



Appeal Decision

Site visit made on 23 July 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2024

Appeal Ref: APP/G1630/W/24/3341151

Land at Bentham, Dog Lane, Bentham GL51 4UT

- 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 Cheltenham Estates Management Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00709/FUL.
 - The development proposed is the construction of a hay barn/machinery store to enable the land to be used for agricultural purposes.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the development is reasonably necessary for the purposes of agriculture;
 - 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 protected species;
 - the effect of the development on trees;
 - the effect of the development on flood risk; and
 - highway safety with regard to access.

Reasons

Whether reasonably necessary for the purposes of agriculture

3. The appeal site is a large parcel of land which is generally overgrown scrubland with some large open bodies of water. There are a series of public rights of way as well as informal footways that run through the site.
4. The appeal site is currently not being used for any purpose; however, the appellant wishes to graze sheep on the land and considers that the appeal building is needed for the storage of hay and machinery to facilitate the agricultural use.

5. I acknowledge that a building may be needed for an agricultural use on the land; however, there is very little information to demonstrate the scale of the use proposed in order to assess whether a building of the proposed size would be required.
6. I am therefore not satisfied that the proposed development would be reasonably necessary for the purposes of agriculture. It would be contrary to Policy AGR1 of the Tewkesbury Borough Plan 2011-2031 Adoption Version (LP) which amongst other things, seeks to ensure that new agricultural development is reasonably necessary for agriculture.

Whether inappropriate development

7. The appeal site is located within the Green Belt. Paragraph 143 of the Framework sets out the purposes of the Green Belt which are; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
8. Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent buildings for agriculture and forestry.
9. I have found that based on the evidence before me that the proposed development would not be reasonably necessary for agriculture. However, while this may be the case, the proposal is for a building for agriculture and there is no substantive evidence before me that would suggest the building would not be used for this purpose. As such, the proposal would not represent inappropriate development in the green belt.
10. I find no conflict with Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 Adopted December 2017 (CS). Amongst other things, this seeks to ensure that the Green Belt continues to serve its key functions and is protected from harmful development.

Protected species

11. The proposed development would result in the removal of an area of scrubland to construct the building and hardstanding, it would also result in the removal of trees and a section of hedgerow to facilitate the proposed access.
12. I note that the appellant suggests that some biodiversity enhancements could be made, and a condition could be imposed to require ecological surveys prior to commencement of development. However, based on the works required and the potential for harm to protected species, the onus is on the appellant to submit information up front with the application in order to form the basis of a potential planning condition.
13. The applicant has not provided any information with the application in order to demonstrate that the proposed development is able to be carried out without harm to protected species.

14. I therefore conclude that the proposed development has the potential to harm protected species. It would be contrary to Policy SD9 of the CS and Policy NAT1 of the LP which amongst other things, seek to ensure that protected species are safeguarded.

Trees

15. The proposed access would require the removal of a dense section of hedgerow and trees. No arboricultural report or tree surveys have been provided to illustrate the proposed works.
16. The densely vegetated hedgerows are a prominent feature within the area and line many of the roads nearby. However, and notwithstanding the lack of information provided, from site observations it is evident that the small section of hedgerow that would be lost would have little effect on the overall character and appearance of the area.
17. In this regard, I am mindful that a suitably worded condition could be imposed to require the appellant to submit reports prior to commencement of development which would establish any trees of value, protection measures and future enhancement required.
18. I therefore conclude that the proposed development would not harm trees. I find no conflict with Policy SD6 of the CS and Policy NAT1 of the LP which amongst other things, seek to protect landscape character and conserve, restore and enhance biodiversity.

Flood risk

19. The appeal site is located within a flood risk zone 1 and is over 1ha in size which Footnote 59 of the Framework advises that a site-specific flood risk assessment (FRA) should be provided. The application was not accompanied by FRA.
20. In the absence of a FRA it has not been demonstrated that the proposed development would not increase flood risk or increase the danger to others in the event of a flood.
21. I therefore conclude that in the absence of a FRA, it has not been demonstrated that the proposed development would not increase flood risk. It would be contrary to Policy INF2 of the CS, Policy NAT2 of the LP and Paragraph 174 of the Framework. Amongst other things, these seek to ensure that development minimises the risk of flooding.

Highway safety

22. A new access is proposed at the junction of Dog Land and Bentham Lane and very limited information has been provided to demonstrate visibility from this junction. However, from site observations Dog Lane is densely vegetated and narrow which would limit visibility to the East when leaving the junction. Likewise, dense vegetation and the sharp bend from the junction of Dog Lane and Bentham Land would limit forward visibility with cars turning onto Dog Lane.

23. While the appellant has suggested a condition could be imposed requiring further details, insufficient information has been provided in order to establish the number of movements that would be required or if sufficient visibility could be provided from the junction in order to form the basis of a condition.
24. The appellant considers that neighbouring access arrangements are similar, however, I have been provided with no information about the circumstances of this access and its use in order to compare with the appeal proposal before me.
25. I therefore conclude that the proposed access would unacceptably harm highway safety. It would be contrary to Policies AGR1 and TRAC1 of the LP, Policy INF1 of the CS and Paragraph 108 of the Framework. Amongst other things, these seek to ensure that safe and efficient access to the highway network is provided and there are appropriate opportunities for avoiding and mitigating any adverse effects.

Other Matters

26. The appeal site is located within the Cotswold National Landscape and the Council have found that the proposed development would not harm the character and appearance of the National Landscape. I have no reason to conclude otherwise; however, this is a neutral matter.

Conclusion

27. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR