



Appeal Decision

Site visit made on 16 June 2020

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2020

Appeal Ref: APP/P0119/W/20/3246745

Land at Bath Road, Bitton, South Gloucestershire, BS30 6HP

- 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 Jim Hawtin against the decision of South Gloucestershire Council.
 - The application Ref P19/1297/F, dated 31 January 2019, was refused by notice dated 7 November 2019.
 - The development proposed is the erection of 2no. detached dwellings and associated works.
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Decision

1. The appeal is dismissed.

Main issues

2. Having regard to the Council's reasons for refusal, the main issues are:
 - a) Whether the appeal proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the NPPF) and any relevant development plan policies;
 - b) The effect of the proposed development on the openness of the Green Belt;
 - c) Whether the appeal proposal would preserve or enhance the character or appearance of the Bitton Conservation Area, and preserve the setting of listed and locally listed buildings;
 - d) Whether the appeal site would represent an acceptable location for new residential development;
 - e) If the proposed development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and, if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal site comprises some 0.22 hectares of land on the south-west side of the A431 Bath Road, lying within the Bristol and Bath Green Belt and just outside the settlement boundary of Bitton. The site also lies within the Bitton Conservation Area, and is subject to a Tree Preservation Order (TPO). The Kings Square cul-de-sac runs along the site's north-west boundary and the River Boyd flows along its south-east side, whilst open fields lie to the west and south-west. At present the site is overgrown with trees and shrubs, with the appellant commenting that the extent of vegetation has significantly increased in mass over the past 25 years.

Whether inappropriate development

4. In its first reason for refusal, the Council maintains that the proposed development would be at odds with a number of development plan policies, supplementary planning guidance, and the NPPF. Policy CS5 of the South Gloucestershire Local Plan Core Strategy 2006-2027 (the CS), adopted in 2013, deals with the location of development. In the section dealing with the Green Belt it is only the last point which is relevant in this case. This states that other proposals for development in the Green Belt will need to comply with the provisions in the NPPF, or relevant local plan policies in the Core Strategy. CS Policy CS34 deals generally with Rural Areas, and insofar as the designated Green Belt is concerned, the policy seeks to protect it from inappropriate development.
5. Policy PSP7 of the Policies, Sites and Places Plan (PSPP), adopted in 2017, states that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances can be demonstrated that clearly outweigh the harm to the Green Belt, and any other harm. This reflects guidance in paragraphs 143 and 144 of the NPPF. NPPF paragraph 145 indicates that the construction of new buildings should be seen as inappropriate in the Green Belt apart from a number of exceptions, including 'limited infilling in villages'.
6. Finally, in terms of policy and guidance, the Council's 'Development in the Green Belt' supplementary planning document (SPD), adopted in 2007, sets out the limited development that is permitted in the Green Belt. It deals specifically with 'infill development', defining it as development that is small in scale and which fits into an existing built-up area in a defined settlement, normally in between existing buildings, in a linear formation. It also states that buildings outside settlement boundaries are treated as being part of the open countryside and that the relevant countryside policies apply.
7. I have noted the differing views expressed by the Council and the appellant as to whether or not development on the appeal site could be seen as infilling, and in this regard I consider that because it is contained in a more recent document, adopted after the NPPF was first published, the definition of infill development in the CS should carry more weight than the slightly different definition in the SPD. This CS definition is that infill development is *'the development of a relatively small gap between existing buildings, normally within a built up area'*. As such, the appellant argues that the appeal site should be seen as an infill plot, referring to several appeal decisions in support of this stance, set out both in its Planning Statement and its Appeal Statement.
8. However, in none of the cases cited by the appellant do the physical characteristics of the sites in question align particularly well with those of the appeal site. Firstly, with a frontage of some 42 metres (m), I do not consider that the appeal site can reasonably be seen as representing a 'relatively small gap', when viewed in the context of the existing frontage development along this part of Bath Road, especially with the fairly narrow plot widths of the frontage dwellings just to the south-east of the appeal site.
9. Indeed, it seems to me that notwithstanding its overgrown nature and the poor condition of some of the trees, rather than constituting a 'gap' in development the appeal site has a clear physical presence within this part of the village. In this regard I share the Council's view that it serves to separate the more densely developed area of the village to the east, from the somewhat more sporadic development to the west – at least on the south-western side of Bath Road.

