupiers would still be highly dependent on the use of the private motor car but it is likely that they would still utilise the services and facilities within Easter Compton. As such they would help to maintain the vitality of a rural community.
27. Paragraph 55 of the Framework refers to new isolated homes in the countryside. The Framework contains no definition of the term "isolated" and so I rely on the everyday definition of the word as meaning lonely or remote. The site is not lonely or remote in visual terms as it is adjacent to existing development. As stated above, there would be an alternative mode of transport available to future occupiers and the distances involved to the nearby settlements are not substantial. As such the proposal is not isolated in terms of accessibility either and consequently the proposal would not result in a new isolated home in the countryside. It follows that the proposal would comply with paragraph 55 of the Framework.
28. I have had regard to the previous Inspector's findings in relation to housing in the countryside but that decision predates the publication of the Framework and in this respect I give it little weight.

Protected species

29. The Council's ecology team recommended that an ecological appraisal be undertaken before a determination was made in relation to the planning application. None was requested of the appellants as the application was to be refused on other grounds. The evidence of the Council has not highlighted what protected species that they consider could be affected and it appears that the advice may have been offered on a precautionary basis based on the general nature of its evidence.
30. Paragraph 99 of Circular 06/2005⁵ advises that the presence or otherwise of protected species and the effect new development might have upon them should be established before planning permission is granted and the need for ecological surveys should generally not be left to conditions imposed on planning permissions. However, paragraph 99 goes on to advise that '*... developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development*'.
31. The appellants have confirmed that an ecologist has visited the site in relation to a current planning application on Wayside Cottage. That ecologist has

⁵ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system

provided evidence on the likely impact of the proposal on any protected species, most particularly bats. The comments state that the only building considered to provide some roosting opportunities for bats is the single story brick building with a tiled roof. Bat surveys on Wayside Cottage have so far confirmed that the building supports a small number of roosting Common Pipistrelle.

32. Roosting opportunities on the workshop building are considered to be similar to that of the main house but restricted to beneath some loose-fitted roof tiles as there is not a concealed roof void. The ecologist has had regard to this building during the ongoing surveys and nothing to suggest roosting bats has been found so far. The appellants suggest that a condition could be imposed to ensure that the roof is removed at a time when bats are least likely to be present and that if bats are found that works would cease and appropriate mitigation be agreed with the Council. I consider that the imposition of a condition would ensure that in the unlikely event of bats being found that they would not be harmed.
33. On the available evidence, and having regard to the provisions of paragraph 99 of Circular 06/2005, I conclude that the likelihood of protected species being present on site is small, less than a reasonable likelihood, and therefore a full survey should not be required. I conclude that the proposal is unlikely to cause any demonstrable harm to a protected species or its habitat. As such, I am satisfied that the development would accord with LP Policy L9 and CS Policy CS9 which together seek, amongst other things, development that conserves and enhances the natural environment, avoiding or minimising impacts on biodiversity.

Other matters

34. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The appellants have stated that Manor Farm, which is to the south east of the site, is a grade II listed building. I have no reason to dispute this and I noted on site that the proposal would have a neutral impact on the setting of Manor Farm given the separation of the appeal site to the listed building. Therefore, I am satisfied that the proposal would preserve its setting

Conditions

35. I have considered the conditions put forward by the Council and the appellants against the requirements of the Planning Practice Guidance and the National Planning Policy Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
36. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings. In the interests of character and appearance, it is necessary to impose a condition requiring a landscaping scheme.
37. Given the previous uses of the site it is reasonable and necessary to require some investigation for contamination and, should they be required, remedial measures.
38. It follows from the previous reasoning that a condition restricting permitted development rights is justified, in the interests of visual amenity and also to

maintain the openness of the Green Belt. Consequently, the suggested removal of permitted development rights is reasonable and necessary to make the development acceptable in the particular circumstances of the site and its surroundings which are, therefore, exceptional.

39. I have imposed a condition in relation to the removal of the roof of one of the workshops in the interests of biodiversity.

Conclusion

40. The proposal would reuse land that has been previously developed and it would provide one dwelling which would have a social benefit by making a small contribution to the housing supply in an area with an acknowledged shortfall. There would be some limited economic benefits associated with the construction works and the occupation of the dwelling as prospective occupiers would provide some support for local services.
41. I am mindful that the proposal is only for a single dwelling and therefore traffic generation and greenhouse gas emissions attributed to its use would be limited. Moreover, as stated above it is likely that the traffic generated would be similar or less than the lawful use of the site. I have found that the proposal would not harm the openness or the purposes of the Green Belt or any protected species. As such, the proposal would be neutral in environmental terms.
42. Even though the appeal site is located in the Green Belt where restrictive policies apply, I have found no harm to the Green Belt. I have not found any harm that would significantly and demonstrably outweigh the benefits associated with the scheme when assessed against the policies in the Framework taken as a whole. I have found that the proposal is in compliance with the development plan policies when taken as a whole.
43. Consequently, the proposal represents sustainable development. For the reasons given above, and having regard to all other matters raised I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

Attached – Schedule of Conditions

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 13075/HTA; 13075/GAR; 13075/001; 13075/002; 13075/003.
- 3) No development shall commence until a scheme of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land; identify those to be retained and set out measures for their protection throughout the course of development; proposed planting (and times of planting); boundary treatments and areas of hard surfacing (including parking areas). Development shall then be carried out in accordance with the agreed scheme.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A-E of Schedule 2, Part 1 of the Order shall be carried out.
- 5) No development shall commence until an assessment of the risks posed by any actual or potential land contamination, ground gas contamination or pollution of controlled waters has been submitted to and approved in writing by the local planning authority. The assessment shall be carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced). If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 6) The proposed dismantling of the roof structure of the building shown as Workshop 2 on the approved plans shall only be carried out between the months of November and March of the following year and shall only be carried out under the direct supervision of a suitably qualified ecologist. If, during the course of the development evidence of bats is found all work shall be suspended immediately and an appropriate mitigation scheme shall be submitted to and approved in writing by the local planning authority prior to the development works re-commencing. Development shall then be carried out in accordance with the agreed mitigation scheme.