



Appeal Decision

Site visit made on 1 November 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/F0114/W/21/3277073

4 The Old Forge, Bath Road, Tunley, Bath BA2 0EB

- 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 Mrs Dawn Humphries against the decision of Bath & North East Somerset Council.
 - The application Ref 20/03074/FUL, dated 25 August 2020, was refused by notice dated 26 April 2021.
 - The development proposed is change of use of land to the rear of 4 The Old Forge from agricultural to domestic garden use.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to the rear of 4 The Old Forge from agricultural to domestic garden use at 4 The Old Forge, Bath Road, Tunley, Bath BA2 0EB in accordance with the terms of the application, Ref 20/03074/FUL, dated 25 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting, consolidating or modifying that Order), no incidental buildings within Part 1, Class E of Schedule 2, and no fences, gates or walls within Part 2, Class A of the same Schedule, shall be erected on the land, except in the event that a further planning permission is expressly granted for that development.

Preliminary Matters

2. There were two modest sheds on the site at the time of my visit and I note that these are not shown on the plans. The submitted documentation makes clear that the application is seeking permission for a change of use only. I have dealt with the appeal on the basis that the sheds may be unauthorised.
3. Subsequent to the Council issuing its decision, a revised National Planning Policy Framework ('the Framework') was published. The parties have had an opportunity to comment on the implications for the appeal.

Main Issues

4. The main issues are whether the proposed change of use of land to domestic garden would preserve the openness of the Green Belt and whether it would conflict with the purposes for Green Belt designation.

Reasons

Policy background

5. Policy CP8 of the Bath and North East Somerset Core Strategy (2014) (CS) aims to protect the openness of the Green Belt from inappropriate development in accordance with national planning policy. Policy GB1 of the Bath and North East Somerset Placemaking Plan (2017) (PmP) states that development within or conspicuous from the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt by reason of its siting, design or materials used for its construction.
6. Policy NE2B of the PmP relates specifically to proposals to extend residential garden land. It states that such proposals will be permitted provided it can be demonstrated that there are no adverse impacts on the setting of the site or property, residential amenity, local rural landscape character, key habitat features and/or ecological functions and that the proposed boundary treatment is sympathetic to the location and there is no conflict with Green Belt policy.
7. Paragraph 147 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. However, Framework paragraph 150 explains that material changes in the use of land would not be inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

Assessment

8. The appeal site is located to the rear of the existing residential properties known as 4 The Old Forge and The Willows. It is rectangular in shape and extends to 0.09 hectares, separated from adjoining fields by timber post and rail fencing. Old photographs show a barn/storage unit and electricity poles on the land, but the appellant has paid to have these structures removed. As noted above, a pair of modest sheds have since been erected, neither of which appear to have planning permission, but the vast majority of the land is open.
9. The site is bounded to the south by the patio to 4 The Forge and dense hedging along the rear boundary of The Willows. To the west there is a narrow strip of garden belonging to 3 The Old Forge and beyond that a public footpath (behind a thick hedge) and a block of housing between Blind Lane and the B3115 Bath Road. The land is essentially enclosed on two sides by the existing built-up area. The main opportunity for public views towards the site is from a bridleway to the north, but these are at a distance (circa 90 metres) and heavily filtered by dense vegetation. Even if the extended garden were more visible from this angle, it would be read against the backdrop of the settlement.
10. The application proposes change of use only and does not seek any operational development. The appellant has indicated a willingness to accept a condition removing permitted development rights for any incidental buildings, gates, walls and fences to be erected on the land. Such a condition would preserve the

openness of the Green Belt. I accept that this would not prevent all forms of domestication through items such as play equipment or garden furniture. However, bearing in mind the site's small size in relation to Tunley, the limited visibility and the close relationship to existing built form, such paraphernalia would not read as a significant or noticeable encroachment into the countryside. Any effects on the openness of the Green Belt, visual amenity or local rural landscape character would be negligible.

11. The decision notice makes reference to the fact that the site lies outside of the defined housing development boundary for Tunley. This in itself is not relevant as there is no development plan policy to preclude the extension of residential gardens in the countryside. On the contrary, Policy NE2B of the PmP sets out the criteria for considering such development, including the proviso that there should be no conflict with Green Belt policy. That is the Council's primary concern. It does not raise any issues in relation to matters such as residential amenity, key habitat features and/or ecological functions or proposed boundary treatments. On the evidence presented, I have no reason to take a different view.
12. I note the concern of a neighbour that the proposal could be used as a means to circumvent Green Belt controls. However, any future planning application would need to be assessed against national planning policy which takes the starting point that new buildings are inappropriate development in the Green Belt, subject to stated exceptions. A grant of planning permission for change of use to domestic garden does not prejudice the Council's position in relation to any subsequent application for development of the site.
13. Accordingly, I conclude that the proposal would preserve the openness of the Green Belt. There would be no conflict with the five purposes for Green Belt designation. As such, the proposal falls within the types of development that are not inappropriate in Green Belts. I find no conflict with CS Policy CP8 or PmP Policies GB1 and NE2B in relation to the Green Belt. There would also be no conflict with PmP Policies D2, NE2, NE2A and NE2B insofar as these seek to ensure that new development respects local character and distinctiveness, including landscape character and the landscape settings of settlements. The decision notice also cites PmP Policy DW1 but this policy is strategic in nature and is not pertinent to the appeal.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed. In addition to the standard time limit, I have attached a condition removing permitted development rights for incidental buildings, gates, walls and fences. This will enable the Council to retain control over this type of development in the interests of preserving the openness of the Green Belt and the visual amenities of the area. The suggested condition requiring adherence to an approved plan is unnecessary, as the proposal is for change of use only.

Robert Parker

INSPECTOR