10. Secondly, whilst I acknowledge that some of the sites referred to by the appellant are larger than the appeal site, as far as I can see from the information submitted each of the sites discussed is either quite clearly located between existing dwelling plots, or is what could reasonably be described as a backland plot, behind existing dwellings. That is plainly not the case here, where, in the context of the Bath Road frontage, the appeal site is bounded by the River Boyd on one side and the Kings Square carriageway on the other. In my opinion the presence of these natural breaks to the line of continuous development, coupled with the 42m length of gap highlighted above, mean that it is stretching the definition of 'infill' unacceptably, to argue that the current site should be seen as infill development in CS terms.
11. On this matter, I note the appellant's comment that Council Officers confirmed, in a 2013 report considering an earlier development proposal for this site, that the site is located between existing buildings. However, this appears to me to be a mis-reading of this part of the Officer's report, which to my mind is quite clearly expressing the view of the applicant at that time – not the Council's view.
12. Drawing these points together, it is my assessment that the proposed development cannot reasonably be seen as infill development in the Green Belt in accordance with either the CS or the NPPF. I therefore conclude that the appeal proposal would amount to inappropriate development in the Green Belt. As such it would be at odds with the aforementioned CS policies, SPD and NPPF guidance.
13. The NPPF makes it plain that inappropriate development is, by definition, harmful to the Green Belt and attracts substantial weight. Such development should only be approved if it can be shown that very special circumstances exist, sufficient to clearly outweigh this harm by inappropriateness, and any other harm. To establish whether or not that is the case here, I explore whether the appeal proposal would give rise to any other harm, along with the weight to be given to any other considerations, in the following sections of this decision.

The effect on openness

14. Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence. The treed nature of the appeal site self-evidently gives it a different character and appearance to the more open farmland to the west and south-west, but being an undeveloped area I consider that the site still clearly fulfils the Green Belt purpose of assisting in safeguarding the countryside from encroachment, as detailed in NPPF paragraph 134.
15. The appeal proposal would bring about an appreciable change to the character and appearance of the appeal site by introducing built form which would be visible from Bath Road and Kings Square, along with car parking and the usual domestic paraphernalia which invariably accompanies residential development. Although the appellant contends that this impact on openness would be negligible, I do not share that view. Rather, I consider that changes detailed above would result in a very real and noticeable impact on openness, which would amount to real harm to one of the purposes of the Green Belt.
16. In view of these points I conclude that the proposed development would have an adverse impact on the openness of the Green Belt and, accordingly, would be in conflict with the CS Policy CS5 and relevant guidance in the NPPF.

The effect on the Bitton Conservation Area, and on the setting of listed and locally listed buildings

17. The appeal site forms part of an area of 'Green Space inside Conservation Area' as identified within the Bitton Conservation Area Advice Note (BCAAN), which was adopted as Supplementary Planning Guidance by the Council in 1996, and reaffirmed in 2002. Whilst now fairly dated, there is no firm evidence before me to suggest that its content should not still carry weight in this appeal. In terms of village characteristics, the BCAAN makes reference to large mature trees in and around the village which it states carry the rural setting right into the village. It seems to me that the appeal site is one of the locations where this rural setting is clearly apparent and experienced.
18. The appeal site is also identified as lying within Local Character Area A, 'The Linear Through Route', with the BCAAN commenting that the A431 provides an enclosed 'Victorian' feel to the village, and that the strong sense of enclosure arises from the varied two-storey terraces, retaining walls and mature trees which line much of the Bath Road route through the village. The appeal site is specifically noted as providing enclosure by trees or hedges, and in this regard I have been mindful of the photograph of the site frontage taken around 1996, submitted by the appellant.
19. This shows a less densely-treed site than is currently the case, and the appellant comments that the roadside buffer of trees proposed through this appeal scheme would provide a similar density of vegetation to that which existed in 1996, and which the BCAAN considered to be important about the site. The appellant also maintains that the appeal proposal would better reveal and improve the existing boundary wall. However, whilst this may well be the case, I consider that the appeal proposal would inevitably weaken the sense of enclosure provided by this site, as the relatively large houses proposed would be clearly evident through the trees, as shown on the 'Proposed Street Scene' drawings and sketches.
20. I have also noted the appellant's contention that the proposed development would allow glimpsed views of the open fields beyond the site, which it is claimed would enhance the rural setting of the village and make optimum use of the site, retaining a green character but opening up the village to improve the relationship with the open countryside. However, on the basis of the submitted plans I fail to see how any meaningful views through the appeal site to open field beyond would be possible. The elevational drawings show that the proposed dwellings would take up much of the site's width, and what appears to be proposed hedging and fencing would further impede views through the site.
21. It is clearly the case that in its current state the appeal site is overgrown, with trees and vegetation interfering with use of the footway. As such I note that the Council's Tree Officer raised no objection to the removal and replacement of the poor quality and under-managed trees. However, it does not automatically follow that better management of the trees on the site has to be accompanied by residential development. Notwithstanding the presence of the TPO it is unclear to me why the landowner could not have maintained and managed the trees on the site better, and on a regular basis, since 1996.
22. Taken together, the above points clearly indicate that the appeal site makes a significant and positive contribution to the character and appearance of the conservation area, and for reasons just given I consider that the proposed development would change the undeveloped nature of the site and would thereby fail to preserve or enhance this character and appearance. As such, the proposal

would be in conflict with PSPP Policy PSP17 which, amongst other matters, expects development within a conservation area to preserve or, where appropriate, enhance those elements which contribute to the area's special character or appearance.

23. There are further heritage assets close to the appeal site, including Grade II listed buildings at Hunters Hall at Kings Square and at 114 and 114A Bath Road, together with a terrace of locally listed cottages at Kings Square, just to the north-west of the appeal site. The appellant argues that there is a degree of separation between the appeal site and these various buildings, and that this would be enhanced by the level of screening included as part of the appeal proposal, such that the proposed development would not harm the setting or significance of any of the listed or locally listed buildings.
24. However, whilst I do not consider that there would be any meaningful impact on the settings of the listed buildings, because of their physical separation from the appeal site, the same cannot be said with regards to the locally listed terrace of cottages on Kings Square. The close proximity of the appeal site to these properties, and the opening up of the site's boundary to form a new vehicular access just a short distance away from this locally listed terrace, would lessen the sense of enclosure and bring about an increased sense of urbanisation, thereby failing to preserve or enhance the setting of these locally listed buildings. The proposal would therefore be at odds with that part of PSPP Policy PSP17 which seeks to safeguard locally important heritage assets. It would also be in conflict with CS Policy CS9 which, amongst other things, expects new development to ensure that heritage assets are conserved, respected and enhanced in a manner appropriate to their significance.
25. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In this case I consider that the harm which would be caused to the significance of the conservation area would be less than substantial, with NPPF paragraph 196 explaining that in such circumstances the harm needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
26. In addition, paragraph 197 of the NPPF indicates that in cases where a development proposal would directly or indirectly affect a non-designated heritage asset – as here – a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset.
27. It seems to me that some of the points which the appellant raises as public benefits of the appeal proposal in the context of the heritage harm, also fall within what the appellant maintains are the overall benefits of the proposed development. The benefits arising from these other considerations are, in the appellant's view, sufficient to outweigh the harm caused to the Green Belt and the other identified harm, thereby amounting to the very special circumstances necessary to justify allowing this appeal. I deal with these other considerations later in this decision, where I conclude on both the heritage harm and the Green Belt harm. However, before looking at these other considerations, it is also necessary to assess whether or not the appeal site would be an acceptable location for this form of development, in light of the Council's second reason for refusal.

Whether the appeal site would represent an acceptable location for new residential development

28. As noted above, the appeal site lies outside the settlement boundary of Bitton, and is therefore considered to be within the open countryside for policy purposes. The Council's second reason for refusal refers to PSPP Policy PSP40 which sets out the only forms of residential development which will be acceptable in such countryside areas, none of which apply in this case. The reason for refusal also refers to CS Policies CS5 and CFS34. These policies have already been referred to in the context of Green Belt issues, above, but the Council has also highlighted those sections which refer specifically to development proposals within the countryside.
29. Whilst it is clear that it is the 'elsewhere in the Green Belt' section of Policy CS5 which is directly applicable to this proposal, it is still relevant to note that the policy makes it clear that in the open countryside, new development will be strictly limited. The fact that Policy CS34 seeks to protect the Green Belt from inappropriate development has already been noted above, but in addition this policy makes it plain that settlement boundaries will be maintained until they are reviewed through Neighbourhood Plans, the PSPP or a replacement Local Plan, following engagement with local communities and other stakeholders/partners.
30. In purely locational terms the appeal site could be seen as a sustainable location for development as it lies close to existing residential development within Bitton, and close to the village's facilities and services. However, there are other factors which need to be taken into account in this case, not least the fact that I have already concluded that the appeal proposal would amount to inappropriate development in the Green Belt and adversely affect the Green Belt's openness, as well as being at odds with the aforementioned policies which seek to strictly limit new development in the countryside, outside defined settlement boundaries. It would also give rise to less than substantial harm to designated and non-designated heritage assets.
31. Having regard to all the above points, I have to conclude that the appeal site would not represent an acceptable location for new residential development.

Other considerations

32. I turn now to consider the various other considerations which the appellant maintains weigh in the appeal proposal's favour, beginning with what the NPPF refers to as the 3 overarching objectives of sustainable development, economic, social and environmental. Firstly, I accept that the proposed development would give rise to some economic benefits, both during the construction phase and then as a result of the additional spending power of future occupants. But in the context of just 2 dwellings these benefits would be relatively modest.
33. In terms of any social benefits, the appellant argues that the appeal proposal would reduce the fear of crime and antisocial behaviour in the village, brought about by the current unoccupied, dimly lit and unmanaged condition of the appeal site. However, there is no real indication in the evidence before me that either crime or antisocial behaviour is a particular problem in this area. Indeed, the appellant highlights just a single objection, which makes reference to heightened anxiety if Kings Square residents had to park further away from their homes, on the main road, if the proposed development went ahead. In any case, some of the points raised by the appellant could be addressed simply by better management of the site, without the need for accompanying development, as noted above. As such, I only give very limited weight to any social benefits of this proposal.

34. In environmental terms, I acknowledge that the proposal would replace the poor quality trees with higher quality specimens and would result in better management of the trees, and have noted the appellant's intention to provide ecological enhancements, such as the introduction of a bat loft. However, a key feature of the NPPF's environmental objective is to contribute to protecting and enhancing the natural, built and historic environment. As I have already concluded that the appeal proposal would be inappropriate development in the Green Belt and would adversely impact upon openness, as well as resulting in heritage harm, I am not persuaded that there would be any overall environmental benefits.
35. Insofar as the appellant claims that villagers would benefit from being better able to enjoy the surrounding open Green Belt land by being able to see it through the site, I have already commented, above, that I do not consider the appeal proposal would result in any meaningful views through the appeal site to open fields beyond. I therefore give this supposed benefit very little weight. In a similar vein, I do not consider that making the existing roadside boundary wall a more visible part of the street-scene should carry any more than modest weight, as it could clearly be achieved by better management of the existing site. It should not be dependent on the provision of 2 residential properties on the site.
36. Furthermore, although the appellant maintains that the proposed development would result in benefits to the Environment Agency (EA), in terms of improved access to the River Boyd and the removal of trees directly alongside the river, the EA does not appear to have highlighted any particular problems with the existing access or current management arrangements. As a result, whilst I acknowledge that the introduction of a second access would undoubtedly be a benefit to the EA, I consider that this only warrants modest weight.
37. Finally, I note that the Council's housing land supply (HLS) has dropped from around 6.28 years in 2018 to 5.36 years in December 2019, causing the appellant to comment that the Council could be left without a 5-year HLS within a few months. There is, however, no firm evidence before me to support this view and I have therefore assessed this proposal on the basis that the Council can currently demonstrate a deliverable 5-year HLS.

Planning balance and overall conclusion

38. Drawing all the above points together, with regards to the less than substantial harm to the significance of the Bitton Conservation Area, I have found very little in the way of clear public benefits which would arise from this proposal. Accordingly I am not persuaded that this heritage harm would be outweighed by public benefits. Moreover, I do not consider that the harm to the setting of the locally listed buildings would be outweighed by any significant benefits. Nor do I consider that the substantial weight which I am required to give to harm to the Green Belt arising from inappropriateness and the adverse impact on openness, when taken together with the heritage harm I have just identified, would be clearly outweighed by the other considerations discussed above. Accordingly, very special circumstances sufficient to justify the appeal proposal do not exist in this case.
39. For the reasons set out above, and having had regard to all other matters raised, I therefore conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR