



Appeal Decision

Site visit made on 15 August 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2023

Appeal Ref: APP/Y3940/W/23/3318442

2 Oakencliffe, Warminster Road, Monkton Combe BA2 7HZ

- 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 Hillier against the decision of Wiltshire Council.
 - The application Ref 20/09856/FUL, dated 6 November 2020, was refused by notice dated 20 September 2022.
 - The development proposed is erection of garage, access and drive.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The site falls within a consultation zone for the Bradford-on-Avon Bat Special Area of Conservation (SAC). I will return to this matter below.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework),
 - the effect of the proposal on the openness and purposes of the Green Belt,
 - the effect of the proposal on the landscape and scenic beauty of the Cotswold Area of Outstanding Natural Beauty (AONB),
 - the effect of the proposal on highway safety with particular regard to visibility,
 - the effect of the proposal on protected species and European and International sites, and
 - 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

4. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as

inappropriate, subject to a number of exceptions as set out in paragraph 149. One such exception being the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework defines the original building as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was originally built.'

5. Although the proposal is for a detached garage, as the building would serve the main dwelling, for the purposes of paragraph 149 of the Framework I consider the building an extension to the main dwelling.
6. The Council have provided details and calculations of the volume of the original dwelling on the site and appeal proposal. Although the applicant disputes the volume calculation for the proposed access, the appellant does not dispute the Council's calculations in relation to the original building and proposed garage. I have no reason to disagree.
7. The Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement.
8. The appeal proposal would see the construction of a new detached garage of considerable volume. This would be in addition to the extensions to the existing dwelling that have already significantly increased the size of the original building. It would also be in addition to previous planning permissions for replacement dwellings on the site that increase the size of the dwelling further¹. In light of these significant increases over and above the size of the original dwelling, the addition of the proposed garage of considerable additional volume would result in a disproportionate addition over and above the size of the original dwelling.
9. Consequently, I find that by reason of the resultant disproportionate additions, the garage forming part of the appeal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Paragraph 149(c) of the Framework.
10. The proposed access and access road do not fall within the list of exceptions under paragraph 149 of the Framework. They are however covered under paragraph 150 of the Framework as engineering operations that are not inappropriate in the Green Belt provided, they preserve its openness and do not conflict with the purposes of including land within it which I deal with below.

Openness and purposes

11. Paragraph 137 of the Framework states that the essential characteristic of Green Belts is their openness.
12. The provision of the double garage with an upper floor within the roof, and associated engineering operations forming the access and access road, would be solid, man-made features where no buildings or similar access currently exist. As such, they would have a spatial effect on openness. The site can be seen from the B3108 and would be glimpsed through trees from the playing

¹ PL/2021/09930 and 18/05192/FUL

fields broadly to north and from the railway line and beyond broadly to the east. The building, access and associated activity would therefore have a visual effect on openness.

13. Whilst the proposed new tree planting would help to screen the building, this would be likely to take time to establish and would not reduce the spatial impact from the proposal or be likely to mitigate the full visual impact from the building and access from all surrounding views.
14. In light of the above, the proposal would have an effect on the openness of the Green Belt in spatial and visual terms.
15. Paragraph 138 of the Framework lists the five purposes that the Green Belt serves. One of these purposes is to safeguard the countryside from encroachment. Considering the spatial and visual effect on openness from a site on rising land, and as the proposal would be visible and add to the existing development in the area, it would result in development that encroaches into the countryside. As a result, the proposal would be contrary to the purpose detailed within paragraph 138 c) of the Framework.

Landscape and Scenic beauty

16. The appeal site forms part of a garden and is located on rising land off the B3108. There are a couple of trees on adjoining land overhanging part of the site but otherwise the site is open and can be viewed from the road roughly to the north and east of the site, from the railway line and further beyond broadly to the east.
17. The appeal site is located within the AONB. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's and that the scale and extent of development in these designated areas should be limited. The AONB in this location is characterised by generally undeveloped undulating farmland and woodland and by the valley floor containing the river Avon.
18. Whilst the proposed garage would be of a suitable design and appearance and relatively limited in scale and extent, it is proposed in a prominent elevated position on rising land physically and visually detached from the associated dwelling. By reason of this, the proposal would result in the introduction of the garage and associated access that would be overly prominent and incongruous in the landscape. This would have a harmful urbanising effect on the area failing to conserve or enhance the landscape and scenic beauty of the AONB.
19. I have found above that the planting proposed to screen the building would be likely to take time to establish and be unlikely to fully screen the full extent of the building and access from all surrounding viewpoints. Although there would be wider benefits from the planting of new trees, this would not adequately screen the development or outweigh the harmful visual impact from the proposal in the landscape.
20. In light of the above, I conclude that the proposal would be harmful to the landscape and scenic beauty of the AONB to which I give great weight. As such, it is contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy (January 2015) (CS) and the Framework. Amongst other things, these seek to protect, conserve and where possible enhance landscape character, afford

great weight to conserving and enhancing landscapes and scenic beauty, and ensure high quality design relating positively to landscape setting.

Highway safety

21. The existing dwelling does not benefit from vehicular access. At present, the appellant uses a substandard informal pull-in lay-by off the A36 to park as detailed within the appellants Highway Consultants Technical Notes and reports. This lay-by would be closed off if planning permission is granted for the new access.
22. The proposed access would be off the B3108 close to a bend in the road. I witnessed at my site visit that cars were generally travelling below the speed limit and within their respective lanes in both directions due to limited visibility created by the bend in the road.
23. The Framework sets out at paragraph 110 that applications for development should ensure that safe and suitable access can be achieved for all users. In this instance, visibility splays are necessary to ensure the safety of users of the B3108 including those exiting the proposed access.
24. Even if I were to accept the appellant's latest visibility splays/figures the proposal would have reduced visibility to the left compared to that required by Manual for Streets 2. This reduced visibility also relies upon a sight line across adjoining land outside of the ownership or control of the appellant. I have not been presented with a formal mechanism to provide certainty that the visibility splay would remain free from obstruction. If the visibility were to become obstructed, drivers exiting the access would have very limited views of users of the highway to the left, which as well as vehicles could include vulnerable road users including horse riders and cyclists. Similarly, other road users would have limited advance warning of vehicles exiting the access. These concerns would not be adequately addressed or overcome through the provision of signage or by the adjacent bank being constructed from materials restricting significant growth of vegetation. I do not find that the reliance on the neighbouring landowner informally maintaining the visibility splay free from obstruction for their own benefit provides adequate certainty or justification for the proposal. This is particularly the case given the neighbouring dwelling benefits from an alternative vehicular access further from the appeal site with better visibility.
25. Whilst the appellant proposes to cease the use of the existing informal pull-in lay-by off the A36, which would provide a benefit to highway safety and improved parking for visitors and deliveries, any benefit would be offset by the resulting harm to highway safety from the proposed access. In light of the reduced visibility from the proposed access close to a bend, sight line across land outside of the control of the appellant, and lack of evidence of any vehicular accidents or harm to pedestrians at, or caused by, the existing lay-by on the A36, I do not find that the proposal provides a benefit over the existing access adequate to justify the proposal. I find this to be the case even noting that this alternative location was previously suggested to the appellant by the Council, that vehicle speeds and numbers are generally lower on the B3108 than the A36, and that the new access would allow the appellant to exit their site in both directions potentially reducing travel distances and aiding a reduction in the use of the car.

26. I therefore conclude that the proposal would cause harm to highway safety with particular regard to visibility. As a result, it would be contrary to Core Policies 57, 61 and 62 of the CS and the Framework. Amongst other things, these seek a high standard of design with roads designed to create places which are safe, that the proposal is capable of being served by safe access to the highway network, and provide appropriate mitigating measures to offset any adverse impacts on the transport network.

Protected species and integrity of European and international sites

27. The site forms part of the residential garden to the appeal property and although it was slightly overgrown and not laid out as a formally used garden at the time of my site visit, as a garden area it could be maintained, mowed, or strimmed at any time. The proposal would require the removal of some of this vegetation.
28. As stated above, the site falls within a Consultation Zone for the Bradford-on-Avon Bat SAC comprising of a network of significant underground sites, network of caves, mines and man-made tunnels. The SAC is protected via the Habitats Directive, which is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I am statutorily required to take appropriate steps to conserve biodiversity.
29. The SAC is designated in order to protect the population of bats and prevent damage to bat roosts, feeding areas and routes used for travel by bats. Loss, damage or disturbance of individual roosts can degrade the integrity of the overall roost network and bat populations. Loss, damage or changes to foraging habitats and/or commuting routes can impact upon the availability of food and therefore effect population numbers.
30. Where development falls within one of the Core Areas as identified within Appendix 2 of the Bat Special Areas of Conservation Planning Guidance for Wiltshire (PG) and could potentially affect one or more features, potential impacts should be considered at an early stage in order to inform site selection and scheme design and timetables. Paragraph 4.1 of the PG outlines the broad impacts to be considered at an early stage.
31. Considering the lack of trees on the site, relatively small extent of footprint, given the site can be mowed or strimmed at any time, where artificial lighting and activity can already take place, and in the absence of any history of protected species on the site, I find that the sites value for protected species is likely to be very limited, if any. Moreover, in light of its use as part of the garden to the appeal property, I do not find that the appeal proposal falls under any of the categories within paragraph 4.1 to the PG detailing the circumstances when broad impacts upon bats should be considered. Consequently, I am satisfied that likely significant effects to the ecological integrity of the SAC would be avoided.
32. In light of the above, I conclude that the proposal would not have a harmful impact upon protected species or the integrity of European or international sites. As such, it would not be contrary to Core Policy 50 of the CS and the Framework. Amongst other things, these seek to ensure that development proposals demonstrate how they protect features of nature conservation value,

would have no adverse effect upon Natura 2000 network and integrity of a European nature conservation site and protect and enhance biodiversity.

Other considerations

33. The appellant considers that the benefits to highway safety from the new access, with regard to the removal of the use of the existing pull-in lay-by off the A36, weigh in favour of the proposal. However, as I have identified above, the proposed access would in itself be unsafe and be harmful to highway safety. As a result, the proposal would not improve highway safety and I therefore give the cessation of the use of the existing lay-by little weight.

Conclusion

34. The proposal results in a harmful loss of openness to the Green Belt. As a result, the proposal would be inappropriate development in terms set out by the Framework. The Framework requires substantial weight to be given to any harm to the Green Belt. This weighs heavily against the proposal.
35. In this context, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. I have given little weight to the other considerations cited in favour of the development. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the scheme do not therefore exist.
36. Overall, for the reasons given above, the proposal conflicts with the development plan and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

C Rose

INSPECTOR