
Appeal Decision

Site visit made on 1 February 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/F0114/W/21/3282769

Midford Castle, Midford, Bath BA2 7BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Adams against Bath and North East Somerset Council.
 - The application Ref 21/01555/FUL, is dated 19 March 2021.
 - The development proposed is described as construction of an agricultural barn and the installation of a stand-alone solar array system to service the Midford Castle Estate.
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Decisions

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. This appeal is against the Council's failure to determine the application within the required time period. The Council has however provided an officer report and draft reasons for refusal which I have taken into account.
3. The Council's draft reasons for refusal include reference to the Bradford on Avon Bats Special Area of Conservation. I have been provided few details other than that the Council's concern relates to the potential for light spill. In view of my decision above however, this is not a matter I need to examine any further.

Main Issues

4. The main issues are:
 - whether the development would be inappropriate in the Green Belt;
 - the effect of the development on the openness of the Green Belt;
 - the effect of the development on the Cotswolds Area of Outstanding Natural Beauty (AONB);
 - whether the development would preserve the setting of a Grade I listed building; and
 - if the proposal would be inappropriate development, whether 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 the development would be inappropriate

5. The site is located within the Bristol and Bath Green Belt. Policy CP8 of the Bath and North East Somerset Core Strategy 2014 (the CS) seeks to restrict inappropriate development within the Green Belt on the basis set out within the National Planning Policy Framework (the Framework). In this regard paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions are set out within paragraphs 149 and 150.
6. The proposed development includes a building specifically described as an 'agricultural barn'. The exception set out in paragraph 149(a) of the Framework, which references buildings for agriculture, is therefore relevant. This exception is not made contingent on any limiting criteria. It is nonetheless legitimate to consider whether such a building would in fact be a building for agriculture.
7. A flock of sheep and hay production are referenced by the appellant. Here it appears possible that a flock of sheep could be kept within the parkland surrounding the castle, and that areas of grass not grazed could be cut for hay. However, I have been provided with and observed no clear evidence that either activity occurs at present, and nor is there any certainty that they would occur were the appeal to be allowed.
8. A large part of the building would otherwise be used to store wood to fuel a biomass boiler. Also, though not shown on the layout plan, the submitted Brimble report indicates that equipment relating to the operation of the solar panels forming the remainder of the development would be installed within. Neither would be agricultural uses of the building. All the above being so, I am not convinced that the proposed barn can be properly described as a building for agriculture, or that it therefore benefits from the exception set out in paragraph 149(a) of the Framework.
9. Insofar as the remainder of the development would involve the erection of solar panels, it would not meet any of the exceptions set out in paragraphs 149 and 150 of the Framework. Here paragraph 151 of the Framework confirms that elements of many renewal energy projects will comprise inappropriate development.
10. I therefore conclude that the development would be inappropriate in the Green Belt. Inappropriate development is by definition harmful.

The effect on openness

11. The location within which the building and panels would be erected is currently a piece of open land contiguous with the wider parkland setting of Midford Castle. The erection of panels and a building within it would, as a matter of fact, physically erode the openness of the Green Belt. Moreover, this would occur across a reasonably large area.
12. The panels and building would be visible from within the grounds of the castle, and in long views from the opposite side of the broad valley within which the site is located. The colour contrast between the black finish of the panels and their setting would accentuate their visibility. Though the barn would be

painted green, it would remain apparent against its background on account of its shape and size.

13. Screening with a coppice has been proposed. This would however take time to establish, would provide no certainty of effect, and would, by definition, be periodically cut to the ground. At these times it would provide no screening at all. It would not therefore successfully mitigate or otherwise remove visual perception of the adverse effects of the loss of openness.
14. I therefore conclude that the development would cause modest harm to the openness of the Green Belt.

AONB

15. The site is located in the AONB, within which there is a statutory duty to have regard to the purpose of conserving and enhancing natural beauty. Paragraph 176 of the Framework further states that great weight should be given to conserving and enhancing landscape and scenic beauty.
16. As noted above, the site is located on the side of a broad valley, within which there are both attractive and wide-ranging views. This includes between the site and the surrounding landscape, and from the surrounding landscape towards the site. In this context the site, together with adjoining parkland and adjacent woodland, currently makes a positive contribution to the broader character and appearance of the surrounding landscape.
17. As established above, the development would have a perceptible physical and visual presence that would be at odds with the openness of its landscape setting. In this regard it would form a source of visual intrusion that would clearly fail to conserve and enhance the natural beauty of the AONB. With further regard to the Framework, the corresponding failure to conserve and enhance landscape and scenic beauty attracts great weight.
18. For the reasons set out above I conclude that the development would cause unacceptable harm to the AONB. It would therefore conflict with Policy CP6 of the CS and Policy NE2 of the Bath and North East Somerset Placemaking Plan 2017 (the PP), which each seek to secure the conservation or enhancement of the landscape; and Policy D2 of the PP, which further seeks to secure development that positively responds to its context.

