
Appeal Decision

Site visit made on 10 November 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2020

Appeal Ref: APP/F0114/W/20/3253738

Parcel 0048, Bath Hill, Wellow, Bath BA2 8RA

- 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 Graham Wilkins against the decision of Bath & North East Somerset Council.
 - The application Ref 19/00772/FUL, dated 20 February 2019, was refused by notice dated 16 January 2020.
 - The development proposed is construction of dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are;
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposed development on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of neighbouring occupiers at Manor Court, with particular reference to outlook and privacy;
 - The effect of the adjacent public footpath on living conditions of future occupiers of the proposed development, with particular reference to privacy; and
 - If the development is inappropriate, 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 Inappropriate Development

3. The appeal site is situated in the Green Belt. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping

land permanently open, while the essential characteristics of Green Belts are their openness and their permanence. The Framework also outlines that the construction of new buildings, other than in connection with a number of exceptions, should be regarded as inappropriate in the Green Belt.

Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances. One of the exceptions is limited infilling in villages.

4. Policy CP8 of the Bath and North East Somerset Core Strategy, adopted July 2014 (Core Strategy) states that the openness of the Green Belt will be protected from inappropriate development in accordance with national policy. The policy is, therefore, consistent with the Framework.
5. Policy GB2 of the Council's Core Strategy and Placemaking Plan, adopted July 2017 (the Placemaking Plan) states that development in villages in the Green Belt will not be permitted unless it is limited to infilling and in the case of residential development the proposal is within the defined housing development boundary. Unlike Policy GB2, the Framework does not restrict infilling in villages to those that have settlement boundaries but relates to villages in more general terms. I have therefore attached greater weight to the more recent Framework in this regard.
6. Comprising a narrow parcel of vacant and overgrown land the appeal site's southern boundary adjoins the property boundaries of a short terrace of dwellings within the Manor Court estate. With their shallow rear gardens these dwellings are close to, and clearly visible from the appeal site, while the core of the village is visible beyond the roof line of the terrace. Further afield but also nearby is Manor Farm Barn, a large residential dwelling which has a garden that extends up to the eastern perimeter of the appeal site. A small number of residential dwellings are located to the north west and south west, though these are less noticeable in context with the appeal site given the topography, and the presence of trees and other vegetation obscuring the intervening space. Directly to the north, the appeal site faces open pastureland.
7. Despite the more pastoral outlook to the north the appeal site is nonetheless physically contiguous with neighbouring domestic boundaries and visibly close to neighbouring buildings which form part of the settlement's northern edge. I therefore consider that the appeal site is within a village for the purposes of the Framework.
8. The Framework does not provide a definition of "infill", however, the Core Strategy defines 'infilling' in relation to housing as the filling of small gaps within existing development e.g. the building of one or two houses on a small vacant plot in an otherwise extensively built up frontage, and the plot generally being surrounded on at least three sides by developed sites or roads.
9. The appeal site is shallow in terms of its depth but has an extensive frontage that abuts a public footpath accessed off Bath Hill. The appeal site's eastern boundary adjoins that of Manor Farm Barn. This property has a large domestic garden, while the barn is set back from the public footpath and the rear boundary of the appeal site. The neighbouring properties at Manor Court, to the site's rear are closely arranged in short terraces, yet they back onto the appeal site, as opposed to forming part of a street frontage with it. Located opposite the appeal site, the other side of the public footpath, is Orchard Lea, a detached dwelling set within a spacious domestic curtilage. This dwelling is

located at the corner of the plot and would be a considerable distance from the appeal site. Moreover, the orchard trees within this property's garden obscure views of the Orchard Lea dwelling from the appeal site. Therefore, rather than a small vacant plot in an otherwise extensively built up frontage, I found the appeal site to comprise a long and narrow area of undeveloped land that maintains sizeable gaps between neighbouring properties, albeit in close proximity with buildings to its rear.

10. The proposal was recommended for approval to the Planning Committee, but I have determined this appeal on its own merits and on the basis of my own observations. The officer's position on inappropriate development does not therefore sway my judgement that the proposal is acceptable for the reasons given above.
11. Consequently, when judged against the wording of national and local policy the proposal would not represent limited infilling within a village or any of the Frameworks' other exceptions. It would thus be inappropriate development in the Green Belt which, according to the Framework, is harmful by definition. It would therefore conflict with Core Strategy Policy CP8 and Placemaking Plan Policy GB2 and the Framework.
12. In refusing the application the Council referred to Policy GB1 of the Placemaking Plan. However, I have not included this in my conclusions as it does not directly relate to the assessment of inappropriateness in the Green Belt.

Effect on Openness

13. In light of the above, there is a need to consider the effect of the proposal on the openness of the Green Belt. The Framework indicates that openness is an essential characteristic of the Green Belt. The Supreme Court has recently held that a consideration of openness in any given case is a matter for the decision maker and may or may not include a consideration of the visual aspect of openness. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.
14. The appeal site is currently undeveloped and covered in overgrown vegetation. The proposed dwelling would be 1.5 storeys high and be surrounded by engineered walls and hardstandings to facilitate parking and amenity space. Therefore, the introduction of the proposal would reduce the openness of the Green Belt in spatial terms.
15. The appeal dwelling and associated hard landscaping would be positioned close to the adjacent public footpath. It would be noticeably visible from this path as there are no trees or hedges to screen it. Moreover, the appeal dwelling would sit in a relatively open area that would be visible from neighbouring properties and the pastureland to the north. As such, the proposal would have a greater visual impact on the Green Belt than the present circumstances.
16. Consequently, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation. While the harm would be moderate, this would be contrary to the Framework where it states an essential characteristic of Green Belts is their openness. Moreover, the development would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Character and appearance

17. The dwellings to the rear of the appeal site at Manor Court are modest in scale and height, while positioned within shallow plots. The proposed dwelling would be located in close proximity to these Manor Court properties and incorporate dimensions and a plot layout that would not be too dissimilar. The design and material finishes of the proposal respond well to the older buildings further to the south and closer to the historic core of the village.
18. The appeal dwelling would have its primary outlook facing the open pastureland to the north, while the proposed dwelling would be located near to the more spacious low-density housing plots at Manor Farm Barn and Orchard Lea. Although in this setting the proposal would be smaller in scale and be positioned within a shallow plot, it would nonetheless, be located close to the dwellings at Manor Court to its rear and be seen to integrate well with this development from the adjacent footpath and the pastureland further to the north.
19. The dwelling's construction would incorporate walls, retaining structures and hard surfaces. The Council considers that these would have a harsh engineered appearance that would have a detracting presence in relation to surrounding landscape features. However, well designed and sensitive planting would soften and screen the appearance of these features to ensure there would be no adverse harm upon the pastoral surroundings to the north.
20. On the basis of the above, the proposed development would not have an unacceptable effect on the character and appearance of the area. Therefore, it would comply with Policies D1, D2, D3, D4, D5 and D7 of the Placemaking Plan. These require, amongst other things, that development proposals respond to local character and context. The proposal would also accord with the Framework where it requires proposals to be sympathetic to local character, including the surrounding built environment (Paragraph 127).

Living conditions of Manor Court

21. The appeal dwelling would be positioned at a higher level than the nearest neighbouring dwellings, namely the terrace bungalows at Nos 30 and 32 Manor Court (No 30 and 32). A distance of some 12m would be maintained between the appeal dwelling and the nearest neighbouring dwelling (No 32). The angle of view from the gardens and rear facing windows of Nos 30 and 32, towards the proposed dwelling, would be obscured by the difference in levels while the existing boundary hedge rises above the bungalows to the extent that it would partially screen the proposed dwelling. At 1.5 storeys in height with a roof that slopes away from the Manor Court dwellings, combined with the angle of view and boundary hedge, the proposed dwelling would not have an enclosing effect on Nos 30 and 32 to the extent that it would harm the outlook of those neighbouring occupiers.
22. A set of rear patio doors on the ground floor of the proposed dwelling would face the rear gardens of Nos 30 and 32. The existing boundary hedge that separates those neighbouring dwellings from the appeal site is of sufficient height and thickness to ensure that unacceptable levels of overlooking from the room the patio doors serve, towards windows and gardens at Nos 30 and 32, would be avoided. The boundary hedge would also be an effective means of

preventing harmful levels of mutual overlooking from the respective garden areas.

23. In concluding on this matter, the proposal would not harm the living conditions of neighbouring occupiers at Manor Court, with particular reference to outlook and privacy. There would be no conflict with Policy D6 of the Placemaking Plan, which requires, amongst other things that proposals do not cause significant harm to the amenities of existing occupiers. Moreover, the proposal would comply with Paragraph 127 of the Framework, where it requires developments to be of a high standard of amenity for existing occupiers.

Living conditions of future occupiers

24. The public footpath that adjoins the appeal site's northern boundary would be in close proximity to habitable windows in the proposed front elevation of the dwelling. However, the dwelling's set down position within the plot along with the front boundary railings and landscaping positioned in front of the windows would mitigate any harmful overlooking from users of the footpath into the rooms these windows serve. The proposed front dormer roof extension would be elevated above the footpath to the extent that the angle of view would make it difficult for walkers to directly look through the window. Nevertheless, this window would serve a bathroom and, in all likelihood, could be obscure glazed to ensure the privacy of future occupiers is unharmed.
25. The adjacent public footpath would not therefore have an unacceptable effect on the living conditions of future occupiers in particular reference to privacy. In this respect, the proposal would accord with Policy D6 of the Placemaking Plan, which amongst other things, requires proposals to ensure no significant harm to the amenity of proposed occupiers. The provisions of the Framework, in so far as, they relate to protecting the amenity of future users, would also be met (Paragraph 127).

Other Matters

26. The appeal site is a short distance to the north, but outside of, the Wellow Conservation Area (WCA). The WCA's special features include the many historic buildings that line Wellow's streets. These buildings display a strong uniformity in terms of their architectural form, detailing and use of vernacular materials, which all contribute towards the WCA's significance. From within the WCA, existing buildings and landscaping would screen the proposed development from view, therefore it would not harm its setting and the aspects that contribute towards its significance.

Other Considerations and Green Belt Balance

27. The appeal site is located a reasonable distance from village services and transport connections, while the footway along Bath Hill would encourage future occupiers to walk to access these. Nevertheless, these locational benefits are moderate and do not diminish the significant harm that would arise from the proposal.
28. The provision of 1 dwelling would contribute to the supply and mix of housing in the area and the general thrust of national policy seeks to boost housing provision. Yet, the contribution of 1 dwelling to the mix and supply of housing in the area would be modest, as would the economic benefit associated with the construction process and future spending of occupiers in the area.

29. I have been referred to Paragraph 131 of the Framework, which states that great weight should be given to outstanding or innovative design. However, in this context, while I have found no harm in respect of the proposal's effect on the area's character and appearance, I have no compelling evidence which demonstrates that the proposed dwelling's design promotes high levels of sustainability or helps raise the standard of design in the area.
30. There are no refusal reasons relating to matters such as, vehicular access and parking, drainage, ecology and the size of the proposed internal accommodation. Moreover, there would be no harm in relation to the proposal's effect on the character and appearance of the area. Nevertheless, the absence of other harm is a neutral factor and does not weigh in favour of the proposal.
31. Although the proposal would not harm the character and appearance of the area or the living conditions of existing and future occupiers, it would nevertheless, be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. Moreover, the proposal would lead to a moderate loss of openness to the Green Belt.
32. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to the development plan and the Framework.

Conclusion

33. Therefore, for the reasons given I conclude that the appeal is dismissed.

R. E. Jones

INSPECTOR