
Appeal Decision

Site visit made on 19 January 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/F0114/D/20/3260773

Jolly Barn, Chew Road, Chew Magna, Bristol BS40 8HJ

- 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 J Bryant against the decision of Bath & North East Somerset Council.
 - The application Ref 20/02174/FUL, dated 22 June 2020, was refused by notice dated 7 August 2020.
 - The development proposed is the erection of a detached garage building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, including its effect on openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on ecology, and;
 - If found to be inappropriate development, 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 required to justify the proposal.

Reasons

Whether inappropriate development and the effect on openness

3. The Framework advises that new buildings within the Green Belt would normally constitute inappropriate development, save for the exceptions set out in paragraph 145. Paragraph 145(c) states that 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 would not be inappropriate development. The appellant asserts that the proposal falls within the scope of this exception as he considers that it constitutes an extension of the main dwelling house. However, the parties disagree on this point.

4. Although within the grounds of the recently constructed dwelling, the proposed garage building would not be physically connected to the main house and would be sited some considerable distance away. This configuration would prevent the proposal from appearing or functioning as one physical entity with the main house. It follows that the proposal would provide a separate new building rather than an extension of an existing one.
5. My attention is drawn to a High Court decision¹ which considered the interpretation of PPG2, which was the national policy on the Green Belt then in force. It was held the decision maker was entitled to hold that the detached garage proposed in that case did not prevent it from being part of the dwelling, and therefore, could reasonably be considered an extension of it. However, the relevant extract of national policy scrutinised referred to '*Limited extension, alteration or replacement of existing dwellings..*'. This contrasts with the wording of paragraph 145(c) of the Framework which refers to the extension or alteration of a building rather than a dwelling. I consider this to be a more precise term than dwelling, as the latter could include more than one building. The reference to building in the singular is notable and gives less latitude for a wider construction.
6. The change in wording to national Green Belt policy means that this caselaw has limited application to the facts of the case before me, and therefore attracts little weight. In any event, the judge commented that it was a matter of fact and degree in every case and further suggested that had the garage in that case been at the bottom of the garden, the decision maker would doubtless have taken a different view. This reinforces my view that the considerable separation distance between the main house and proposed structure would prevent it from constituting an extension to the former.
7. I have also had regard to the end notes in the Existing Dwellings in the Green Belt, Supplementary Planning Document, October 2008. However, the document refers to national policy and statutory instruments that are no longer in force and considerably predates the current Framework. Consequently, it attracts little weight with regards to the interpretation of paragraph 145(c).
8. The Inspector in the recent appeal decision² at the site refers to the possibility of a future separate application in respect of the garage which he acknowledges could potentially be assessed as being an extension to the completed dwelling. Nevertheless, this falls short of finding that the garage in the proposal before him would constitute an extension to a building within the meaning of paragraph 145(c). In any event, the siting of that garage was significantly closer to the main dwelling than the proposal before me. On that basis, my approach would not conflict with his findings.
9. It follows that as the proposal would not be an extension of the main house, its volume, floorspace and size as a proportion of the main house has limited bearing on my determination. The proposal would result in the introduction of a generously sized outbuilding, at a point within the grounds that is otherwise largely free from built form. Consequently, there would be a notable physical impact upon the openness of part of the grounds. In addition, notwithstanding the boundary treatments and planting, as illustrated in the street scene

¹ Sevenoaks District Council v Secretary of State for Environment and Dawe [1997 EWHC Admin 1012], Appendix 6, Appellant's Appeal Statement of Case

² Reference APP/F0114/W/18/3216788

drawing, some glimpses of the upper part of the building would be possible from the road. Therefore, there would be some limited visual impact on openness. Overall, the proposal would result in limited harm to the openness of the Green Belt.

10. Therefore, I find that the proposed garage building would fall outside the remit of paragraph 145(c) of the Framework, and it is not otherwise shown that it would fall within any of the other exceptions listed in that paragraph. Therefore, the proposal would constitute inappropriate development in the Green Belt which would result in limited harm to openness.

Character and appearance

11. The section of Chew Road nearest Jolly Barn has a cluster of dwellings with a predominantly traditional appearance, sited relatively close to the road and seen against a backdrop of mature trees. A field lies to the east of the appeal site, with further fields and countryside close by and opposite. The presence and proximity of fields, established hedgerows, mature trees, grass verges combined with limited and mostly concentrated clusters of built form results in a verdant rural character and appearance to the area.
12. The appeal site forms part of the grounds to Jolly Barn, a recently constructed detached dwelling on the edge of the group of residences. It is located a considerable distance from the main dwelling close to established boundary hedgerow planting and agricultural land to the east. The absence of built form contributes positively towards the prevailing rural character.
13. The double garage and attached office/store area would have a relatively sizeable physical presence at a point nearer to the adjacent field where such built form is mostly absent. This would increase the amount and dispersal of buildings across the site thereby harmfully eroding the rural character of the area.
14. The appellant refers to the low profile monopitch roof, materials and unassuming design of the proposal. Furthermore, it would be set back behind existing hedgerows and boundary treatments which would restrict its visibility from the road. I acknowledge that these factors would mitigate the impact resulting from the presence of the building to an extent. Nevertheless, they would not entirely address my concerns as some glimpses of the roof of the structure would be seen from the road and a structure would be discernible through the roadside hedgerow when not in full leaf. As such, some limited harm would remain.
15. My attention is also drawn to the existence of a larger long outbuilding at Riverside Barn, a nearby property. I have been provided with little information with regards to the origin of that structure, but I observed it to have the appearance of a longstanding historic one. Furthermore, its siting within the cluster of existing buildings on the northern side of Chew Road means that it is visually contained by them rather than encroaching towards the countryside. Accordingly, there are significant differences with the appeal proposal, and hence, it carries little weight in favour of the proposal.
16. Therefore, I find that the proposal would cause limited harm to the rural character and appearance of the surrounding area. As such, it would conflict with policies D1 and D2 of the Bath and North East Somerset Placemaking Plan,