Listed building

19. The development would occupy land within part of the parkland surrounding Midford Castle. Midford Castle is a Grade I listed building, and thus a designated heritage asset of the highest significance. Whilst statute sets out the desirability of preserving the settings of listed buildings, paragraph 199 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets.
20. Insofar as it is relevant to this appeal, the special interest and significance of the listed building resides in its late C18th construction in distinctive trefoil shape and Gothick style, in a commanding position overlooking the Midford Brook Valley. In this regard the relationship between the listed building and its immediate and broader landscape setting forms a critical component of its significance.

21. The castle is sited and orientated to provide wide ranging views across the valley. These are available from windows serving principal rooms within the towers flanking the main southeast elevation, and from the terrace in front. The site is visible as a foreground component within some of these views. The prominent siting of the castle in turn gives it a high level of exposure within public views across the valley.
22. Parkland, of which the site is part, forms a key component of the immediate designed setting of the castle. The latter also includes woodland. Together with the castle, much of the park is visible from across the valley. I have been provided with very little information relating to the history, design and original layout of the park, or indeed the broader landscape of which it forms part. This limits the extent to which a full understanding of the effects of the scheme on its historic design is possible.
23. Nonetheless, parkland is a landscape feature of which scenic value and openness are key design attributes. Each are demonstrated by the parkland at Midford Castle. That being so, my findings above indicate that the development would be wholly at odds with its character. This would be further exacerbated by the planting of a coppice, which would bear no relation to planting within the broader park. Moreover, the Council additionally highlights uncertainty in relation to the effects of the scheme on established nearby trees.
24. The intrusive and discordant nature of the development would be apparent in views from the castle, and in views towards and including it. In each regard the development would detract from appreciation of the contribution that the designed landscape setting makes to the significance of the castle. The development would therefore harm rather than preserve the setting of the listed building, and consequently fail to conserve its significance.
25. The harm caused to the significance of the listed building would be less than substantial. This harm attracts considerable importance and weight. In accordance with paragraph 202 of the Framework this harm must be balanced against the public benefits of the development. This I shall undertake within the context of 'other considerations' and the 'planning balance' below.

Other Considerations

26. The development has been principally promoted as supporting the sustainable generation of energy. This would be in association with a previously approved biomass boiler. The energy generated would be used to help power the castle and adjacent holiday lets. The latter, alongside the building which will house the biomass boiler and its wood store, are currently under construction or conversion. Whilst 8 units in total would be powered, the extent of the contribution made by the proposed development is unclear. Moreover, other, more sensitive options for generating additional energy may potentially be available. It appears therefore that the broader environmental benefits of the scheme would be very modest in scale, and that broadly similar outcomes could be achieved with lesser impact. As such I attach limited weight to the environmental benefits of the scheme.
27. As is the case for most any development, implementation of the scheme would generate business for suppliers/contractors. The benefits to the broader economy would however be very small, and so attract negligible weight.

The Planning Balance

28. The development would constitute inappropriate development within the Green Belt, and furthermore cause modest harm to its openness. I attach substantial weight to the overall harm that would be caused to the Green Belt.
29. In addition, the development would fail to conserve and enhance the landscape and scenic beauty of the AONB, which is a consideration to which I attach great weight, and cause less than substantial harm to the significance of Midford Castle, which is a consideration to which I attach considerable importance and weight. With further reference to paragraph 202 of the Framework, the public benefits of the development would not outweigh the harm that would be caused to the significance of Midford Castle. Conflict would thus arise with Policy HE1 of the PP, which, amongst other things seeks to sustain and enhance the District's historic environment.
30. Taking the above into account, I am satisfied that the combined weight of harm by reason of inappropriateness, and any other harm, is not clearly outweighed by the other considerations advanced in favour of the scheme. These other considerations are therefore insufficient to demonstrate the existence of the very special circumstances necessary to justify approval of the development. Consequently, the development would conflict with Policy CP8 of the CS as outlined above, and with the development plan taken as a whole.
31. For the reasons outlined above, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR