



Appeal Decision

Site visit made on 9 April 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/F0114/W/23/3325262

Wyndrush, Tilley Lane, Farmborough, Bath BA2 0BE

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Emma and Scott King against the decision of Bath and North East Somerset Council.
 - The application Ref is 22/04558/VAR.
 - The application sought planning permission for the erection of a one and a half storey extension & demolition of outbuildings without complying with a condition attached to planning permission Ref 18/05694/FUL, dated 24 April 2019.
 - The condition in dispute is No 4 which states that: *No occupation of the development hereby approved shall commence until the outbuildings within the site, located to the rear (north east), and the garage located to the front (south) of the existing dwelling have been demolished.*
 - The reason given for the condition is: *To ensure the one and a half storey extension does not result in a disproportionate addition to the existing dwelling in accordance with Policy CP8 of the Core Strategy and Policy GB1, GB3 of the Bath and North East Somerset Placemaking Plan.*
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bath and North East Somerset Council against Emma and Scott King. This application is the subject of a separate Decision.

Preliminary Matter

3. At the time of my site visit, it appeared that the planning permission for the erection of a one and a half storey extension & demolition of outbuildings, which was granted by the Council on 24 April 2019¹ (the consented development), had been commenced and was at an advanced stage of construction. However, for the avoidance of doubt, I have determined the appeal on the basis of the details shown on the plans.
4. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the matters relied on by the main parties are unchanged. Therefore,

¹ Bath and North East Somerset Council application reference 18/05694/FUL

I did not need to consult with the main parties regarding the revised Framework.

Background and Main Issues

5. The appeal site is within the Bristol/Bath Green Belt. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It explains that the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to certain exceptions. This includes 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 (Paragraph 154(c)).
6. The consented scheme permitted an extension to the host property. Condition 4 of that permission secured the demolition of the outbuildings to prevent the development from being inappropriate development in accordance with the exception set out under Paragraph 154(c). Two outbuildings have already been removed. The appellants are now seeking the retention of the remaining three outbuildings (outbuildings A, B and D) through the variation of condition 4.
7. In refusing the variation of condition, the Council determined that the retention of the outbuildings would result in inappropriate development in the Green Belt.
8. Consequently, the main issue is therefore whether the condition in dispute is reasonable and necessary having regard to:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposed development on the openness of the Green Belt; and
 - if the proposal 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 proposed development.

Reasons

Whether inappropriate development

9. Policy CP8 of the Bath and North East Somerset Local Plan: Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update (adopted January 2023) (the LP) states, amongst other things, that the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy. Policy GB1 of the LP states that development within or conspicuous from the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt. Policy GB3 states that proposals to extend or alter a building in the Green Belt will only be permitted provided they would not represent a disproportionate addition over and above the size of the original building. Taking the above policies together, they address detailed Green Belt policy in a similar manner to the Framework and are consistent with it.

10. The Framework's glossary defines 'original building' as "a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally". The Council did not dispute the suggestion in the application for the consented development that the outbuildings, present then, formed part of the original building. However, the Council's current position in relation to the appeal means that the dispute between the parties is whether outbuildings A, B and D are part of the original building.
11. The consented development established that the dwelling had a volume of 404m³, and all the outbuildings present then had a combined volume of 179.9m³. An existing extension had a volume of 54.1m³. The approved scheme, including the removal of the outbuildings, resulted in a volume of 651.9m³. The appellants have not disputed these figures and I am content to rely on them.
12. The Council asserts that the retention of outbuildings A, B and D, in combination with the extensions, would result in a 91% increase in volume of the original building. The appellants' contrary view, whereby the outbuildings are counted as part of the original dwelling and retained, is that the volume of the original building would increase by 29%.
13. The original dwelling was constructed in the 1960s. Any outbuildings to be included as part of the original dwelling would need to have been on site at that time and in close proximity to the dwelling. Early and mid-20th Century mapping indicates the presence of buildings on the site prior to the construction of the original dwelling. The appellants have conceded that those outbuildings may not be the same as those currently on site.
14. Nevertheless, the plans for the original dwelling suggest that the outbuildings A, B and D could have been present at the time the original dwelling was constructed. However, the plans indicate that the outbuildings were not immediately adjacent to the original dwelling at that time. The outbuildings have only become closer to the dwelling when it was more recently extended. Moreover, I have nothing to confirm that the outbuildings were in residential use incidental to the dwelling when it was first constructed. As such, I find that the outbuildings were not a domestic adjunct when the original dwelling was first constructed. They therefore do not form part of the original dwelling and I have not included the volume of these buildings as part of this.
15. Taken together with previous extensions, the retention of the outbuildings would result in the volume of the original building being almost doubled. I therefore conclude the retention of the outbuildings would be a disproportionate addition over and above the size of the original building. As such, the proposal would not meet the exception set out in Paragraph 154(c) of the Framework.
16. For these reasons, the proposal would be inappropriate development, which is, by definition, harmful to the Green Belt.

Openness

17. Openness can be perceived spatially and visually. Spatially, the retention of the outbuildings and the construction of the consented development would result in a considerable increase in building volume. The proposal would therefore inevitably reduce the spatial openness of the site.

18. Visually, the appeal site is seen clearly from the A39 and the public footpath that runs through the field adjacent to the site. The consented development would lead to the dwelling being substantially taller than its original form and there would be a significant increase in the overall massing and bulk of the dwelling. The retention of the outbuildings would increase the physical massing of built form within the site. The proposed retention of the outbuildings, in combination with the increased height, massing and bulk of the dwelling, would cause considerable harm to the openness of the Green Belt.
19. On this basis, the proposal would fail to preserve the openness of the Green Belt, contrary to the objectives of the Framework and Policy CP8 of the LP.

Other considerations and the Green Belt Balance

20. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The appellants have not submitted any such considerations.
21. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause significant harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by Paragraph 153 of the Framework.
22. In the absence of any other considerations, the very special circumstances necessary to justify the development do not exist.
23. As such I conclude the disputed condition is both reasonable and necessary to avoid harm to the Green Belt. The appeal proposal would therefore be contrary to the Framework and Policies CP8, GB1 and GB3 of the LP, which seek to protect the Green Belt against inappropriate development and safeguard its openness.

Conclusion

24. For the reasons given above, the appeal should be dismissed.

K Reeves

INSPECTOR