



Appeal Decision

Site visit made on 22 September 2020

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/D0121/W/20/3252190

The Timber Yard, Moor Lane, Clapton in Gordano, Nr Portishead, Somerset BS20 7PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Withers against the decision of North Somerset Council.
 - The application Ref 19/P/2064/OUT, dated 27 July 2019, was refused by notice dated 26 November 2019.
 - The development proposed is re-development of existing abandoned timber yard for residential use and erection of 4-no four-bedroom bungalows and associated garaging.
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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 David Withers. This application is the subject of a separate Decision.

Background and Procedural Matters

3. The planning application was submitted in outline, with a matters reserved for future consideration. There have been previous planning applications and subsequent appeals for residential development at the appeal site with up to four dwellings. Subsequent to the most recent Inspector's decision APP/D0121/W/17/3188813, the Court of Appeal¹ (Braintree) has provided clarity over the meaning of the word 'isolated' in the context of rural housing and paragraph 55 of the old National Planning Policy Framework, 2012. Furthermore, a new National Planning Policy Framework, revised February 2019 has been published (the Framework); this deals with rural housing at paragraphs 78 and 79, which essentially repeat the wording of the former paragraph 55. The development plan still comprises the North Somerset Council Core Strategy, 2017 (CS) and the North Somerset Council Development Management Policies Sites and Policies Part 1, 2016 (SPP). The Council is not currently in a position to demonstrate a 5-year supply of housing land.
4. The site-specific circumstances remain unchanged from the time of the most recent Inspector's decision, notably the appeal site is situated in the Bristol and Bath Green Belt, comprises previously developed land, in a rural countryside

¹ Braintree DC v SSCLG et al [2017] EWHC 2743 (Admin)

context beyond the confines of a village, in Flood Zone 3. Likewise, the extant scheme was submitted in outline with all matters reserved, proposing the erection of up to four, four-bedroom bungalow dwellings.

Main Issues

5. The main issues to be considered in this appeal are:

- Whether the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and development plan policies;
- The effect of the proposed development on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area;
- Whether the appeal site offers an appropriate location for housing;
- Whether sufficient information has been provided to demonstrate that the development would not cause harm in terms of flood risk or biodiversity; and,
- If the proposal would be inappropriate development, whether the harm by reason of inappropriateness is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

6. Paragraph 145 of the Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt. There are various exceptions to this including under paragraph 145 e) relating to infilling in villages; and 145 g) for limited infilling or the partial redevelopment of previously developed land... which would not have a greater impact on the openness of the Green Belt than the existing development. Policy DM12 of the SPP is consistent with the Framework and similarly makes an exception for redevelopment and infilling on previously developed sites outside settlement boundaries, and infilling in villages.
7. I consider the appellant's argument relating to 'isolated dwellings' and whether the appeal site forms part of the settlement of Clapton in Gordano below. However, for the purposes of national and local Green Belt policies, the appeal site is situated within a rural countryside context, with a scattering of detached dwellings, stables and other outbuildings in the vicinity of the appeal site very much apparent from the developed core of Clapton in Gordano. Furthermore, where there is development in the vicinity of the appeal site, it is not grouped together or has no inter-relationship. Having regard to the situation on the ground, the appeal site would not be in a village, nor would it represent infilling in one. Rather the appeal site constitutes previously developed land that is outside a settlement boundary.
8. I also turn to the matter of openness of the Green Belt below, in which I identify that the proposed development would not preserve but would have a greater impact on the openness of the Green Belt than the existing development. Therefore, the proposed development does not satisfy any of the listed exceptions set out under paragraphs 145 or 146 of the Framework or under Policy DM12 of the SPP and would be inappropriate development in the Green Belt.

Openness

9. 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 Belts are their openness and their permanence. Openness has a spatial as well as visual aspect.
10. The proposal is in outline and so detailed matters, including scale and layout, are not before me. Nevertheless, a granting of outline planning permission would establish the principle of up to four, four-bedroomed 'dormer bungalows' with integral garages on the site. Irrespective of the size of the appeal site relative to the entire Green Belt, the proposal would be an urban, domestic intrusion. All of this leads me to concur with the findings of the previous two Inspectors that the appeal would reduce green belt openness.
11. I have considered whether the loss of Green Belt openness relative to the appeal scheme would be meaningfully off-set by demolishing agricultural and commercial buildings at another site. However, the impact of a development on openness is not necessarily related to its size but also its purpose. Even if the removal of the other buildings could be controlled by condition, it would not mitigate or exonerate the domestic urbanisation of the appeal site, which would cause a tangible change in its purpose, which would fail to safeguard the countryside from encroachment.
12. All things considered, the proposal would be inappropriate development that would have a greater impact on the openness of the Green Belt and the purposes of including land within it. This carries significant weight against the development.

Character and appearance

13. The appeal site is situated a long way down an unmade track in a remote, if not expressly isolated, location. The very occasional scattering of detached dwellings, stables and other agricultural outbuildings are spread out in within a wider verdant context of open fields and mature hedgerows. Although the extant structures on the appeal site are dilapidated, they do not detract from the character and appearance of the area and fit comfortably within the rural surroundings. Furthermore, the characteristics of the Clapton Moor Character Area² are apparent at the appeal site, insofar as it is a predominantly flat pastoral landscape, a medium-large field bounded by hedgerow and ditches with a strong rural character. The site and its surroundings are therefore experienced as very much distinct from the more densely built-up core of Clapton in Gordano.
14. The indicative plans indicate the dwellings being laid out in a linear grouping fronting a service road. Notwithstanding the reserved matters, the development would be likely to involve hard landscaped areas, plot subdivision and a relatively high concentration of housing in comparison with the rural surroundings. The overall scale of development would inevitably exceed that which currently exists, but it would also be more akin to a suburban development, not reflective of the verdant, rural surroundings. I cannot agree that the replacement of dilapidated buildings with new buildings would benefit the character and appearance of the area; rather, the appeal scheme would,

² North Somerset Council Landscape Character Area SPD, 2018 P. 44

even with retention of a hedge screening the site, be fundamentally at odds and would cause harm to it.

15. Consistent with the findings of the previous Inspector, I find that the proposed development would conflict with CS Policies CS5 and CS12, and SPP Policies DM10 and DM32. Amongst other things, these seek to ensure development is of high quality and sensitive design that is integrated with the surrounding area, enhances local distinctiveness and protects the landscape character. There would also be conflict with the Framework insofar as it requires developments are sympathetic to local character, including the surrounding landscape setting.

Location

16. The previous Inspectors have already made extensive comment on the appeal site's position. Upon my site visit, I found the site to be some distance along an increasingly bumpy unmade track. Indeed, nearing the site, the route became so deeply pitted and pot-holed that I left the vehicle I was driving and walked the final stretch. Whether or not heavy and light goods vehicles or emergency vehicles have used the route in the past, the access to the appeal site was extremely hard-going and would inhibit necessary access for service or waste collection vehicles.
17. In my opinion a future occupier of the proposal would have to access essential services and facilities in order to satisfy day-to-day needs beyond Clapton in Gordano. However, the length and nature of the access route to the site would, in my judgement, be a disincentive to journeying even short distances on foot or by bicycle, especially during darker winter months or inclement weather. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. While taking this into account, the development proposal would have the potential to give rise to a significant increase in travel movements to and from the site. I find that the location of the appeal site would not offer opportunities to access services and facilities by sustainable transport modes.
18. On this basis, I consider the appeal site does not offer an appropriate or sustainable location for the development proposed. Moreover, the proposal would fail to accord with the Framework and LP insofar as they seek to resist development that is not accessible by non-car modes and ensures development provides appropriate opportunities to promote sustainable transport modes, given the type of development and its location.

