



Appeal Decision

Site visit made on 4 April 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2022

Appeal Ref: APP/F0114/W/21/3287000

Oaklea, Sleep Lane, Whitchurch, Bristol BS14 0QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Andrews against the decision of Bath and North East Somerset Council.
 - The application Ref 21/02321/OUT, dated 12 May 2021, was refused by notice dated 16 July 2021.
 - The development proposed is Outline Application for the demolition of existing buildings and redevelopment of the land adjacent to Oaklea to provide 3no single storey dwellings with associated soft/hard landscaping, access improvements, parking and drainage with all matters except for access reserved.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and redevelopment of the land adjacent to Oaklea to provide 3no single storey dwellings with associated soft/hard landscaping, access improvements, parking and drainage with all matters except for access reserved at Oaklea, Sleep Lane, Whitchurch, Bristol BS14 0QN in accordance with the terms of the application, Ref 21/02321/OUT, dated 12 May 2021, subject to the conditions set out at the end of this decision.

Preliminary Matter

2. The appeal proposal is for outline planning permission with all detailed matters except for access reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance, landscaping, layout and scale as a guide to how the site might be developed.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt, whilst considering any implications of the site being positioned outside of Whitchurch's Housing Development Boundary (the HDB);
 - The effect upon the openness of the Green Belt; and
 - The effect upon highway safety, having particular regard to visibility at the site's access point.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (July 2021) (the Framework) is an important material consideration in the context of Green Belt development proposals. It specifies that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. One such exception is limited infilling in villages.
5. Whitchurch is not washed over by the Green Belt, instead inset from it. The site is situated beyond the HDB and thus in the Green Belt. Policy GB2 of the Bath and North East Somerset Placemaking Plan (July 2017) (the BANESPP) indicates that infill residential development in the Green Belt shall not be permitted unless within a Housing Development Boundary.
6. Nevertheless, caselaw¹ suggests that decision makers should, when determining whether or not a site can be considered in a village, have regard to the situation 'on the ground' as well as to any relevant policies. Indeed, the HDB is not determinative for the purpose of making this assessment. This is even though I am led to understand that its delineation was amended in 2014 to take account of strategic site allocations.
7. The site takes the appearance of maintained garden land for the most part, but provides some parking and external storage opportunities across its rear portion. It sits close to various longstanding buildings to the south that include a dental surgery and several large houses. In addition, considerable residential development has come forward close to the site in recent times. This includes to the rear (east), where a range of compactly laid out two storey houses are situated at proximity. Indeed, notwithstanding the typical spaciousness and verdancy of the closest plots to the site, I find that, for the purposes of assessment against the Framework's Green Belt provisions, the site can be considered to be in the village of Whitchurch.
8. The supporting text to Policy GB2 defines infilling (in relation to housing) as the filling of small gaps within existing development, and an example given is the building of one or two houses on a small vacant plot in an otherwise extensively built-up frontage with the plot generally being surrounded on at least three sides by developed sites or roads. Although this offers a useful illustration of what the filling of a small gap within existing development might comprise, it is merely an example to be interpreted with some discretion whilst taking account of the specific site circumstances to hand.
9. The site is sandwiched between neighbouring/nearby developments to the north and south that, despite being setback, are accessed off Sleep Lane (the Lane) and have visibility in the streetscene. To my mind, notwithstanding the prevalence of established planting along the Lane's southern extent, the site is situated within an extensively built-up frontage. Further, the site does not contribute towards any sense of wide separation between surrounding developments. This is especially so when noting the proximity of the nearest residential development to the east. Moreover, particularly when acknowledging the considerable size of the village in question, the site is experienced as a small gap within existing development.

¹ Court of Appeal judgement *Julian Wood v SSCLG and Gravesham Borough Council*, 2015

10. Thus, for the above reasons, the intended development of three single storey dwellings at the appeal site represents limited infilling in a village. Therefore, even though the site is situated outside the HDB, the proposal would not be inappropriate development in the Green Belt. I acknowledge conflict with Policy RA1 of the Bath and North East Somerset Core Strategy (July 2014) (the BANESCS) and Policy GB2 the BANESPP in so far as these policies indicate that infill residential development in the Green Belt should be restricted to inside a Housing Development Boundary. However, the scheme does not conflict with the Framework in so far as it sets out exceptions to the construction of new buildings being considered inappropriate in the Green Belt.

