



Appeal Decision

Site visit made on 24 November 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/D0121/W/23/3318875

10 Dial Lane, Felton, North Somerset BS40 9YD

- 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 Mrs Sarah Wilkinson against the decision of North Somerset Council.
 - The application Ref 22/P/2885/FUL, dated 2 December 2022, was refused by notice dated 15 March 2023.
 - The development proposed is Proposed change of use of land to use for the siting of 2no. mobile pod units to provide overnight visitor accommodation and associated soft/hard landscaping works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for the award of costs has been made by North Somerset Council against Mrs Sarah Wilkinson, which is subject to a separate decision.

Preliminary Matters

3. The appellant has indicated that the proposed development could be sited in alternative locations on land that she owns or that pods of differing design could be used to reduce the proposal's impacts. However, as advised in the Procedural Guide: Planning Appeals England, the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme as what was considered by the LPA at the application stage. Additionally, no detailed plans of the alternative options have been provided by the appellant.
4. Accordingly, the appeal has been considered against the scheme that the Council based its decision on.

Main Issues

5. The main issues are:
 - a) whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan policy;
 - b) the effect on the openness of the Green Belt;
 - c) the effect on the character and appearance of the site;

- d) whether the appeal proposal is suitable having regard to the Council's development plan policies in relation to the promotion of agricultural diversification and/or tourism;
- e) whether the proposed development would have a likely significant effect, alone or in combination with other plans and projects, on the North Somerset and Mendip Horseshoe Bats Special Area of Conservation (the SAC); and
- f) if it is inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt – whether inappropriate development including effect on openness

- 6. The site is located within the Bristol and Bath Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy DM12 of the North Somerset Sites and Policies Plan Part 1 (adopted 2016) (the Part 1 Plan) reflects the objectives of the Framework and applies them to a local context.
- 7. The proposal would involve the installation of two mobile pod units each measuring approximately 3m in width by 5.8m in length and 2.7m in height. The units would also be served by parking spaces, whilst new boundary fencing is proposed to provide the units with their own curtilage/garden space. Despite being termed 'mobile pods' they would therefore have a significant degree of permanence. Furthermore, Section 336 of the Town and Country Planning Act 1990 (as amended) (the TCPA) states that a building includes any structure or erection. I therefore consider the proposed accommodation units to be buildings.
- 8. 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.
- 9. One such exception is for the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. However, to my mind, the proposed development would be tourist accommodation rather than a facility for outdoor recreation and as a result would not meet this criterion.
- 10. In coming to this view, I am mindful of the Inspector's decision¹ for a relatively recent appeal of a similar nature in the authority area, while no suitable justification has been provided to convince me otherwise that the scheme is for outdoor recreation.

¹ APP/D0121/W/18/3216683

11. Furthermore, even, if the proposal met the definition of a facility for the purpose of outdoor recreation, it would result in the introduction of two fairly sizeable structures, along with associated activities and paraphernalia (e.g. vehicle parking, fencing, people sitting outside etc.). The visual impact of the proposal would therefore fundamentally alter the perception of openness at the site. As such, it would fail to preserve the openness of the Green Belt and would not fulfil the requirements of criteria 149(b) in any case.
12. Consequently, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It therefore conflicts with Policy DM12 of Part 1 Plan and associated policies of the Framework which seek to protect the Green Belt from encroachment. Paragraph 148 of the Framework requires me to attribute substantial weight to this harm.
13. The Council has also referenced Policy CS6 of the North Somerset Core Strategy (adopted 2017) (the Core Strategy) in its reason for refusal. However, my reading of the policy is that it relates specifically to changes to the detailed boundaries of the Green Belt, as opposed to development that is to take place within it. I therefore do not consider it to be relevant to the appeal scheme.

Character and Appearance

14. The appeal site consists of a large, relatively flat area of pastoral land that forms part of a wider series of agricultural fields.
15. The site is located within Landscape Character Area G1 (Broadfield Down Settled Limestone Plateau) as identified in the North Somerset Landscape Character Assessment Supplementary Planning Document (adopted 2018) (the Landscape SPD). Indeed, from my observations, the site shares typical positive attributes of this wider character area, including being of relatively open and flat to gently undulating upland.
16. The Landscape SPD identifies pressures that are being placed upon the landscape in the area, which include the encroachment of development around rural roads and villages, as well as proliferation of development, including buildings, infrastructure and signage associated with Bristol airport.
17. The proposal would introduce two sizeable tourism accommodation units, together with formalised boundaries, parking spaces and associated paraphernalia in an otherwise largely open and rural parcel of land. The proposed development would be set some distance from existing buildings and would appear as a highly urbanising addition to this largely undeveloped field.
18. The visual impacts of the proposal would be highly prominent from existing stretches of the nearby public right of way (PROW). I recognise that the PROW would need to be diverted to enable the proposal to take place, but even if this were to be permitted, the proposed development is likely to remain visually prominent from a slightly diverted PROW. Additionally, despite the presence of boundary vegetation to adjoining parcels of land, wider range views of the appeal proposal would remain, particularly during winter periods when vegetation is not in leaf.
19. Accordingly, the proposal would harm the rural character of the site and surrounding area. It would therefore conflict with Core Strategy Policies CS5 and CS12, Policies DM10 and DM32 of the Part 1 Plan, and the aims of the Landscape SPD. Together these policies and guidance, amongst other matters,

seek to promote development of a high-quality design that is sensitive to its context, including landscape character.

Agricultural Diversification/Tourism

20. The appeal site is located in the countryside outside of a defined settlement boundary, whereby the Council's development plan policies seek to strictly control development to protect the character of the countryside and prevent unsustainable development, subject to certain exceptions.
21. Notably, Policy DM51 of the Part 1 Plan, provides support for development involving farm and rural diversification. This is subject to several requirements, including: that the development is necessary for and ancillary to the use of land, for viable agricultural or land-based rural business purposes; there is sufficient certainty of long-term benefit to the farm business and agricultural operations; and that the siting and design of the building respects its rural setting.
22. No detailed evidence has been provided to support the appellant's claims that the proposal would provide much needed support through rural diversification. For example, there are no specific details of the existing farm business before me, including its operations, its current financial performance, the need for diversification, or the likely financial boost that the proposal would result in. Consequently, the proposal conflicts with the requirements of Policy DM51.
23. Meanwhile, Core Strategy Policy CS22 provides support for the development of tourism facilities and accommodation, again subject to several criteria being met. This includes that proposals have no adverse implications for the environment and character of the area. As detailed above, the appeal scheme would harm the rural character of the area and therefore the proposal is also contrary to Core Strategy Policy CS22.
24. The appeal scheme therefore conflicts with the Council's development strategy in relation to agricultural diversification and tourism proposals.
25. Policy DM57 of the Part 1 Plan has also been referred to by the Council on its decision notice. However, given the proposal does not involve the conversion or re-use of an existing rural building for visitor accommodation, I do not consider it to be relevant.

The North Somerset and Mendip Horseshoe Bats SAC

26. The appeal site lies within the catchment zone of the North Somerset and Mendip Bats Special Area of Conservation (SAC). This has been established to protect greater and lesser horseshoe bat navigation and foraging habitats, and to ensure that associated roosts continue to be maintained in suitable conditions and remain viable.
27. Given the site's location relative to the SAC, and its rural characteristics including general absence of lighting, presence of nearby trees and hedgerows it seems likely that the site may be functionally linked to the SAC. The proposal would also involve works to hedgerows to facilitate access to the proposed tourism accommodation units.
28. Having regard to the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) it is therefore necessary that an 'Appropriate

Assessment' is carried out. The Habitat Regulations establish that permission may only be granted having ascertained that the proposed scheme would not adversely affect the integrity of the European site.

29. No ecological surveys of the site have been provided. The appellant has referred to two previous protected species reports that have been completed for the site, albeit copies of these have not been provided, nor have the results of associated surveys been identified². It is therefore unclear what previous survey work was undertaken, when it was complete, the relevant findings, and if the findings remain valid.
30. Based on the evidence before me, there is significant doubt regarding the potential effect of the proposed development. The absence of sufficient information regarding bats at the site means I cannot rule out potentially significant harm to biodiversity.
31. I must also consider whether there are any imperative reasons of overriding public interest for the development to proceed. The provision of two tourist accommodation units, taking into account the merits of the case and the modest scale of the development, is not sufficient to amount to such overriding public interest.
32. The proposed development could result in harm to the integrity of the SAC. It would therefore conflict with the requirements of the Habitat Regulations and permission should not be granted for the scheme. The proposal would also be contrary to Policy CS4 of the Core Strategy, Policy DM8 of the Part 1 Plan, and relevant provisions of the Framework, which together seek to conserve and enhance biodiversity, while preventing development that would harm sites of European importance.
33. Likewise, it is also contrary to the Council's guidance contained within the North Somerset and Mendip Bats Special Area of Conservation Guidance on Development: Supplementary Planning Document (adopted 2018) and the Biodiversity and Trees Supplementary Planning Document (adopted 2005), which again promote the conservation and enhancement of biodiversity.

Other Considerations

34. I appreciate that there may be a high-demand for the proposed accommodation, particularly given recent tourism trends in the UK. Likewise, although not quantified, I appreciate that the proposal would provide some economic benefits to the wider area through associated visitor spending. However, given the scale of the scheme such benefits are likely to be limited.
35. Reference has been made by the appellant to planning permissions for other developments in the Green Belt within the authority area. These include glamping proposals, the provision of a mobile home, as well as nearby developments for two dwellings. I have limited details of the other schemes referred to, including the justification provided for those proposals. However, from the information available it seems that they were of an entirely different context to the proposal before me. In particular, it seems that the permissions referred to were either for a different type of development (e.g. residential or an agricultural workers dwelling as opposed to tourism use) or were subject to

² Given that the appeal is also failing on other grounds, copies of the surveys referred to were not requested.

different site and policy contexts (including their planning histories). As such, these examples do not weigh in favour of the current appeal proposal.

Planning Balance and Conclusion

36. The proposed development would not preserve the openness of the Green Belt. It therefore would result in inappropriate development in the Green Belt. The Framework makes clear that substantial weight should be given to any harm to the Green Belt. It further establishes that the very special circumstances needed to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations.
37. I have given limited weight to the other considerations cited in favour of the proposed development. These would not clearly outweigh the harm the proposal would cause to the Green Belt. The very special circumstances to justify the proposed development therefore do not exist.
38. In addition, the proposal would conflict with the Council's development plan policies in respect of agricultural diversification and tourism developments, whilst it would also cause harm to the character and appearance of the area and the SAC. The benefits of the proposed development would also not outweigh these harms.
39. For these reasons, and having regard to all relevant matters, the appeal is dismissed.

Lewis Condé

INSPECTOR