Flood risk

19. The appeal site is located in Flood Zone 3, an area identified as having a high probability of flooding. The appellant maintains that water flows downhill towards the Somerset levels and that there has been no flooding on the site or in the vicinity and considers that, even in the event of tidal surges or future sea-level rises, the appeal site would be unlikely to flood.
20. As with the previous Inspector, however, I am unconvinced that the appellant's assertions are supported by expert analysis or experience of evaluating flood risk. Against this is an objection from the Environment Agency, which calls into question the adequacy of the appellant's Flood Risk Assessment. The proposal is therefore unsupported by sufficient information to demonstrate that the development would not cause harm in terms of flood risk. Furthermore, a

sequential test has not been satisfied. The appeal scheme therefore runs counter to Framework and development plan insofar as they seek to steer new development to areas with the lowest risk of flooding; and ensure development in flood Zone 3 is only permitted if it complies with a sequential test.

Biodiversity

21. The appeal site is situated in a wider countryside area consisting of unmanaged grass areas, mature trees and hedgerows, with water bodies such as ditches close by. The currently undeveloped nature of the appeal site, which is not far from locally designated wildlife sites, opens the possibility of there being protected species or their habitats nearby that may be adversely affected by the proposal.
22. Circular 06/2005: Biodiversity and geological conservation, sets out that a survey should be carried out before planning permission is granted and that surveys should only be required by condition in exceptional circumstances. The Planning Practice guidance (PPG)³ indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
23. The information before me is of a very general nature, with no species-specific surveys or assessments, which would in turn inform any mitigation strategy to ensure no harm to protected species or trees. The information before me therefore does not convincingly demonstrate that the scheme would not cause harm in respect of either. I do not consider that such matters should be left to be controlled by condition, even if the appellant appears open to the imposition of one.
24. Conflict therefore continues to arise with the development plan and Framework policies that seek to ensure developments take account of any impacts on protected species and the habitats on which they depend, and to protect and enhance biodiversity and trees.

Other considerations

25. The proposal would be inappropriate development. The Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
26. The proposal would remove dilapidated buildings from the site and add the construction of up to four dwellings. The Council cannot currently demonstrate a 5-year supply of housing land, and the dwellings would count towards the shortfall and go towards the Government's objective of significantly boosting housing supply. There would be a boost to the economy during the construction phase and from future occupiers. The beneficial contribution from up to four dwellings, however, would be very small.
27. It has been argued that the demolition of existing buildings elsewhere in the Green Belt, on land that is owned by the appellant but some distance from the appeal site, would increase or balance any loss of openness caused by the proposal. Whether or not the Council is aware that the appellant owns the two sites, they do not fall within the same red or blue-line appeal site boundaries and the ownership certificate within the planning application form does not

³ Planning Practice Guidance Paragraph: 016 Reference ID: 8-016-20140612

relate to Southview Farm. Therefore, a planning condition could not be drafted with enough certainty to ensure it would be relevant to the development, enforceable or satisfy the 6 tests within the Framework. I attach very little weight to this consideration.

28. The proposal would be inappropriate development that would harm the openness of the Green Belt. There would also be harm to the character and appearance of the area; the site would not be in an appropriate or sustainable location; and insufficient information casts significant doubt over whether there would be serious harm in relation to flood risk or biodiversity. All of this attracts considerable negative weight against the proposed development.
29. The sum of other considerations that weigh in favour of the development do not carry sufficient weight to clearly outweigh the harm to the Green Belt or other harms. Very special circumstances do not therefore exist that justify the proposed development.
30. The proposals run counter to the Framework policies that protect areas or assets of particular importance, including land designated as Green Belt and areas at risk of flooding. The application of these policies provides a clear reason for refusing the development. Therefore, notwithstanding undisputed shortfall in housing land supply, the 'tilted balance' at paragraph 11 d) of the Framework is not engaged. Even so, the proposal conflicts with the development plan and Framework taken as a whole. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

Conclusion

31. For the reasons given, and having considered all other matters raised, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR