



Appeal Decision

Site visit made on 13 December 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2022

Appeal Ref: APP/F0114/W/21/3273538

Victoria House, Bath Road, Tunley, Bath BA2 0DX

- 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 T Baker against the decision of Bath & North East Somerset Council.
 - The application Ref 21/00449/FUL, dated 1 February 2021, was refused by notice dated 1 April 2021.
 - The development proposed is described as, "Replacement of existing garage with a new dwelling".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken any made into account. I have had regard to the 2021 version of the Framework in my decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the use of the proposed access on the safety of vulnerable road users and whether adequate provision would be made for parking and vehicular access; and
 - if the proposal would 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 necessary to justify it.

Reasons

Whether Inappropriate Development

4. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings within the Green Belt is inappropriate. There is a

closed list of exceptions to this in paragraph 149 of the Framework. One of which relates to limited infilling in villages (paragraph 149 e)).

5. Similarly, Policy GB2 of the Bath and North East Somerset Local Plan 2011-2029: Placemaking Plan (adopted 2017) (Placemaking Plan) provides that, amongst other things, development in villages in the Green Belt will not be permitted unless it is limited to infilling, with the supporting text defining '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, the plot generally being surrounded on at least three sides by developed sites or roads. A similar definition is provided in Policy D7 of the Placemaking Plan.
6. Policy GB2 supports Policy CP8 of the Bath and North East Somerset Core Strategy (Part 1 of the Local Plan) (adopted 2014) (Core Strategy) which provides that, amongst other things, the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy.
7. Blind Lane spurs off at an acute angle from the B3115, the principal route through the linear village of Tunley, some distance away south-westwards of the site. I saw that it is akin to a historic rural track, rather than a route along which housing is regularly located (although there are occasional properties and ancillary buildings). Beyond Blind Lane relative to the built form of Tunley are expansive views of the rolling landscape.
8. The rear garden of an adjoining property, and a fairly large area of open land, is present to the north-east of the appeal site. The rear garden of another adjoining property, and a largely open gravelled area sat behind a short concrete wall, lie to the south-west of the site. Hardstanding in front of a block of garages, which are set-back from the road, continues to the south-west. Taking all of the above into account, the lack of an extensively built-up frontage means that the site does not constitute the filling of a small gap within existing development.
9. The presence of the wider built-up pattern of development along Blind Lane and associated residential land, the size of the proposed dwelling, and that the plot would likely be vacant prior to construction of the proposed dwelling, does not change this situation. Accordingly, the proposal would not constitute limited infilling in villages for the purposes of paragraph 149 e) of the Framework, nor infilling for the purposes of Policies GB2 and D7 of the Placemaking Plan.
10. Reference has been made to paragraph 149 d) of the Framework which relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing garage is an ancillary residential outbuilding, and not a dwellinghouse in itself, which is what Class C3 of The Town and Country Planning (Use Classes) Order 1987 (as amended) relates to. As such, even if I were to conclude that the proposed dwelling would not be materially larger than the building to be replaced, the proposal is for a new building which is not in the same use as the garage to be replaced. Accordingly, the proposal would conflict with paragraph 149 d).
11. Mention has also been made of paragraph 149 g) of the Framework, which relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding

temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. Blind Lane is situated within a broader residential area, which includes nearby housing along the B3115, and therefore, taking account of *Dartford*¹, is within a built-up area (noting that there is no dispute between the main parties that the site may accurately be described as falling within Tunley). As the proposed dwelling would be built on a residential garden in a built-up area, however, it would not fall within the definition of previously developed land given in Annex 2 of the Framework. As such, the proposal would not accord with paragraph 149 g).

12. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework and Policy CP8 of the Core Strategy. Inappropriate development is, by definition, harmful to the Green Belt. Additionally, the proposal would not support the 5 purposes of the Green Belt, particularly in relation to its assistance in safeguarding the countryside from encroachment and checking unrestricted sprawl, albeit these effects are reduced due to the existing garage on site and the proposal comprising only one new dwelling.

Openness

13. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
14. The proposal would demolish the existing single-storey garage and would replace it with a 1.5-storey dwelling. As such, the proposed dwelling would be considerably taller, and of a far greater bulk than the garage. Due to the topography of the area, it would be clearly visible from many viewpoints along Blind Lane. Its large domestic scale would contrast with the mostly low-key outbuildings and garages present nearby on Blind Lane. Hence, the openness of the Green Belt would be materially reduced in both spatial and visual terms.

Character & Appearance

15. The area to the south of Blind Lane predominantly consists of garden land with some small low-rise residential outbuildings. Only 3 houses are present on Blind Lane. One of these is situated a significant distance from the other 2. Open fields are present opposite, contributing to the sense of spaciousness in this location. A mix of styles and forms of residential development is present in the wider area.
16. The proposed new dwelling would be situated over some of the footprint of the existing garage, and it would be set-back somewhat from Blind Lane. A traditional design aesthetic with materials which would reflect the local vernacular would be used. No issues would arise in design terms with respect to the connectivity of the proposal to the public realm, and the proposal would comply with Policy D4 of the Placemaking Plan in this regard.
17. Although the proposed new dwelling would largely retain the width of the existing garage, it would be a much deeper and taller structure. As such, even though due to the topography of Blind Lane it would be subservient to the 2

¹ *Dartford BC v SSCLG* [2017] EWCA Civ 141

properties closest to the junction with the B3115, its considerable bulk and massing would unduly contrast with the less imposing forms of development on Blind Lane. It would also reduce some of the spaciousness which is characteristic of this edge-of-settlement location. The large expanse of recessed glass and the balcony railings proposed for the upper north-west elevation would serve to increase its prominence and hence its intrusiveness in this mostly undeveloped location. Its incongruity on Blind Lane would harm the character and appearance of the area.

18. Boundary vegetation would soften the impact of the proposal. I note that paragraph 120 d) of the Framework refers to promoting and supporting the development of under-utilised land and buildings, and in this respect the proposal would entail a more intensive use of the site. However, the proposal would cause considerable harm to the character and appearance of the area, and these matters would not be sufficient to set aside that harm.
19. I therefore find that the proposal would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with Policy CP6 of the Core Strategy which provides that, amongst other things, the distinctive quality, character and diversity of Bath and North East Somerset's environmental assets will be promoted, protected, and conserved or enhanced. It would also conflict with Policies GB1, D1, D2, D3, D5 and ST2 of the Placemaking Plan which collectively provide that, amongst other things, development proposals will be supported where they contribute positively to and do not harm local character and distinctiveness.

Parking & Highway Safety

20. Blind Lane is an unlit public bridleway, narrow in parts and poorly surfaced or unmade (particularly near the junction with the B3115). As set out above it is the sole access to only a few properties, albeit that it will inevitably accommodate a number of movements by other users (including horse riders and pedestrians). I accept that intensification of use could lead to conflict between different users, and that evidently Blind Lane has not been designed to accommodate significant numbers of vehicular movements (and does not comply with modern design standards).
21. However, the additional vehicular movements associated with one new dwelling would be limited (particularly given that there is no prevention on vehicular movements associated with the garage here, or other garages and parking areas nearby). Aside from a short section by the B3115 there are passing places, and generally sufficient informal flexibility for differing users to make simultaneous use of Blind Lane reasonably comfortably (in a similar manner as occurs in many historic rural environments where avoidance of conflict relies as much on individuals' behaviour as road or street layouts). In these respects, the current state of Blind Lane appears to be similar to that described by the Inspector in the appeal decision² relating to 5 Sarabeth Drive, following which a further planning permission was granted for the same site.
22. Moreover, the photographs provided by the appellant show that the current hardstanding area to the front of the existing garage can accommodate 2 standard-sized vehicles, and as it appears that a similar amount of hardstanding would remain to serve the proposed dwelling, the car parking

² APP/F0114/A/13/2200663

provision proposed would be acceptable. Similarly, the dimensions provided by the appellant in relation to the size of the overall hard surfaced space to be used to accommodate the proposed 2 new car parking spaces for the existing dwelling (Victoria House) would comply with the Council's minimum requirements.

23. Nonetheless, given the length of the Lane and its limited width (stated to be approximately 2.6m in the Proof of Evidence³), access by emergency vehicles would be highly constrained. Indeed, its width is less than both the 3.7m carriageway (kerb-to-kerb) width required for operating space at the scene of a fire and the 2.75m carriageway width (over short distances) required for the access route to reach a fire, recommended by Manual for Streets.
24. Thus, although Blind Lane serves 3 existing properties it is clear that the proposal does not accord with paragraph 112 d) of the Framework which provides that, amongst other things, applications for development should allow for access by emergency vehicles, nor with Policy ST7 c) of the Placemaking Plan which mentions that development will be permitted providing that suitable vehicular access can be provided.
25. I therefore find that although the use of the proposed access would have an acceptable effect on the safety of vulnerable road users, and adequate provision would be made for parking, the proposal would not make adequate provision for vehicular access, specifically with respect to emergency vehicles. Thus, the proposal would conflict with Policy ST7 of the Placemaking Plan which provides that, amongst other things, development will be permitted providing that provision for suitable vehicular access is made.

Other Considerations

26. It is common ground that the proposal would not harm the living conditions of neighbouring occupiers, nor cause harm to biodiversity. Conditions could be imposed to ensure that adequate provision for water recycling, broadband, and sustainable construction is provided. As these matters merely denote compliance with the development plan, they are neutral matters, which do not weigh in favour of the proposal.
27. The proposal would contribute to housing supply and mix, by providing a new dwelling near services and facilities, within the Housing Development Boundary for Tunley. Hence, the proposal would contribute to the Government's objective to significantly boost the supply of homes. In this regard, paragraph 69 of the Framework provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly, and paragraph 120 d) provides that, amongst other things, planning decisions should promote and support the development of under-utilised land and buildings. However, as only one new dwelling would be created, the benefits in these respects would be limited.

Conclusion

28. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by

³ Proof of Evidence, Darren Cox, Principal Engineer, Highway Development Control (July 2021)

reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

29. The proposal would be inappropriate development in the Green Belt and would result in the loss of its openness. These matters carry substantial weight. For the above reasons I attach no more than limited weight to the other considerations cited. As such, they do not clearly outweigh the harm to the Green Belt and the harm to the character and appearance of the area and the inadequate provision for vehicular access. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would not therefore accord with the Green Belt aims of both Policy CP8 of the Core Strategy and Policy GB2 of the Placemaking Plan, or the Framework, as set out above.
30. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR