



# Appeal Decision

Site visit made on 11 June 2024

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 09 August 2024**

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**Appeal Ref: APP/P0119/W/23/3329142**

**206 Henfield Road, Coalpit Heath, South Gloucestershire BS36 2UJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Mark Elliot against the decision of South Gloucestershire Council.
  - The application Ref is P23/00051/F.
  - The development proposed is the demolition of residential annex, garage and storage shed and erection of 1no. (self-build) dwelling with access, landscaping and associated works.
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of residential annex, garage and storage shed and erection of 1no. (self-build) dwelling with access, landscaping and associated works at 206 Henfield Road, Coalpit Heath, South Gloucestershire BS36 2UJ in accordance with the terms of the application, Ref P23/00051/F, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The appeal site is within the Green Belt. The main parties agree that the proposal would not represent inappropriate development in the Green Belt as defined in the National Planning Policy Framework (the Framework). I concur with that position.
3. The proposed development is described as a 'self-build' dwelling. However, in the absence of a unilateral undertaking<sup>1</sup> to secure the proposed development as such, there is no mechanism before me to secure the dwelling as a self-build unit. Consequently, the proposal falls to be considered as an open market dwelling and for the avoidance of doubt, I have determined the appeal on this basis.
4. The Council's fourth refusal reason refers to Policy PSP3 of the South Gloucestershire Local Plan: Core Strategy (Adopted) 2017. However, its submissions indicate that it is in fact Policy PSP3 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (adopted November 2017).
5. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement of the same date, which is a material consideration, the changes to the Framework can only

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<sup>1</sup> pursuant to Section 106 of the Town and Country Planning Act 1990

be given limited weight at this stage, given that no final document has been published.

### **Main Issues**

6. The main issues are:

- whether the development would be in a suitable location, with particular regard to the development strategy;
- the effect of the proposed development on the character and appearance of the area;
- the living conditions of future occupiers of the development having regard to light and outlook from bedroom 3; and
- the effect of the proposed development on trees.

### **Reasons**

#### *Location*

7. The appeal site is located beyond a defined settlement boundary and is therefore within an area of open countryside for the purposes of planning policy. Policy CS5 of the South Gloucestershire Local Plan: Core Strategy adopted December 2013 (CS) sets out the Council's development strategy with regards to the location of new development.
8. While Part 5 of Policy CS5 expressly refers to areas outside the Green Belt, Part 6 sets out the circumstances where new development may be permitted in the Green Belt and is therefore relevant to the appeal proposal. Such circumstances include small scale development within settlement boundaries as well as other proposals for development in the Green Belt where they comply with the provisions of the Framework or relevant local plan policies in the Core Strategy. There is no dispute between the parties that the proposal would comply with the Framework in relation to development within the Green Belt. Therefore, on the basis of the evidence before me, the proposal would not conflict with Policy CS5.
9. Policy PSP40 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan adopted 2017 (PSPP) sets out the types of residential development which are acceptable in the countryside. While I note the appellant's contention that the proposal would accord with parts i) to iv) of point 4 of Policy PSP40, permission is sought for the construction of a new dwelling to replace the existing ancillary outbuildings on the site which are to be demolished. Consequently, it would not represent the re-use of an existing building or a replacement dwelling and therefore the proposal, for a new build dwelling outside of a settlement boundary, would not fall within the exceptions listed in Policy PSP40.
10. Accordingly, the proposal would fail to accord with the aims of Policy PSP40 of the PSP and would not be in a suitable location for housing.

#### *Character and appearance*

11. The appeal site comprises the host property, an end terraced 2 storey dwelling, and its garden. It lies within a short row of properties, which form part of a

- linear group of dwellings of a similar design and appearance. The dwellings are orientated to front Henfield Road, with front gardens or parking areas between the dwellings and the highway. This arrangement creates a pleasant sense of uniformity to the street scene. To the rear of the properties there are a range of outbuildings, which vary in scale, design, and siting relative to the host dwellings, as well as parking areas and a range of domestic paraphernalia.
12. The appeal proposal seeks the construction of a single storey 3 bedroom dwelling to replace the existing outbuildings to the rear of the property. These include a residential annex, detached garage and shed. Access would be via the existing shared access drive to the rear part of the site.
  13. The proposal would represent the consolidation of the existing outbuildings at the site. The dwelling would be single storey and relatively low profile, with a stepped ridge line. It would be similar in height to the existing garage it would replace and have a hipped roof to the side elevation that would be visible in between the existing dwellings. In addition, by virtue of its position, to the rear of the existing dwellings and set back further on the site than the front gable of the existing garage, it would not be an unduly prominent or anomalous feature when viewed from Henfield Road.
  14. A new dwelling would be somewhat different in character to the residential annex and garage which currently occupy the rear section of the site. Nevertheless, despite the provision of a separate residential garden and parking to serve the new dwelling, it would not be significantly at odds to the current arrangement or give rise to a degree of intensification of residential uses to the detriment of the appearance of the site or locality. Moreover, it would not be dissimilar to the existing arrangement whereby buildings located to the rear of properties are a feature of the area immediately surrounding the appeal site. The proposal would not, therefore, be out of character with the pattern of development in the immediate locality.
  15. The remaining amenity space to serve the host dwelling would meet the requirements set out in Policy PSP43 of the PSPP and would be of a sufficient size and functional shape to meet the needs of the likely number of occupiers of the property. While it may differ in terms of design from those in the immediate context of the development, it has not been demonstrated as to how this would give rise to planning harm.
  16. For the foregoing reasons I find that the proposal would not harm the character and appearance of the area. In that regard it would accord with Policies CS1 and CS34 of the CS which require new development to achieve high standards of design and to protect, conserve and enhance the rural areas' distinctive character, Policy PSP1 of the PSPP which requires proposals to respond constructively to the buildings and characteristics that make a particularly positive contribution to the distinctiveness of the area/locality, PSPP Policy PSP38 which among other things, sets out that development should not prejudice the provision of adequate private amenity space, and PSPP Policy PSP43 which sets out private amenity space standards for residential development.

#### *Living conditions*

17. As well as a Hazel tree towards the rear boundary of the site, there are several early-mature and semi-mature trees within the rear gardens of the

neighbouring properties, beyond the site but close to the boundary. Due to the layout, the proposed development would feature windows in proximity to some of the mature trees within the garden of 204 Henfield Road (No 204). The Council's main concern relates to the proximity of the window that would serve bedroom 3 to a Field Maple (T04) within the garden of No 206 and the effect of this on light and outlook for future occupiers of the development.

18. The appeal submissions indicate that the tree is 7m tall, and I saw at my site visit that the canopy overhangs the site boundary. The proposed north facing window would face directly towards the existing boundary fence, where the tree would extend above it. Despite the limited separation distance between the window and the tree, by reason of the gap to either side of the canopy, and somewhat dappled effect of the branches and leaf coverage, the tree would nevertheless allow a degree of light to reach the window and would not appear as an unduly dominant feature. As such it would not have a significant harmful effect on the light or outlook of future occupiers of the property. Moreover, given that the Field Maple is a deciduous tree, any effects would be further reduced during the winter months when the tree is not in leaf.
19. Reference is made by the Council to the 25 degree and window-to-wall tests set out in its Technical Advice Note: Assessing Residential Amenity dated June 2016 in relation to natural light and outlook. However, this guidance clearly applies to direct facing buildings, the effects of which are not comparable to that of a tree, which is not a solid structure.
20. For the foregoing reasons, taking account of the height of the tree, and its proximity to the bedroom window, I find that the proposed development would provide suitable living conditions for the occupiers of the new dwelling, having regard to light and outlook. Accordingly, it would not conflict with Policy CS1 of the CS in so far as it requires development to achieve the highest possible standards of design and site planning and Policy PSP8 of the PSPP which sets out that development proposal(s) will be acceptable where they do not have an unacceptable impact on the residential amenity of occupiers of the development.

#### *Effect on trees*

21. An Arboricultural Report (AR)<sup>2</sup> including arboricultural constraints, an arboricultural impact assessment (AIA), tree protection and an arboricultural method statement was submitted as part of the previous planning application for similar development at the site. The same document was submitted as part of the planning application to which the appeal now relates, albeit for an alternative proposal.
22. While the Council has raised no objection to the siting of the building in relation to the effect on trees, concern is expressed regarding the position of the proposed drainage connection, and any associated excavation works, in relation to the root protection area of T02. While I note the Council's suggestion that due to the age of the AR, updated information is required regarding the measures to be employed to protect the tree from accidental damage, the AR confirms that any installation of drainage or services will be in accordance with Section 7.7 (Underground and above-ground utility apparatus)

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<sup>2</sup> Silverback arboricultural consultancy Ltd. Dated March 2021

of BS5837:2012. In addition, there is no clear evidence that a practical solution could not be achieved without harming the wellbeing of the tree.

23. Consequently, I am therefore satisfied that the development could be carried out in a manner which would safeguard the nearby trees and ensure their future health and vitality. As such, the proposal would not conflict with PSPP Policy PSP3 in so far as it requires development proposals to minimise the loss of existing vegetation.

### **Planning Balance**

24. The proposal would not accord with Policy PSP40 of the PSPP in terms of the location of the development. It therefore follows to consider whether other considerations justify allowing the appeal contrary to the development plan.
25. It appears that the Council can demonstrate an adequate supply of housing land. However, I have been provided with an appeal decision<sup>3</sup> in which, irrespective of the housing land supply position, on the basis of the failure of the local authorities concerned to agree an appropriate housing requirement, the Inspector found that Policies CS5 and PSP40, among others, were expressly found to be out of date, and I have no reason to disagree. Consequently, as the policies which are most important for determining this appeal are out of date, paragraph 11 of the Framework falls to be considered. Therefore, the benefits of the scheme and its adverse impacts need to be considered against the Framework policies as a whole.
26. The proposal would offer benefits in terms of housing supply, which is a key objective of the Framework, which seeks to significantly boost the supply of homes, albeit the benefits associated with a single unit would be tempered by the scale of the development. Nevertheless, this would still make a small contribution to the housing land supply and attracts some weight in favour of the proposal. The site benefits from accessibility to some local amenities and community facilities within a convenient distance from the site and accessible by means other than the private car. It is also a short distance from a bus stop which the appeal submissions indicate provides regular services to nearby settlements. While the proposal would not give rise to any harm in relation to the other main issues, this is a neutral factor.
27. Having regard to all material considerations together, I find the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. Therefore, the proposed development benefits from the presumption in favour of sustainable development as set out at paragraph 11 of the Framework. As Government policy, the Framework is a weighty material consideration and, in this case, indicates that a decision should be taken otherwise than in accordance with the development plan and permission should be granted.

### **Conditions**

28. The conditions set out in the accompanying schedule are based on those suggested by the Council in their appeal statement should the appeal be allowed. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance (PPG). In addition to the standard condition

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<sup>3</sup> APP/P0119/W/23/3323836

- controlling the timescale within which the development must commence, a condition is required to specify the relevant plans, in the interests of certainty.
29. In the interests of highway safety, a condition is necessary to require the provision of adequate access and parking facilities to serve the development, prior to the first occupation of the dwelling. To ensure a satisfactory appearance, and to enhance biodiversity, a condition is included that requires a landscaping scheme for the site. A condition is necessary to secure the implementation of the tree protection measures as set out in the submitted Arboricultural Method Statement and Tree Protection Plan, to safeguard the nearby trees in the interests of the character and appearance of the area.
30. The Council has suggested a condition to remove permitted development rights for extensions and alterations to the dwelling, including buildings incidental to the enjoyment of a dwellinghouse. The Framework states that planning conditions should only be imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects and should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG says that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
31. I accept that permitted development rights could give rise to further built form within the Green Belt. However, the extent of such development would be limited by the criteria of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Although this may still allow for development of considerable size, there is nothing before me to suggest that these rights are likely to be used to their full extent. In any case, any such development would be constrained by, and situated within the site, which is modest in size. Moreover, the site itself, which currently forms part of the garden to the host property and is contained by existing boundary treatments. Any permitted development at the site would therefore be experienced in this context so as not to unduly impact the openness of the Green Belt. For these reasons I consider that a condition to remove permitted development rights would not be reasonable.

### **Conclusion**

32. For the foregoing reasons, I conclude that the appeal should be allowed.

*E Worley*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan – Drawing No. F101, Proposed Site Plan – Drawing No: F103 Rev B, Proposed Ground Floor Plan – Drawing No: F104 Rev A, Proposed Sections – Drawing No. F106 Rev A, Proposed Elevations – Drawing No. F107 Rev B, and Existing and Proposed Drainage – Drawing No. F108.
- 3) The access and parking areas shown on drawing number F103 Rev B - Proposed Site Plan, shall be fully implemented prior to the first occupation of the dwellinghouse hereby approved and subsequently retained for this purpose for the lifetime of the development.
- 4) Prior to the first occupation of the development hereby permitted, there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) The proposed works shall be carried out in full compliance with the tree protection measures and arboricultural method statement set out in the Arboricultural Report by Silverback Arboricultural Consultancy Ltd dated March 2021 submitted as part of the application.

\*\*\*\*\*end of conditions\*\*\*\*\*