July 2017 (PP). These policies set out design principles and criteria which, amongst other matters, require development to respond positively to its context and contribute towards local distinctiveness.

17. The Council also refer to policy D5 of the PP in their second refusal reason. This policy requires the building design of proposals to be well detailed. However, for the reasons outlined, it is primarily the siting of the proposal that results in harm to the character of the area rather than the detailing of the building. As such, in this regard, I find no conflict with policy D5.

Ecology

18. Based on the information provided, the Council's Ecology Officer does not suggest that it is likely that protected or notable species would be impacted. Neither does the Council identify that any particular habitat or site of nature conservation interest would be at risk from the proposal, rather concerns are raised regarding the impact on habitats within the footprint of the works.
19. The proposal would have a relatively modest footprint. The land concerned is currently open, comprising a parking area, which is reinforced by the photograph³ provided and my observations of the site. It would be inset away from the nearest established hedgerow on the eastern boundary. Taking these factors together, it seems highly unlikely that the proposed footprint accommodates species, habitats or features of biodiversity value that would be lost as a result of the development. Nor is it likely to form part of a notable ecological network.
20. Nevertheless, policies D5 and NE3 of the PP seek ecological enhancements as part of development proposals with the former stipulating that buildings should be designed to provide new or improved wildlife habitats and features. This broadly accords with paragraph 170(d) of the Framework which refers to net gains for biodiversity. The limited ecological information provided does not show that this would be the case.
21. Even so, paragraph 54 of the Framework stipulates that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. It is not explained why, in these circumstances, a condition to require additional information to address net gains for biodiversity could not be used to allow the development to proceed in compliance with policies D5 and NE3. This could also outline what contribution, if any, would be made to ecological networks as shown on the Policies Map to accord with policy NE5 of the PP.
22. Accordingly, in this case, I find that the use of planning conditions could ensure the development would prevent harm to ecology and secure net gains for biodiversity and meet the requirements of policies D5, NE3 and NE5 of the PP.

Other considerations

23. The appellant asserts a fallback position could have a greater impact on the openness of the Green Belt. No specific alternative scheme is put forward, but he refers to potential outbuildings that might be carried out under permitted development normally afforded to householders under the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

³ Image 1, Appellant's Appeal Statement of Case

However, the Council consider that condition 6 of planning permission 19/02554/VAR would prevent the appellant from exercising such rights.

24. Based on the evidence presented, in the absence of a Certificate of Lawfulness to demonstrate otherwise, there is considerable doubt as to whether the appellant would be able to pursue this course of action. Therefore, this falls short of demonstrating a fallback position that has a realistic prospect of being carried out. In addition, no specific scheme is put forward for comparison, and therefore, it is not clearly demonstrated that a realistic alternative scheme exists which would be less harmful than the appeal proposal. Therefore, this matter attracts very little weight in favour of the development.
25. In support of the proposal the appellant refers to a garage building permitted⁴ at Rawcliffe, Chew Road approximately 550 metres from the appeal site. I am provided with only limited information in relation to that development. In the absence of the full details, I am unable to ascertain whether it is directly comparable with the proposal before me. On that basis, it attracts only limited weight. In any event, I have determined the appeal proposal on its own merits.
26. The development would be beneficial to the appellant and future occupiers of the property as it would provide secure vehicular and domestic storage as well as facilitate home working arrangements. Nevertheless, the scale of the proposal means such benefits would be limited and therefore, this attracts a commensurate amount of weight.

Green Belt balance and conclusion

27. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework advises 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. It further states that substantial weight should be given to any harm to the Green Belt. Therefore, the harm to the Green Belt arising from the inappropriateness of the appeal proposal and the limited harm to openness attracts substantial weight. In addition, significant weight is given to the limited harm that would result to the rural character and appearance of the area.
28. As I found that conditions could be used to ensure compliance with the relevant development plan policies in relation to ecology, this factor does not affect the overall balance. Cumulatively, limited weight is given to the other considerations raised. Therefore, I find that 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.
29. Accordingly, the proposal is contrary to policy CP8 of the Bath and North East Somerset Core Strategy, July 2014 which seeks to protect the Green Belt from inappropriate development in accordance with national planning policy. Hence, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁴ Planning reference 18/02849/FUL