



Appeal Decision

Site visit made on 26 April 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2022

Appeal Ref: APP/F0114/W/22/3291462

Tyning House, Hursley Hill, Publow, Bristol, BS14 0QZ

- 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 Smart against the decision of Bath and North East Somerset Council.
 - The application Ref 21/03207/FUL, dated 30 June 2021, was refused by notice dated 17 January 2022.
 - The development proposed is the replacement of HMO with detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

1. 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; and
 - If the proposal is inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

2. The appeal site is an open agricultural field located between residential dwellings to the north and an HMO and car sales/garage to the south. Both the appeal site and nearby built form are bound to the rear by open agricultural land. The proposal relates to the provision of a new detached dwelling to replace the existing HMO which would be demolished. The proposal would not be located on the site of the HMO but on land to its north.

Whether Inappropriate Development

3. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraphs 149 and 150 of Framework. One such exception is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The Framework establishes two tests, firstly relating to the use, and then an objective assessment of the relative size of the existing and replacement building. The appeal proposal would be the same use, passing the first test. The second test is a matter of judgement

based on the evidence of each case as the Framework does not define 'materially larger'.

4. Using the dimensions submitted by the appellant, the proposal would have a footprint of approximately 201 sqm whereas the existing dwelling has a footprint of approximately 217 sqm. The Council's evidence advises that the proposal would have a volume of approximately 1330 cubic metres whereas the existing dwelling has a volume of approximately 1115.9 cubic metres. There is a disagreement over the percentage of increase in volume with the appellant stating a 15% increase and the Council a 19% increase. Nevertheless, I consider that, in quantitative terms, an increase of either 15% or 19% would be materially greater than that of the dwelling to be replaced.
5. Whilst the indicative proposal would be a reduction in terms of its footprint, it would contribute a more than marginal amount of additional bulk and mass to the appeal site, as well as being a lot more noticeable than the existing by virtue of its increased height and width. In qualitative terms therefore, I also find that the proposed development would be a materially larger replacement building.
6. The proposal would therefore be, in terms of the Framework, inappropriate development. This is as per paragraph 147 harmful by definition to the Green Belt and thus contrary to the aims of the Framework as I have set them out above.

Openness

7. There is no requirement within the Framework for the replacement building to be located upon the same general footprint of the building to be replaced. However, as set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness has both a spatial and visual aspect, the former can mean the absence of built form.
8. The replacement dwelling would be located a good distance from the site of the existing dwelling, within an open field and noticeably removed from the nearest neighbouring dwelling to the north. Introducing built form of some substance to an area where there is currently none would inevitably, in both visual and spatial terms, reduce the openness of the Green Belt. To a degree, this reduction would be offset by the removal of the existing dwelling but, as I have set out above, this would be through the removal of a materially smaller building.
9. The replacement would 'move' the dwelling closer to others and it would be set further back from the road. However, and taking into account the positive visual relationship the wide and open agricultural land beyond it currently has with the intended location of the new dwelling, the openness would still be adversely affected, and by more than a marginal degree. Furthermore, the erection of a dwelling on the appeal site would lead to encroachment of development into the countryside, which would fail to serve the related Green Belt purpose and therefore it would clearly conflict with the fundamental aim of national Green Belt policy.

10. As a result, the appeal scheme would unacceptably reduce the openness of the Green Belt, giving rise to further harm thereto, in addition to that arising from its inappropriateness. Consequently, it would conflict with the aims of Policy CP8 of the Bath and North East Somerset Core Strategy (2014) (CS) which seeks to protect the openness of the Green Belt from inappropriate development.

Other Considerations

11. It is suggested that the appeal scheme would represent a design improvement over the existing dwelling. Whilst this may be so, the weight I could afford to this matter would be tempered by the fact that such an improvement would be at the expense of the Green Belt's openness in being materially larger.
12. I note that a number of re drafts of the design and size of the proposed dwelling have been the subject of discussions between the appellant and the Council. That said, I have considered the individual merits of the scheme before me as part of the appeal. I am not absolved from undertaking such an assessment even in light of the support the scheme has received from consultees or a lack of objections from local residents.

Conclusion

13. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the proposed plans demonstrate that such a dwelling would have adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. These are matters to which I should afford substantial weight in the planning balance. In the context of the above, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
14. Taking my above findings into account, and the weight I must ascribe to any harm to the Green Belt, it is sufficiently clear that the other considerations would not attract sufficient weight to be able to amount to the very special circumstances necessary to justify the proposal.
15. The appeal scheme would conflict with the development plan and the Framework, there are no material considerations, including the approach of the Framework and worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

Tamsin Law

INSPECTOR