



Appeal Decision

Site visit made on 19 February 2024

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/D0121/W/23/3320020

The Lodge, Hospital Road, Barrow Gurney, BS48 3SF

- 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 Nick Bracey against the decision of North Somerset Council.
 - The application Ref 22/P/1324/FUL, dated 25 May 2022, was refused by notice dated 7 October 2022.
 - The development proposed is demolition of existing building and erection of 3 no. residential dwellings with associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address of the appeal site from the appellant's appeal form and the decision notice as this more accurately describes its location than that on the application form.

Main Issues

3. The main issues are:
 - Whether the development is inappropriate development within the Green Belt;
 - The effect of the development on the openness of the Green Belt;
 - Whether the proposal is in an appropriate location for housing;
 - The effect of the proposal on biodiversity with particular regards to bats;
 - The effect of the proposal on trees; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Reasons

Inappropriate development

4. Policy DM12 of the Development Management Policies Sites and Policies Plan Part 1 2016 (the PSPP) states that limited infilling and redevelopment will not be regarded as inappropriate within those villages washed over by Green Belt, but which have retained their settlement boundaries. The appeal site is not

located within a village or settlement boundary as defined within the PSPP and therefore the proposal would be contrary to the policy.

5. The National Planning Policy Framework (the Framework) regards the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions, one of which is limited infilling in villages. While the appeal site is not within a development plan defined village, the Framework provides no such definition.
6. From my observations on site, although the appeal site itself is not isolated, being near to other housing, it is within a housing estate of, according to the appellant, approximately 123 dwellings. While this may be more houses than in the village of Barrow Gurney itself, I saw no services or facilities that would commonly be associated with a village. Barrow Gurney is divorced from the areas of new housing, where the appeal site is located, by a significant area of countryside. Therefore, I do not consider the appeal site to be part of a village for the purposes of the Framework.
7. Even if I were to consider the appeal site to be in a village, the development would also need to constitute limited infilling which is also not defined.
8. The appeal site is located on the corner of Hospital Road and Winstones Road. To the rear of the site is a road (Clover Hill Way) and then an area of dense woodland. To the west is Winstones Road and then a row of terraced houses. To the east is an unnamed road and an existing development site.
9. The location plan supplied by the appellant shows a house to be constructed to the east of the appeal site. However, this would conflict with the road currently in place. Even if this road were not permanent, there is no definitive evidence before me, in the form of approved plans, showing the permitted layout of the adjacent development.
10. Even if there were to be a house to the east, Winstones Road to the west provides a clear gap before the existing housing. Furthermore, the proposal for three houses, with two on the road frontage and one to the rear, would not constitute the infilling of a gap with a continuous frontage, particularly given that there is only woodland to the rear and no built development. I am consequently not persuaded that this would be infilling. Equally therefore, I do not consider that the proposal would benefit from the exception of limited infilling of previously developed land under paragraph 154g of the Framework.
11. For the reasons above, I conclude that the proposal would be inappropriate development contrary to Policy DM12 of the PSPP and the Framework. As I have found the development to be inappropriate then I have gone on to consider the effect of openness.
12. The Council also refers to Policy CS6 of the North Somerset Core Strategy 2017 (the Core Strategy). However, this refers only to the potential for amendments to the Green Belt boundary. It has not therefore been determinative.

Effect on openness

13. There is an existing building on the appeal site which would be demolished to make way for the proposed houses. I saw that the existing building is two storey and takes up a small proportion of the site, the remainder being grass and garden area. The proposed houses, also two storeys, would cover the

majority of the site and therefore have a significant effect on spatial openness. The proposal would be visible from the immediate locality, although less so from further afield due to the dense tree cover.

14. For the reasons above the proposal would have a significant harmful effect on openness.

Appropriate location

15. The appeal site lies outside of any established settlement boundary and therefore, for the purposes of the development plan, is considered to be in the open countryside where development is strictly controlled within the spatial strategy. Open market housing, as proposed here, would not accord with any of the exceptions to development in the open countryside. The proposal would therefore conflict with the spatial strategy.
16. Policy CS33 of the Core Strategy explains that development in the countryside is restricted to protect the character of rural areas and prevent unsustainable development. In this instance, the existing building on site together with garden area, means that the proposed three houses with residential gardens would not materially harmfully affect the rural character of the immediate area. Particularly given the existing housing located within the wooded area and the current use and layout of the land.
17. However, the appeal site is located some distance from essential services and facilities at Long Ashton, down narrow country lanes, although a footway is available. Nevertheless, given the distance I consider it more likely that people would use their car, particularly in the dark or at times of inclement weather. Furthermore, my attention has not been drawn to any bus services. Monarchs Way would be improved as part of the implementation of extant planning permissions on the nearby housing developments and this would link to Long Ashton, but it would still be about a mile to the nearest shop.
18. I appreciate that the Council has granted planning permission for a large number of houses on the nearby former hospital site. However, the hospital site formed a residential allocation in the development plan. The allocation did not include the appeal site and therefore was subject to different policy considerations.
19. Therefore, the proposal is in a relatively inaccessible location by other means conveniently than by the car. However, it is a short distance to the services and the three dwellings would generate few trips, particularly given the amount of development on the adjacent allocated site. Therefore any harm caused by the conflict with the spatial strategy would be minor, especially given the lack of harm to the character of the area.
20. The appellant draws my attention to another planning application which the Council supports in the wider hospital location¹ with no reference to its inaccessible location. While there may be some similarities, I have found some harm minor harm based on the evidence before me, which I cannot be sure is the same for the other planning application.
21. For the reasons above, I conclude that the proposal would not be in an appropriate location for housing and therefore would conflict with Policies

¹ 22/P/2513/FUL

CS14 and CS33 of the Core Strategy and Policy SA2 of the PSPP. These require that development takes place within settlement boundaries unless within an allocation or is sustainable development and is a replacement dwelling, residential subdivision or conversion or is for essential rural workers.

22. The Council also refers to Policies CS1, CS13 and CS32 of the Core Strategy. Policy CS1 is regarding addressing climate change and my attention has not been drawn to the criteria with which the Council alleges conflict. The criterion regarding maximising sustainable transport solutions relates to ten dwellings or more which is not the case here. Policy CS13 is regarding the supply of deliverable and developable land for delivering a minimum of 20,985 houses. I am not sure what the alleged conflict is here. Policy CS32 is regarding development in service villages which is not relevant to the proposal given the location of the appeal site in the open countryside. These policies have not therefore been determinative.

Biodiversity

23. The former Barrow hospital site supports a nationally significant maternity and hibernating population of Lesser Horseshoe bats, mostly using Bat House A (in Charcoal Wood) and Bat House B (in Ridings Wood). All the remaining woodland at the former hospital site provides highly suitable Lesser Horseshoe bat habitat and Natural England consider it to be supporting habitat for the North Somerset and Mendip Bats Special Area of Conservation (the SAC) in addition to core foraging habitat supporting the maternity roost in Bat House A.
24. Following surveys by the appellant the building on the appeal site has been found to have high potential for roosting bats. This is due to the presence of numerous crevice roosting features on the external of the building and access internally of the building for bats. Following further emergence/re-entry surveys it was confirmed that the building is a bat roost and contains summer day roosts (non-breeding) for lesser horseshoe, common pipistrelle and soprano pipistrelle bats.
25. The appeal site is within the consultation zone banding associated with the SAC. In addition the presence of a Lesser Horseshoe Bat roost on the appeal site triggers the requirement of an appropriate assessment under the Habitat Regulation Assessment process in accordance with the North Somerset and Mendip Bats Special Area of Conservation Guidance on Development: Supplementary Planning Document 2018 (the Bats SPD).
26. The proposal is to demolish the building. Therefore, it is likely that the proposal, in the absence of mitigation measures, would have a significant adverse effect on the integrity of the SAC. The appellant proposes that a replacement roost be provided within one of the car ports prior to the demolition of the building. While the provision prior to demolition is laudable, I share the concerns of Natural England that following its provision it would be subject to considerable noise and disturbance as well as lighting from the demolition of the building and the subsequent construction of the proposed houses. This would reduce the likelihood of it being used.
27. The appellant's light spill plan shows that once the houses are occupied there would be small areas of light spill associated with windows when curtains are open above 0.4 lux which he considers could be navigated away from on the vertical plane by light sensitive horseshoe bats. Even if this were the case, the

light spill only relates to internal light sources as no external light sources are proposed. I consider that a condition restricting external light sources for the dwellings, would not be appropriate, as it would not be reasonable for prospective residents to have no external lighting associated with the private areas of their homes. Furthermore, there is no informative detail before me of how the roost would be constructed within the car port and how access by residents would be prevented in the future.

28. The appellant has discounted Natural England's preferred solution of a replacement roost off site due to the potential for vandalism. However, I have seen no substantive evidence to suggest this would be the case and the provision of thorny planting around the entrance would be a good preventative measure.
29. The provision of the replacement roost in the car port would therefore not provide appropriate mitigation in this instance given the probable noise, disturbance and lighting during the construction of the dwellings and the potential for light disturbance once the houses are occupied which would prevent the replacement roost being used. Consequently, it would not maintain the favourable conservation status of the lesser horseshoe bats and harm the integrity of the SAC.
30. For the reasons above, I conclude that the proposal would be harmful to biodiversity having particular regard to bats, contrary to policy CS4 of the Core Strategy, policy DM8 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset 'Biodiversity and Trees' Supplementary Planning Document 2005 (the Biodiversity and Trees SPD) and the Bats SPD. Together these require that biodiversity is protected, and appropriate mitigation implemented.

Trees

31. There was a protected tree on the appeal site. However, this was felled, with permission from the Council, due to its poor condition and threat to safety evidenced by appropriate tree surveys. Although the Council considers the removal of the tree could have been avoided as, in its view, poor building practices contributed to its poor health, the tree has now been removed. The case at issue is whether the compensatory tree proposed within the appeal site would be an adequate replacement.
32. From the evidence I have, the tree that was removed was a mature beech tree of about 20 metres height with a one sided canopy being part of a former group of three trees. The survey estimated less than 30 years of life for the tree. Nevertheless, it was a tall tree which had a presence in the streetscene given its location where trees are an important part of the local character and appearance of the area.
33. The proposal would be to replace the tree with one in the garden of plot 3 of a native species in accordance with paragraph 6.7.3 of the appellant's tree survey undertaken in 2022. Its provision and exact specification could be the subject of a condition. While the tree would be sited in the rear garden of Plot 3 it would be close to the garage of plot 2. However, there would still be some space and if the right species is chosen then there is no substantive evidence before me to suggest that the tree would not grow to a significant size. I understand that being a private garden the tree may be subject to requests for work. However, given that it would be the subject of a TPO the Council would

be able to control those requests and given it is a sufficient distance from the house I am not convinced that these would lead to the tree being harmed. Furthermore, as the existing area has a highly wooded character the replacement of one tree would not have a significantly material effect on landscape character.

34. For the reasons above, I conclude that the proposal would not have a materially harmful effect on trees. There would therefore be no conflict with Policy CS4, CS5, CS9 and CS12 of the Core Strategy, policies DM8, DM9, DM10 and DM32 of the PSPP and the North Somerset 'Biodiversity and Trees' Supplementary Planning Document. Together these require development to have a high standard of design that takes account of existing trees and ensure landscape character is protected.

Other Considerations

35. The proposal would provide three dwellings at a time when the Council is unable to demonstrate a five year housing land supply. The social and economic benefits associated with their provision, construction and the contribution of residents spend to the economy would be significant in this context.

Conclusion

36. I have found that the proposal would be inappropriate development in the Green Belt and would be harmful to openness. Together these attract substantial harm. In addition the proposal would cause harm to biodiversity by failing to provide appropriate mitigation to which I give significant weight. The appeal site would also not be in an appropriate location for housing to which I give minor weight. Even allowing for reduced weight to the conflict with the spatial strategy, in this respect 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 development do not exist.
37. The proposal would be in conflict with the development plan taken as a whole given the conflict with the policies regarding the protection of the Green Belt, the spatial strategy and the protection of biodiversity. However, the lack of a five year housing land supply means that the policies most important for the determination of the appeal are out of date. Nevertheless, in accordance with paragraph 11d)1) I have found that the application of Policies in the Framework that protect the Green Belt provide a clear reason for refusing the development proposed. There are no material considerations in this case that indicate a decision other than in accordance with the development plan.
38. In light of the above, and having considered all other matters, the appeal is dismissed.

Zoe Raygen

INSPECTOR