
Appeal Decision

Site visit made on 21 September 2020

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/D0121/W/20/3250564

**The Bungalow Inn, New Road, Kingdown, Felton, North Somerset
BS40 5TP**

- 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 Wedlake against the decision of North Somerset Council.
 - The application Ref 19/P/1100/FUL, dated 26 April 2019, was refused by notice dated 18 October 2019.
 - The development proposed is demolition of existing public house and replacement with a hotel.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to national policy and relevant development plan policies and the effect of the proposed development on the openness of the Green Belt;
 - Whether sufficient information has been provided to demonstrate that the proposals would not cause harm in respect of flood risk, and
 - Whether the harm by reasons 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

Background

4. The Bungalow Inn is a disused detached public house situated in the Bristol and Bath Green Belt, outside any settlement boundary in the open countryside. The appeal proposal would involve the demolition of the existing public house

- and its replacement with a two-storey, 35-bedroomed hotel in addition to 87-space car park.
5. A previous Inspector dismissed an appeal in February 2017 for demolition of the existing public house and its replacement with a hotel (Appeal Ref: APP/D0121/W/16/3157688). At that time, the Inspector considered the replacement building would be in the same use and therefore inappropriate development in the Green Belt.
 6. Since the time of the previous Inspector's decision, the Council has granted planning permission for the change of use of the public house to a hotel (17/P/0996/F). I note that the Council does not consider this amounts to a meaningful 'fallback' position. However, in respect of the first test under paragraph 145 d), I am content to accept that the proposed replacement building would be in the same use as the one it replaces.
 7. Moreover, a new building will only qualify under exception 145 d) if it is not materially larger than the one it replaces. Policy DM12 of the North Somerset Sites and Policies Plan Part 1: Development Management Policies, July 2016 (SPP) establishes that a replacement building will not normally be regarded as materially larger provided it does not exceed 50% of the gross floor area of the original building. For North Somerset 'original' relates to the building as existing on 26 July 1985 or for buildings constructed after this date as so built.
 8. The appellant contends that the replacement building would increase the gross floor area of the original building by 47%. It would appear that a detached smoking shelter has been included in the calculations of the existing gross external and internal areas. Whilst the smoking shelter would be removed by the proposal, I am unsure whether this structure constitutes part of the 'original building', for the purposes of the definition in Policy DM12. This casts doubt over whether the appellant's calculations of the original building can be usefully relied upon.
 9. There is no definition in the Framework of what constitutes 'materially larger'. My reading of Policy DM12 is that 50% is given as a 'rule of thumb', indeed, the policy also establishes that consideration will be given to the impact on openness, design (including bulk, height and floorspace), siting and overall scale of the development on the site. Having considered the dimensions of the proposed building and the submitted plans compared with the drawings and what I observed on site, I judge that the replacement building would undoubtedly be substantially larger in scale, volume and mass than the existing one. Whilst the comparative footprints of the existing and proposed buildings would be broadly similar, there would be a notably significant increase at first floor level. This causes me to conclude that the new building would be materially larger than the one it replaces and would not satisfy the exception made under paragraph 145 d) of the Framework.
 10. Provisions are also made under paragraph 145 g) and for limited infilling or the partial or complete redevelopment of previously developed land... which would: not have a greater impact on the openness of the Green Belt than the existing development.
 11. Reference has been made to case law that acknowledges that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. Whether or not any change will have

an adverse impact and so cause harm to openness might depend on factors such as the scale of development, its locational context, permanence and its spatial and/or visual implications. I have taken these into account in reaching my decision.

12. Openness is an essential characteristic of the Green Belt and is defined by an absence of buildings or other forms of development. Openness has a visual and spatial dimension. Even taking into account the topography and existing building, its previous uses and design, the appeal scheme would add substantially to the overall bulk and mass of development on the site and contributes to an additional built volume. In consideration of the increase in built volume on the site, fundamentally the appeal scheme would not assist in keeping land open and free from development. Although the loss of openness directly attributable to the appeal scheme would be moderate and quite localised in its extent, the development would nonetheless facilitate a permanent loss of openness of the Green Belt.
13. I have considered the submitted landscaping masterplan. However, whilst planting would assist in softening hard surfaced areas and built form, it would not mitigate or lessen the loss of openness the scheme would cause. I therefore concur with the judgement of the previous Inspector and likewise find that the replacement building would unavoidably result in a reduction of Green Belt openness.
14. All things considered, I find that the proposed development would have a greater impact on the openness of the Green Belt than the existing development. Consequently, the proposal would not satisfy the exceptions made for redevelopment of previously development land made under paragraph 145 g) of the Framework or Policy DM12 of the SPP. It follows that the proposed development should be regarded as inappropriate in the Green Belt, which is, by definition, harmful to it.

Flood risk

15. Although the appeal site is located Flood Zone 1, there is information in this case to indicate that the proposed development could pose a medium risk of flooding from sewers or highways and a high chance of flooding from surface water.
16. Paragraph 163 of the Framework establishes that, when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Development should only be allowed in areas at risk of flooding where, in light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that, amongst other things, the development is appropriately flood resistant and resilient, and that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate.
17. I am sympathetic to the difficulties the current pandemic might have posed in getting on-site testing. However, as yet, no intrusive site investigations have been undertaken. Therefore, there is not currently enough evidence to indicate most appropriate way of handling surface water drainage. Moreover, the submitted Drainage Report states that if infiltration tests are undertaken that prove the site is unfavourable for a surface water discharge to the ground, then it would be necessary to find another outlet for the attenuated surface water

discharge which might be some considerable distance away from the site and could be expensive. Whilst the issue of flood risk may not have been raised by the Council in previous schemes, in light of the potential for increasing flood risk and the uncertainty whether surface water can be discharged, I do not consider this is a matter that can be left to control by a condition.

18. It follows that sufficient information has, as yet, not been provided to demonstrate that the proposals would not cause harm in respect of flood risk. Conflict therefore arises with Policy DM1 of the SPP and the Framework, which requires the planning system takes full account of flood risk. Furthermore, had I been minded to allow the appeal, I would have sought views from the main parties regarding whether a sequential approach should have been adopted.

Other considerations

19. 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. The appeal site is currently vacant and dilapidated, the appeal scheme would re-use the land and replace the existing structure with a new one, the design of which is not objected to by the Council. There would be economic benefits associated with the construction phase and employment opportunities associated with the hotel use. It has been suggested that the nature of the existing building meant it was not economically viable. However, I have limited substantive evidence to indicate that the scale of the proposed development would be the minimum necessary to achieve the benefits it would bring. The sum of other considerations that weigh in favour of the development, including in respect tidying the site, re-using the land and offering employment and a bar for local residents, do not carry sufficient weight to clearly outweigh the harm to the Green Belt. Very special circumstances do not therefore exist that justify the harm.

Conclusions

20. The appeal proposal would be inappropriate development in the Green Belt and would lead to some, albeit moderate, harmful effect on openness. There would also be harm in relation to flood risk that weighs against the development. The proposed development therefore runs contrary to the relevant development plan policies and the Framework.
21. For the reasons given, and having considered all other matters raised, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR