
Appeal Decision

Site visit made on 14 July 2020 by Scott Britnell MSc FdA

Decision by R C Kirby BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2020

Appeal Ref: APP/F0114/D/20/3249862

Friars Gate, Sharpstone, Freshford, Bath BA2 7UA

- 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 Bradley Abrahams against the decision of Bath and North East Somerset Council.
 - The application Ref 20/00033/FUL, dated 19 December 2019, was refused by notice dated 27 February 2020.
 - The development proposed is double garage to replace single garage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this matter are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant policies of the Development Plan;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

Procedural Matters

4. There are discrepancies between the appeal site address as shown on the application and appeal forms and the Council's decision notice. The address in the banner header above has been taken from the application form. For clarity, the name of the appellant has also been taken from the application form, as I note that it is given only as Mr B Abrahams on the appeal form.

Reasons for the Recommendation

Whether inappropriate development

5. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a few exceptions. These include at Paragraph 145 c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The replacement of a building is also covered by these exceptions (Paragraph 145 d), provided the new building is in the same use and not materially larger than the one it replaces.
6. Policy CP8 of the Bath and North East Somerset Core Strategy Part 1 of the Local Plan, Adopted July 2014 (CS) is consistent with the Framework in this regard stating that the openness of the Green Belt will be protected from inappropriate development, in accordance with national planning policy.
7. The existing garage is physically and visually separated from the host property, being located on the opposite side of the lane to it. For the purposes of Green Belt Policy, I consider that the existing garage is a building.
8. There is dispute as to which of the above Framework paragraphs the proposal should be considered against. The appellant asserts that the proposal should be assessed as an extension or alteration of a building and my attention has been drawn to the Sevenoaks High Court case¹, and a decision for the provision of off-street parking at a dwelling not far from the appeal site². Such an approach would be reasonable if the existing garage building was to be extended or altered. However, in this case the description of development makes clear that the proposed double garage would replace the single garage. This implies that the existing garage would be demolished and accordingly I have assessed the proposal as a replacement building to which Framework paragraph 145 d) applies.
9. The proposed garage would be slightly longer and approximately twice the width of the building that it would replace; it would also be higher. Whilst the new garage would be likely to be in the same use as the existing building, its footprint, massing and scale would be materially larger than the existing garage on the appeal site. Accordingly, the proposal would comprise inappropriate development in the Green Belt.
10. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

11. Paragraph 133 of the Framework states that 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.' Openness has both spatial and visual dimensions.
12. The appeal site and the existing garage is visible from the public realm when approaching the site from the north east. The proposed garage would be

¹ [1997] EWHC 1012 (Admin).

² APP/F0114/W/16/3164528.

materially larger than this building and would result in a reduction in the visual and spatial openness of the Green Belt in this location. Although the reduction in openness would be localised, it would result in harm to the Green Belt and I attribute substantial weight to such harm.

Other Considerations

13. The Framework makes it clear at paragraph 144 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
14. The appellant indicates that the Bath Preservation Trust did not object to the scheme. Having reviewed their response it is clear that they are not opposed to the replacement of the current garage, although they express concerns over the height of the replacement building and the use of timber. I note that the Parish Council submitted similar comments. I have, however, considered the proposal on its merits and consider that these comments of in principle support are a neutral factor in my overall consideration.
15. The appellant notes that the Council have raised no objection on the grounds of the effect of the proposal on the living conditions for occupants of nearby properties, highway safety or trees, as well as the character and appearance of the proposed garage. Having considered these matters, I have reached the same conclusion. However, the lack of harm in relation to these matters is a neutral factor in my assessment.
16. The appeal site is located in the Freshford and Sharpstone Conservation Area (FSCA). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (LBCAA) states that, in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Given its scale, form, design and materials, the proposal would preserve the character and appearance of this part of the FSCA and harm to its significance as a designated heritage asset would not result. I note that the Council reached the same conclusion in this regard.
17. The appeal site is also located to the north east of the Grade II Listed Building at The Hermitage. There is also a Grade II Listed Methodist Chapel some distance to the north east. Section 66(1) of the LBCAA states that, in considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Given the distances between the appeal site and the aforementioned listed buildings, the proposal would have no adverse effect on the setting of either heritage asset. I note that the Council have concluded the same.
18. The absence of harm in respect of the above designated heritage assets is not a benefit in favour of the proposal.
19. Although not referred to by the Council within its report, its questionnaire indicates that the appeal site is located within an Area of Outstanding Natural

Beauty (AONB). Comments received from interested parties indicate that this is the Cotswold AONB. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in, amongst other designated areas, Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. Given its scale, form, design and materials, the proposal would conserve the landscape and scenic beauty of this part of the AONB. The lack of harm in this regard, however, is a neutral factor in my consideration of this matter.

Conclusion

20. The proposal would constitute inappropriate development in the Green Belt and further harm to the Green Belt would be caused as a result of loss of openness. These matters carry substantial weight. I afford at most limited weight to the material considerations cited in support of the proposed development and I find that they do not clearly outweigh the harm that I have identified.
21. Consequently, the very special circumstances necessary to justify the proposal do not exist. The proposal conflicts with Policy CP8 of the CS. There would also be conflict with the Green Belt aims of the Framework. There are no other considerations which outweigh this finding.
22. The Council's refusal reason also refers to Policies GB1 and GB3 of the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan District-wide Strategy and Policies, Placemaking Plan, Adopted July 2017. However, Policy GB1 relates to the visual amenities of the Green Belt, which I consider to be concerned with the character and appearance of land within it. As such, it is not directly relevant to my assessment of this matter. Policy GB3 refers only to extensions and alterations to buildings in the Green Belt and given my findings above that the proposal would not comprise an extension or alteration to a building, this policy is not relevant in this case.

Recommendation

23. For the reasons given above, I recommend that the appeal should be dismissed.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR