



Appeal Decision

Site visit made on 6 September 2022

by Mrs J Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 20 September 2022

Appeal Ref: APP/D0121/W/22/3299232

Hillcrest, Clevedon Lane, Clapton in Gordano, BRISTOL, BS20 7RH

- 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 Gary Hill against the decision of North Somerset Council.
 - The application Ref 21/P/2954/FUL, dated 21 October 2021, was refused by notice dated 28 January 2022.
 - The development proposed is the demolition of the existing detached garage and proposed erection of a detached 2no. bedroom single storey annexe and car port.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The drawings submitted with the appeal refer to the construction of a dwelling whereas the application form as submitted clearly refers to the construction of an annexe. In the interests of clarity, I have dealt with the application as if it is for an annexe to Hillcrest.
3. The Council, following the submission of arboricultural survey work, has withdrawn reason for refusal number four as it is now satisfied that the proposed works would not significantly harm nearby trees. I have no evidence on which to disagree with that conclusion. As a result, I need not consider this matter further.

Main Issues

4. The main issues are:
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - b) The effect on the openness of the Green Belt;
 - c) Whether or not the annexe would have an acceptable relationship with the existing dwelling on the appeal site;
 - d) The effect of the development on protected species;
 - e) 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

Whether inappropriate development

5. The appeal property is set apart from the relatively loose knit group of buildings which run along Clevedon Lane. The typically large plots provide for generous spacing around the buildings. The steep topography in the vicinity of the site, taken with the open land either side of Hillcrest and the wooded edges to the property in the immediate landscape, result in a distinctly open and rural character to the area.
6. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate except in a limited number of circumstances. These include the replacement of a building provided it is of similar size and in the same use and where the replacement is not materially larger than the one it replaces. Policy DM12 of the North Somerset Sites and Policies Plan (Part 1) 2016 (NSSPP) refers to development in the Green Belt and reflects the Framework but goes further. It indicates that normally an increase of over 50% of the gross floor area of the original building would be regarded as materially larger. That proposed here would represent less than a 50% increase in floorspace.
7. Even so the Framework does not set out precisely how 'materially larger' should be interpreted and although the footprint increase would be below the Councils 50% threshold contained in Policy DM12 it is not solely the footprint which impacts on whether a proposal is materially larger. Regard has to be had for the bulk and overall scale of the replacement building in order to come to a judgement on the materiality of the change.
8. Whilst the overall structure would not exceed the height of the ridge of the existing garage. The replacement building would be wider, longer and with its flat (albeit green) roof creating a larger mass than the building which it would replace. The glazed roof lantern would stand well above the flat roof and would emphasise and accentuate the building. Similarly, the proposal includes a separate car port which, though open sided would further contribute to the overall bulk of the structures on the site. The combination of these features would result in a development materially larger than the existing structure which would be prominent in the landscape given its elevated position above Clevedon Lane.
9. Accordingly, I conclude that the proposal would represent inappropriate development as defined by the Framework. As a consequence, it would be harmful to the Green Belt, and contrary to Policy DM12 of the NSSPP and to the aims of the Framework which both seek to protect the Green Belt from inappropriate development.

Openness

10. A fundamental aim of Green Belt Policy is to safeguard the countryside from encroachment and maintain essential characteristics by keeping land permanently open. In this case the replacement building would occupy a countryside setting and even though dominated by mature trees the appeal proposal would introduce a substantially larger structure than the existing.

11. Although the existing garage, would be removed that is a smaller simpler structure than the proposed building which would also include a car port constructed separately and despite it being open sided that would also contribute to the presence of buildings in this part of the site. Collectively these would have a far greater impact than the existing garage and consequently would have an effect on openness. Although that effect would be localised it would nonetheless be permanent and would compromise the objectives of the Framework which emphasises that openness is an essential characteristic of the Green Belt which is to be protected.

Relationship to the Existing Dwelling

12. The appellant indicates that the building is to form an annexe to the main property Hillcrest House. The proposed building would include two bedrooms, two bathrooms, a kitchen, dining and living space together with a separate car port. It would be set more than 20 metres from the main house which is located on a higher part of the site above the existing garage and accessed by a steep drive.
13. Policy DM43 of the NSSPP requires that beyond settlement limits, as in this case, an annexe will only be permitted where it is clearly a physical extension to the main dwelling. Where not an integral part of a house, annexes will not be permitted, the proposal conflicts with the development plan in this regard.
14. The appellant highlights that it is an important part of their case that the enlargement of the existing house would have a greater visual impact on the site and surrounding area than the appeal proposal and that it would be counterintuitive to locate an annexe attached to the house. However, I have no substantive evidence before me to indicate that ancillary accommodation attached to the principal building, as supported by Policy DM43, would have a greater visual impact. I noted on my visit that there is a generous amount of space around the building and a series of other related outbuildings and I am not convinced that a policy compliant attached annexe would result in a greater impact as the appellant suggests.
15. Similarly, there are clear development plan policy reasons to limit annexe accommodation in the open countryside to ensure that annexe provision can be incorporated into the dwelling once it is no longer needed. Even though the appellant emphasises that the occupation of the annexe could be tied through a condition this would not sufficiently mitigate the harm which has been identified in relation to the main issues. The proposal represents a substantial amount of accommodation and whilst the indication is that this two bedroomed, two bathroomed annexe would be used in an ancillary manner in relation to the main house, this would not overcome the fundamental policy conflict in relation to Policy DM43 nor would it alleviate the Green Belt Harm.
16. Consequently, the proposal would conflict with Policy DM43 of the NSSPP which seeks to ensure that the provision of annexe accommodation beyond settlement boundaries are limited to those which are clearly a physical extension to the main dwelling and can be integrated back into the principal dwelling once no longer needed.

Protected species

17. It is clear from the evidence that bats which are a European Protected Species (EPS) have been confirmed as present in the existing building. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) impose a duty on me to consider whether EPS would be affected by a proposal and whether mitigation would be effective. In carrying out this duty, I have had regard to the 'derogation tests' set out in regulation 55 of the 2017 Regulations. These would need to be met for an EPS licence to be issued. It is also clear that mitigation is possible and that a licence would be needed to carry out any works. These points are not in dispute.
18. It is important to note that a licence does not need to be approved before planning permission is granted, but there must be a reasonable prospect of the licence being issued. Having regard to the three derogation tests, I am of the view that it has not been demonstrated that there is no satisfactory alternative for the development nor that the destruction of the roost would be in the interests of public health and public safety or for imperative reasons of overriding public interest. On the basis of the current evidence, it is by no means certain that a licence to remove the bat roost would be forthcoming and consequently there would be a negative impact on protected species and therefore conflict with the Regulations.

Other considerations

19. I turn now to address other considerations to assess whether they might clearly outweigh harm arising from inappropriate development in the Green Belt. The appellant states that as he concludes the development is not considered to be inappropriate development there is no requirement to set out any special circumstances. Nevertheless, it has been made plain that the provision of the annexe is to provide for an elderly family member.
20. The desire to provide separate accommodation is acknowledged though is a need particular to the appellants' circumstances. Development plan policy provides some latitude for ancillary accommodation and I note that the Council encouraged the appellant to consider alternatives which they have chosen not to pursue. Nonetheless, no special circumstances have been advanced and therefore the special circumstances which would be required to justify the grant of permission have not been demonstrated.

Other matters

21. My attention has been drawn to an appeal decision at West Hewish¹ with regard to the application of Policy DM43 however whilst the application of the policy has been highlighted it is apparent that the circumstances of that case differ somewhat to this appeal. That case was dismissed and I have, in any event, come to my conclusion on the basis of the individual merits of this case based on the evidence before me.
22. I have carefully considered that the design of the structure and its detailing have been detailed in a manner seeking to utilise recessive materials. Whilst an increased level of glazing is proposed the appellant indicates that the light spill will be seen in the context of existing development in an area that is less open.

¹ APP/D)121/D/18/3207471

That may be so however it does not alter my conclusion in relation to the main issues as set out above.

Green Belt and Planning Balance

23. Paragraphs 143-145 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
24. I have considered the circumstances outlined by the appellant in support however these would not clearly outweigh the harm that I have identified and the development would therefore conflict with the Framework and the Development Plan. Consequently, the very special circumstances necessary to justify the development have not been demonstrated.

Conclusion

25. For the reasons given above and having regard to all matters raised, the appeal is dismissed.

Mrs J Wilson

INSPECTOR