Effect upon openness

11. I have found that the proposal would not be inappropriate development in the Green Belt in accordance with an exception that does not expressly state a need to assess its effect on openness or whether it would conflict with the purposes of including land within the Green Belt. The proposal should not therefore be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within it².
12. The proposal would not therefore cause harm to the openness of the Green Belt and would not conflict with Policy CP8 of the BANESCS or with the Framework in so far as these policies set out that the openness of the Green Belt will be protected from inappropriate development.

Highway safety

13. It is intended that the site's existing access be used to serve each of the proposed dwellings. This is an established access that progressively widens in width to its point of connection with the Lane, a route that is subject to a 20mph speed limit. Notwithstanding the Lane's bending alignment and the presence of planting adjacent to each of the access's sides, I experienced decent levels of visibility to prevail when either entering or exiting the site.
14. A Technical Note on Access (April 2021) indicates that vehicular visibility splays to fully accord with the relevant standard endorsed by Manual for Streets would be achievable via the removal of some vegetation that encroaches into the public highway to either side of the access. Such works would not fall under the appellants' full control and, as such, could not be effectively conditioned to occur in perpetuity. Nevertheless, any removal works would necessarily be minor in extent and would potentially be capable of being undertaken by the Highway Authority through routine maintenance or in response to specific future visibility concerns. Moreover, I have identified decent levels of visibility to exist currently and the Council's Highway Officer, in their role as Highway Authority, has not raised an objection to the scheme.
15. For the above reasons, having particular regard to visibility at the site's access point, the proposal would have an acceptable effect upon highway safety. The scheme accords with Policies D3, ST1 and ST7 of the BANESPP and Policy WV4.3 of the Whitchurch Village Neighbourhood Development Plan (2017) (the WVNDP) in so far as these policies set out that development will be permitted providing, amongst other provisions, highway safety is not prejudiced.

² Court of Appeal judgement *Lee Valley Regional Park Authority v Epping Forest District Council*, 2016 refers

Other Matters

16. Single storey dwellings setback from the Lane beyond established planting are proposed. Whilst various detailed matters are not before me for determination at this outline stage, I am satisfied that the three dwellings under consideration could ultimately be brought forward whilst having an acceptable effect upon the area's character and appearance. Indeed, the local area's verdant and semi-rural qualities would not be unduly eroded and, owing to the proximity of other built developments, the proposal would not appear as a harmful excursion into the open countryside. I also note that the proposal would not result in any increased coalescence between Whitchurch and Bristol.
17. By virtue of the site's position outside of the HDB, I have identified conflict with Policy RA1 of the BANESCS and Policy GB2 of the BANESPP. Accordingly, there is conflict with the development plan. Nevertheless, as explored within my reasoning above, the specific site circumstances and the provisions of the Framework indicate that, contrary to the stance taken by the Council, the proposal would not constitute inappropriate development in the Green Belt. There are thus other material considerations that indicate that, in this instance, the scheme should not be determined in accordance with the development plan.

Conditions

18. The Council has suggested conditions that the appellants have had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and have omitted others. In the interests of certainty, an additional condition specifying the approved plans and documents is required. As the number of dwellings is clearly stated in the approved description of development, a condition confirming the number of units permitted is unnecessary.
19. In the interests of pedestrian safety and of promoting sustainable modes of travel, a condition is reasonable and necessary that secures the provision of a new footway link adjacent to the site's access (as specified in the approved Technical Note on Access). The land in question falls under the control of the Highway Authority who are supportive of the intended works being undertaken. I am thus sufficiently satisfied that a condition to this effect would be both implementable and enforceable.
20. In the interests of highway safety and protecting the living conditions of local residents, and condition is reasonable and necessary that secures the submission and implementation of a Construction Management Plan.
21. In the interests of promoting and protecting biodiversity, even though related reports make up part of the suite of approved documents, conditions securing the submission and implementation of a Wildlife Protection and Enhancement Scheme are reasonable and necessary to impose. For the same reason, specifically to guard against any possible adverse effect upon bats, a condition to secure full details of any new external lighting to be installed is also reasonable and necessary.

22. In the interests of flood risk management and ensuring that surface water at the site is appropriately dealt with, a condition securing a detailed surface water drainage strategy is reasonable and necessary to impose.
23. In the interests of ensuring that the development is carried out safely and without undue risk to human health, a condition setting out reporting requirements for any contamination identified during the carrying out of development is reasonable and necessary.
24. As landscaping is a reserved matter, it is unnecessary at this outline stage to impose conditions to secure either landscape design proposals or the implementation of hard and soft landscaping. Similarly, as the layout of the scheme has yet to be finalised, a condition cannot be appropriately applied at this stage to secure the provision and retention of turning space. A properly bound accessway of generous width already serves the site such that a condition specifically requiring the provision of an on-site footpath/carriageway is unnecessary. This is particularly so when noting the modest quantum of development under consideration.

Conclusion

25. For the above reasons, the appeal is allowed and planning permission is granted subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the latest.
- 2) Details of the appearance, landscaping, layout and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.
- 3) Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this decision.
- 4) The development hereby permitted shall be carried out in full accordance with the following approved plans (in so far as these plans relate to matters not reserved for future determination) and documents: TQRQM21109091611819; 000273-00-001; 000273-00-002; Ecological Assessment (May 2021); Biodiversity Net Gain Assessment (April 2021); Technical Note on Access (including appendices) (April 2021).

- 5) No development shall take place, except any ground investigations and remediation, until a detailed surface water drainage strategy demonstrating that surface water shall be managed onsite has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall include infiltration test results (to BRE Digest 365), calculations demonstrating performance of the proposed system at the critical 1 in 100 climate change event, and plans and details of how the drainage system is to be maintained for the lifetime of the development. If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage at a rate not exceeding the greenfield rate, shall be submitted to and approved in writing by the Local Planning Authority. The soakaways or other approved method of surface water drainage shall be installed in accordance with the approved details prior to the first occupation of the development.
- 6) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of deliveries (including storage arrangements and timings); contractor parking; traffic management; working hours; site opening times; wheel washing facilities; site compound arrangements; measures for the control of dust. The construction of the development shall thereafter be undertaken in full accordance with the approved details.
- 7) No development shall take place until a Wildlife Protection and Enhancement Scheme has been submitted to and approved in writing by the Local Planning Authority. This shall be in accordance with, but not limited to, the recommendations contained within the approved Ecological Assessment (May 2021) and the proposed habitats contained within the approved Biodiversity Net Gain Assessment (April 2021). The Scheme shall include:
 - (i) a Construction Environmental Management Plan, to contain method statements for the pre-construction and construction phases and to provide full details of all necessary protection and mitigation measures;
 - (ii) detailed proposals for the implementation of wildlife mitigation, compensation, net gain and enhancement measures, to include the retention and creation of new boundary hedgerow and native tree and shrub vegetation, wildlife-friendly planting, bat and bird boxes, reptile habitat, specifications for boundary fencing that include gaps to allow continued movement of wildlife;
 - (iii) proposed monitoring and reporting arrangements, including the review of long-term measures and the condition of habitat.All works covered by the Scheme shall be carried out in accordance with the approved details and completed in accordance with agreed timescales (where specified) and prior to the first occupation of the development. Thereafter, wherever feasible, wildlife features and habitats shall be retained and maintained.

- 8) The development hereby permitted shall not be first occupied until a report, produced by a suitably experienced Ecologist, and based upon a post-construction site inspection, to demonstrate, using photographs, full adherence with the yet to be submitted and approved Wildlife Protection and Enhancement Scheme (the subject of Condition 7) has been submitted to and approved in writing by the Local Planning Authority.
- 9) The development hereby permitted shall not be first occupied until the footway link illustrated on Drawing No 05 appended to the approved Technical Note on Access (April 2021) has been implemented.
- 10) No new external lighting shall be installed without full details being first submitted to and approved in writing by the Local Planning Authority. Any details to be submitted shall include lamp models and manufacturer's specifications; lamp positions, numbers and heights shown on a plan; measures to limit the use of lights when not required and to limit light spill. Any new external lighting shall be installed, operated and maintained thereafter in accordance with the approved details.
- 11) In the event that contamination is found at any time when carrying out the development hereby permitted, work shall cease, and it shall be reported immediately in writing to the Local Planning Authority for it to advise as regards any further works required. Unexpected contamination may be indicated by soils or materials with unusual colour, odour, texture or containing unexpected foreign material.

-----END OF SCHEDULE-----