



Appeal Decision

Site visit made on 14 April 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2023

Appeal Ref: APP/F0114/W/22/3305927

285 Kelston Road, Newbridge, Bath BA1 9AB

- 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 & Mrs Paradise against the decision of Bath and North East Somerset Council.
 - The application Ref 21/05654/FUL, dated 21 December 2021, was refused by notice dated 21 March 2022.
 - The development proposed is 'Erection of a single dormer bungalow dwelling'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt; and
 - Whether any harm by reason of inappropriateness 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

3. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP8 of the Bath and North East Somerset Core Strategy (adopted 2014) (the Core Strategy) is consistent with the Framework in that it specifically seeks to protect the openness of the Green Belt in accordance with national planning policy.
4. The Framework further establishes that 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 the Framework. One such exception, at paragraph 149 g), is the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.

5. Previously developed land is defined in Annex 2 of the Framework. The definition specifically excludes land that is or was last occupied by agricultural buildings, but can include land such as residential gardens, where they are not in built up areas.
6. The appellant highlights that a building previously stood on the site before it burnt down in the late 1980s. I have no detailed information as to the planning history of the site, including the precise scale and nature of the building that previously occupied the site. However, I am informed that the site was previously occupied by a plant nursery. The building may therefore have been in an agricultural use and so it is unclear as to whether the exception at paragraph 149 g) of the Framework should apply. In any case, the proposed dwelling would still have a greater impact on the openness of the Green Belt than the existing building at the site (i.e. the remaining foundations).
7. The proposal would therefore fail to meet the requirements of exception g) set out in paragraph 149 of the Framework. Nor, from the information before me, is there any reason to believe that it would meet any of the other exceptions set out in paragraphs 149 and 150 of the Framework. Consequently, it would be inappropriate development, contrary to the provisions of the Framework and Core Strategy Policy CP8.

Openness

8. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The proposed dormer bungalow is not a substantially sized dwelling. Additionally, the site's levels relative to the A431, and presence of existing neighbouring development and mature vegetation, would together reduce the visual impacts of the proposal. Nevertheless, the appeal dwelling would still be visible from public vantage points.
9. The increase in volume, height and massing compared to the existing building on site would result in a harmful loss of openness, albeit this would be limited given the scale of the proposal. This factor weighs somewhat against the appeal scheme.
10. Accordingly, in addition to the harm arising from the proposal constituting inappropriate development, there is also a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt.
11. For the above reasons, I find that the proposal also prejudices the visual amenities of the Green Belt and therefore does not accord with Policy GB1 of the Bath and North East Somerset Placemaking Plan (adopted 2017) (the Placemaking Plan).

Other Considerations

12. The delivery of a new house would make a limited but beneficial contribution to the supply of housing in the area. It would also be capable of providing a variety of other modest social and economic benefits associated with the development of a new home. I also note that the proposal incorporates several sustainability/energy efficiency features. However, given the scale of the proposed development I give these benefits only limited weight.

13. The re-use of previously developed land (PDL) is encouraged by both the Framework and local development plan policies. As previously outlined, it is unclear whether the site constitutes PDL. Even if it were to, I have identified harm in relation to the Green Belt, such that the scheme would not safeguard the environment. Therefore, any benefits of making effective use of PDL would attract very limited weight in favour of the scheme.
14. The appellant contests that the Council's development plan policies are out-of-date due to the Core Strategy being adopted in 2014, prior to the latest iteration of the Framework. However, as per paragraph 219 of the Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Instead, due weight should be given in accordance to their degree of consistency with the Framework. As has been previously highlighted, Policy CP8 is consistent with the provisions of the Framework as it sets out the requirement to protect the openness of the Green Belt in line with national planning policy.
15. My attention has also been drawn to the fact that the Council's Local Plan Partial Update (LPPU) was found sound and adopted in January 2023 (following examination). Notably, neither Policy CP8 of the Core Strategy or GB1 of the Placemaking Plan were found to be in need of updating as part of the Local Plan review. As such, based on the information before me, I have not found the relevant development plan policies to be out-of-date.
16. The proposed dwelling would be located within a built-up frontage, on land that appears to have been largely kept in a rather unmanaged state. Despite this, I am not convinced that the proposed development would visually improve the character or appearance of the site. However, given the scale and design of the proposal, its degree of prominence from public vantage points, and the nature of neighbouring development, I consider the proposal would be likely to have a neutral impact on the character and appearance of the area. The proposed development would therefore conserve the natural beauty of the Cotswolds Area of Outstanding Natural Beauty. It would also not have any appreciable impact on the outstanding universal values of the Bath World Heritage Site. However, this is to be expected of development proposals and therefore are neutral matters in the planning balance.
17. Similarly, adherence with other development plan policies in relation to matters including neighbouring amenity, highway safety, drainage and sustainability is also to be expected of new development and therefore does not weigh in favour of the scheme.
18. The presumption in favour of sustainable development at paragraph 11 of the Framework has been referred to by the appellant. However, this does not change the statutory status of the development plan, which remains the starting point for decision-making. Furthermore, no robust evidence has been submitted to suggest that the Council cannot demonstrate a five-year housing land supply. In any case, paragraph 11 di) of the Framework specifies that permission should be granted, unless the application of policies in the Framework that protect areas of particular importance, including Green Belt land, provide clear reason for refusing the development proposed. In this instance, there are clear reasons for refusing the proposed development, so the presumption in favour of sustainable development does not apply.

Green Belt Balance

19. The proposal is inappropriate development in the Green Belt that would result in a small loss of openness. The inappropriateness and the harm to openness carry substantial weight. The Framework establishes that development should therefore not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
20. Overall, I find that together the matters that the appellant has put forward do not amount to very special circumstances that are needed to justify inappropriate development in the Green Belt.

Conclusion

21. For the reasons outlined above, the appeal is dismissed.

Lewis Condé

INSPECTOR