



Appeal Decision

Site visit made on 14 June 2019

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2019

Appeal Ref: APP/D0121/W/19/3224779

Land between Tall Pines Golf Course and Whispering Pines, west of Cook's Bridle Path, Downside, Backwell, North Somerset

- 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 Paul Masters against the decision of North Somerset Council.
 - The application Ref 18/P/4727/FUL, dated 31 October 2018, was refused by notice dated 15 February 2019.
 - The development proposed is the erection of detached dwellinghouse.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by North Somerset Council against Mr Paul Masters. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies, and
 - whether the site offers an appropriate location for the proposed development having regard to the policies of the development plan, and
 - the effect of the development on:
 - protected species and biodiversity at the site,
 - the character and appearance of the area, and
 - 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

Whether the development would be inappropriate development in the Green Belt

4. The appeal site lies within the North Somerset Green Belt comprising a parcel of land located between the entrance/approach to the Tall Pines Golf Course and two dwellings all of which are screened from Cook's Bridle Path (the access lane) by a dense coniferous plantation. Despite proximity to Bristol Airport, due to enclosing vegetation and sparseness of use, the appeal site retains a substantial degree of rural tranquillity as does the access lane near the site.
5. The revised National Planning Policy Framework (Framework) identifies that a new building should be regarded as inappropriate development which is harmful to the Green Belt. The appellant points to exceptions (e) in paragraph 145 which allows "limited infilling in villages".
6. Downside has no settlement boundary but comprises a significant number of dwellings arranged around Downside Road off which the access lane branches. Although the residential curtilages of three dwellings at the northern end of the access lane are contiguous with the rest of the village, the appeal site and its immediately adjacent dwellings (and the Tall Pines club house and car park) are separated from these by intervening open land and not otherwise surrounded by built form of the settlement. The site is, in my judgement, not recognisably 'in' the settlement of Downside.
7. Paragraph 145 (g) of the Framework also allows "limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings)". However, this provision is limited to development which would have no greater impact on openness than that of the existing development, to which matter I now turn.
8. Although the proposed dwelling would partly occupy the current location of a large static caravan, the footprint of the proposed dwelling would be very much larger, as would be the height. From the modest extent and nature of the materials, structures, caravans and other vehicles found on site relative to the site area, those elements being dispersed across part of the site or within existing tree cover, the impact on openness of the existing use is no more than minor. Even taking into account the totality of caravans, vehicles and structures on the site, the proposed development would, by its permanence and size, have a significantly greater impact on openness than the minor impact of the existing use.
9. Noting the extent of the appeal site, the proposal could also introduce domestic activity and its associated moveable property into areas of the appeal site which are free from built development and covered with natural vegetation.
10. I therefore conclude that the proposed introduction of a new permanent building would significantly reduce the openness of the Green Belt in comparison with what is currently found on site and also that harm would be increased by the nature of the proposed use which would fail to preserve the openness of the appeal site from the introduction of domestic activity. I therefore conclude that the proposal would be inappropriate development which, by definition, is harmful to the openness of the Green Belt. I further conclude that it would not comply with Policy DM12 of the NSPP which sets out the basis for granting permission for new buildings in the Green Belt.

Location

11. Policy CS14 of the CS directs new residential development towards main towns and settlements, with strict control over development in the open countryside, exceptions to which do not include the proposal. 'Downside' has no settlement boundary and is therefore not a location which the CS identifies as appropriate for even small-scale development. It lacks facilities and occupiers would be obliged to travel some distance for most purposes of day-to-day living.
12. The Framework acknowledges different approaches are necessary in rural areas and that housing should be located where it will enhance or maintain the vitality of rural communities. This does not limit housing in the way set out in the CS and in Policy SA2 of the NSPP. However, even if the proposed dwelling is not 'isolated' by virtue of its proximity to two dwellings, I am not persuaded that the provision of a single dwelling in this location would support services in a nearby village; Downside has no facilities and the services available at Bristol Airport are not directed at day to day living. Although the airport might provide employment to some (but not all) potential occupiers, and there are cycling routes to major centres, the distances involved for most journeys are likely to encourage a predominant reliance on the use of the private motor vehicle for day-to-day requirements rather than more sustainable modes.
13. I therefore conclude that the development would not be in an accessible location and thereby conflicts with Policies CS14 and CS33 of the CS and Policy SA2 of the NSPP which seek to prevent sporadic development in unsustainable locations through a hierarchical approach and the use of settlement boundaries around identified settlements.

Protected species

14. It is not disputed that woodland and hedgerows on the site are of value to the rare Greater and Lesser Horseshoe bats and these features are being retained by the appeal proposal. However, the appellant's ecologist states horseshoe bats are very sensitive to light spill. Although the appellant has put forward a lighting strategy and plan, the strategy recommends further work to ensure light spillage into the woodland area is no more than 0.5 lux, also indicating 'targeted surveys' may be necessary. The appellant has therefore failed to demonstrate an absence of harm to these protected species.
15. In addition it is far from clear that the report and plan account for the effect of a principle source of light, being spillage through the windows of the proposed dwelling itself. The west-facing elevations contain large window areas which may never be curtained or shuttered and clearly this could have a significant bearing on the impact of the development on light-sensitive species.
16. Having regard to the Conservation of Habitats and Species Regulations (2017), in the absence of such information and related mitigation proposals I am unable to conclude that the proposed development would not cause harm to legally protected species in which respect a precautionary approach is necessary. Consequently, the proposal would not accord with policies CS4 of the CS, or Policy DM8 of the NSPP which seek to maintain and enhance biodiversity, to protect important habitats and, with respect to the North Somerset and Mendip Bats SAC, ensure the potential impact of proposed development on protected species if identified is then, if possible, mitigated.

Character and Appearance

17. The site is well screened. It is unlikely that the development would be more than glimpsed from some viewpoints, however, the introduction of a residential use would reduce the tranquillity of the location. It seems to me very unlikely that the existing high steel-plate gate would be retained in residential use and it would thereby be apparent to users of the access lane that domestic use had replaced a very low-level of commercial/agricultural activity at the site. The proposed building, which would be located partly but not completely on brownfield land, would not encroach on the surrounding countryside. In my judgement there would be a degree of change to the character and appearance of the location but this would not be unacceptably adverse.
18. I therefore conclude the proposal would not conflict with Policies CS5 and CS12 of the North Somerset Core Strategy (CS) or with Policies DM10 of the North Somerset Sites and Policies Plan (2016) (NSPP) which, together with the North Somerset Landscape Character Assessment Supplementary Planning Document (Landscape SPD) require development proposals to have regard to the characteristics of the landscape and not have an unacceptably adverse impact.

Other Considerations

19. The impact on openness of the current mix of uses is minor but the appellant suggests that 'the use of the wider site for storage would have a greater impact on openness than a single dwelling'. However, given my reasoning before, the extent and amount of storage use would need to be very much greater for that to be the case and for that reason I give little weight to that suggestion.
20. The Council accept that until the next housing supply monitoring report is produced they are not in a position to demonstrate a 5-year housing land supply. The appellant refers to the consequent engagement of the 'tilted balance' by reference to Paragraph 11(d) of the Framework. However, Paragraph 11(d)(i) and footnote 6 thereto makes clear that this does not apply where land is in the Green Belt and there are clear reasons for refusal present, as is the case here. The presumption in favour of sustainable development, or 'tilted balance', is not engaged.
21. The appellant has referred to other decisions of the Council. Despite some superficial similarities, the Long Ashton proposal differs from the appeal scheme in several important respects. Its location adjacent to a settlement boundary and its height relative to the development found on the site being most relevant, leading the Council to conclude an environmental improvement would result, which is not the case in the matter before me.
22. I have also had regard to the appeal decisions put forward by the appellant but it seems to me none are directly comparable as they were in each case but for differing reasons, concluded as being not inappropriate development. That is not the case with the matter appealed. The appellant also refers to the Council's reliance on the dismissed appeal at 'The Batch', Downside, however it seems to me the point of relevance is the unsuitability of the village for development which aligns with my conclusions. I do not, therefore, give these decisions significant weight.

Conclusion

23. Overall, the development would be inappropriate development in the Green Belt for the purposes of national planning policy and Policy DM12 of the NSPP. The Framework clearly states that inappropriate development is harmful to the Green Belt, and that substantial weight should be attached to that harm. There would not be unacceptable harm to character and appearance of the countryside and a little weight can be given to the benefit of even a single dwelling where there is a housing shortfall. However, these other considerations including those suggested by the appellant, do not clearly outweigh the harm by reason of inappropriateness and other harms arising from its inaccessible location and the impact of the proposed development on protected species. As a result, the very special circumstances necessary to justify allowing the appeal do not exist.
24. For this reason, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Andrew Boughton

INSPECTOR