

Appeal Decision

Site visit made on 3 September 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/D0121/W/24/3339899

Conygar Quarry, Nortons Wood Lane, Clevedon BS21 7AE

- 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 Christopher Lane against the decision of North Somerset Council.
 - The application Ref is 23/P/0165/FUL.
 - The development proposed is Change of use from dis-used Quarry to Indoor and Outdoor Climbing Activity Centre; to include the erection of 4no. supporting buildings and outdoor climbing structures (Indoor Climbing Centre, outdoor climbing structure, Cafe/Restaurant, Maintenance building and Workshop). Installation of full boundary fence, landscaping, widen entrance and construction stone wall directly onto Nortons Wood Lane, installation of solar panels, provision of car parking spaces, electric vehicle charge points and cycle lockers /locking racks with supporting wash area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description as set out on the Council's decision notice as it largely repeats that set out on the application form but is more succinct.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal 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 proposal 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, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Framework sets out the five purposes of Green Belt including to check the unrestricted sprawl of large built up areas, and to assist in safeguarding the countryside from encroachment. That said, it does not prevent development that is not inappropriate in the Green Belt, with Paragraphs 154 and 155 setting out certain exceptions. Moreover, there is still an avenue for approval where very special circumstances exist.
5. The appellant initially argued that the proposal amounted to redevelopment and infilling on previously developed land (PDL). However, the definition of PDL in the glossary to the Framework excludes land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures. The appellant accepts that the appeal site cannot be described as PDL¹ and from the evidence before me, I see no reason to disagree.
6. The Framework 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 154. One such exception being the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and 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 in (Paragraph 154 b).
7. Policy DM12 of the North Somerset Development Management Policies Sites and Policies Plan Part 1 adopted July 2016 (LP) states that inappropriate development is, by definition, harmful to the Green Belt and will not be approved except in very special circumstances. It sets out development which will not be regarded as inappropriate and with regards to this appeal, this includes appropriate facilities for outdoor sports and recreation and material changes of use of land. With regards to the former, Policy DM12 requires new buildings and facilities to be directly related and subsidiary to the main outdoor use; be of a scale and size proportionate to the sporting or recreational use; be sensitively designed and minimise harm to the openness and purposes of the Green Belt; and that lighting schemes should minimise obtrusive light. It is therefore more prescriptive than the Framework and for this reason, I give significant weight to the Framework.
8. The appeal proposal involves the provision of a climbing facility within a disused quarry. This would involve the use of the existing faces of the quarry for climbing and abseiling together with the provision of outdoor climbing towers. The appellant also advises that areas within the site would also be used for other sport and recreation facilities including exercise classes, martial arts, Pilates, bushcraft, yoga mountain biking, cross country running tracks, via ferrata, parkour and woodland walks although I have limited

¹ Paragraph 2.2 of the appellant's Statement of Case dated March 2024

information before me regarding where and to what extent these would take place. Collectively, these could all be reasonably described as outdoor sport and outdoor recreation.

9. A workshop and a maintenance building are proposed. As these would provide for the storage of equipment used in the maintenance and operation of the facility, they could reasonably constitute 'appropriate facilities'.
10. However, the appeal scheme includes the construction of an indoor climbing centre and a café/restaurant. The appellant's case is that the indoor facility would provide a maximum of 20% of the total climbing area in the development as a whole and the café/restaurant would provide refreshment for those using the facilities.
11. The indoor climbing centre, measuring 75 metres long and 22.5m high is a substantial building. It provides a range of standalone climbing facilities which can be used entirely separately from the outdoor climbing facility. The café would be another separate building and whilst access to it would be limited to those using the facilities on site, this would not be limited to those using the outdoor facilities. It is clear that the indoor climbing centre would be an all year round facility, allowing guests to climb when inclement weather prevents the use of the outdoor facilities. It is also clear from the appellant's submissions that the indoor climbing centre is essential to provide a financially viable, stable and sustainable business². It is therefore at the core of the appeal proposal. The café and indoor climbing centre would be functionally separate to the outdoor facilities and amount to indoor facilities in their own right. Accordingly, the proposed buildings do not constitute 'appropriate facilities for outdoor sport and outdoor recreation' as required by Paragraph 154 b) of the Framework.
12. I have also been referred to Paragraph 155 of the Framework which refers to 'certain other forms of development' including material changes in use of land (such as changes of use of outdoor sport or recreation). However, I have set out above that the proposal involves the erection of eight buildings. Paragraph 154 quite clearly relates to the construction of new buildings in the Green Belt whereas Paragraph 155 relates to other types of development. The proposal before me falls squarely to be considered under Paragraph 154 relating to the provision of buildings rather than Paragraph 155. Accordingly, the appeal proposal does not fall within one of the exceptions at Paragraph 155 of the Framework.
13. Taking all this together, the appeal proposal amounts to inappropriate development in the Green Belt.

Openness

14. As a result of the previous quarrying activity at the site, the appeal site has three distinct levels to it. Only the lower level is visible from Nortons Wood Lane. I saw at my site visit that the remains of the former weighbridge are visible and that the much of this level is hardsurfaced. Whilst the workshop building and parking on this level would not be entirely screened from the

² Paragraph 23 (Conclusion) of the appellant's Planning Statement

lane, it would be well set back and the provisions for planting would limit its visual impact.

15. The comments relating to Landscape from the Council's s106 Officer, conclude that the indoor climbing centre and maintenance building on the second (middle) level of the appeal site are set well within the quarry and therefore unlikely to be seen from public vantage points. From all that I have seen and read, I agree.
16. There is some uncertainty about the extent to which the climbing towers would be visible. The 'Line of sight analysis' drawings indicate that the furthest most extent of the climbing towers would be most visible from the layby on the B3124 although the appellant advises that the trees in the images have since grown and are now capable of screening the proposed climbing towers, which have a material palette of greens and browns to assimilate with the tree canopy. The Council are satisfied that the visual impact of the towers would be limited and that no harm in this respect would arise. From all that I have seen and read, I agree.
17. However, openness is not just about visual impact. It has a spatial element too and I therefore turn to this issue.
18. The appeal site has been formed as a result of human intervention in the landscape. Land has been excavated to create three level areas but cessation of the works some years ago has left the site devoid of any built form (with the exception of the remains of facilities on the lower level).
19. The appellant argues that the proposed buildings amount to just 2% of the overall site area. Be that as it may, the proposal provides for new buildings on all three levels of the site. Eight new buildings are proposed in total. This includes the sizeable indoor climbing centre with a height of 22.5m and the climbing towers standing at 40m on the middle level. Across the site there would be provision for 104 car parking spaces and boundary fencing is proposed around the perimeter of the site. Whilst climbers would use head torches after dark, I am advised that low-lux downlighting and side-mounted lighting to the quarry face would be required. This, together with lighting around the site required in connection with the use of the site into the evenings would lead to an urbanisation of the site. Taken together, this encroachment into a site which is largely free from built development, together with the scale, bulk and massing of the built form would reduce the openness of the Green Belt.
20. The steep sides of the former quarry and the woodland surrounding it mean that there would be a moderate loss of openness to the Green Belt and as such, when judged against the wording of national policy, the appeal proposal is inappropriate development in the Green Belt. This conflicts with the purpose of safeguarding the countryside from encroachment.

Other considerations

21. Paragraph 152 of the Framework sets out the presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist

unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Applying weight to other considerations is not a mathematical exercise as carried out by the appellant. Rather, it is a matter of planning judgement for the decision maker.

22. I am advised that the appeal proposal would be an Olympic standard facility and a Centre of Excellence based in the South West, reducing the need to commute to other climbing facilities elsewhere in the country. I am also advised that the British Mountaineering Council (BMC) would be integral to the growth and development of the centre. However, I have nothing from the BMC indicating their involvement, the need for an Olympic standard facility or whether the appeal proposal has their support. For these reasons I give this limited weight.
23. The appeal submissions indicate that the appeal scheme seeks to achieve an almost entirely off-grid approach far in excess of any other development in the District. This would be with the use of solar panels, ground source and air source heat pumps, water catchment for grey water flushing, and groundbreaking technology using 'air draft heating and cooling' – a new system not currently in the UK. I am told that whilst the facility would be connected to the grid, this would be to export excess energy and to enable the provision of thirty electric vehicle charging points. Whilst the submitted drawings indicate solar panels on the indoor climbing centre building, I have nothing before me to demonstrate what power these would generate nor the locations for the ground source and air source heat pumps or any details regarding the 'air draft heating and cooling' technology. I am advised that the appellant has partnered with a recognised sustainability expert although nothing has been presented from them. Whilst Paragraph 139 of the Framework requires great weight to be given to outstanding or innovative designs which promote high levels of sustainability, the sustainability credentials of the appeal proposal have not been adequately demonstrated or secured. For these reasons I give this limited weight.
24. There is no doubt from the information before me that the appellant has a track record in assisting disabled people with modifications to enable them to take part in sports they enjoy or wish to enjoy. I am also in no doubt that what would be provided at the appeal site would be a fully inclusive sports facility to assist with integration. Part of the appellants proposals for the appeal site include a facility within the workshop building to modify or adapt any form of sports equipment as required, although this would not necessarily be for use in climbing as it would include motor bikes, sailing rigs etc. The appellant advises that substantial weight should be given to the appeal proposal apportioning 20% of its time and resources to disabled members of the public, based on figures indicating that 18.5% of the population of the District have some form of disability. The appellant also proposes assisting disabled people getting back into employment. Whilst I do not doubt the commitment of the appellant to achieving this, I have not given this substantial weight as I cannot be certain how this would be secured in practice. This would need to be secured by a s106 Planning Obligation and I do not have one before me. For this reason, I give this moderate weight.

25. There are known benefits arising from sport and recreation in terms of improved mental health, reducing obesity, providing a sense of achievement and social interaction. These are reflected in the Framework. The appellant indicates that as well as the climbing facilities, the proposal includes a variety of sports and social classes for the community including the Scouts, after school club provision and instructor lead classes. However, there is limited information on where and when the classes would take place and the extent of the provision. Taken together, I have given the health benefits that would arise from the scheme moderate weight.
26. There would be benefits to the wider economy. A climbing facility in the District and one which is open year round would extend the tourism offer with visitors to the site requiring accommodation in the local area and undertaking linked visits to other tourism facilities or destinations in the surrounding area. It is anticipated that ten full time and twenty part time jobs would be created and the proposal has the support for the Council's Economy Team. These are all benefits to which I collectively give significant weight. I have given limited weight to the use of local labour agreements to support businesses in the area, sports education training career development and young person apprenticeship schemes as I cannot be certain they would materialise.
27. There would be environmental benefits arising from the appellants proposals to restore the land and woodland including but not limited to: removing Ash die back, non-native species and invasive species; restoration of the former bluebell gardens; creation of new hedgerows and habitats; and removal of slag piles. Proposals would be developed as part of a landscape, woodland management and hazel dormouse mitigation plan.
28. However, it seems to me on reading the Ecological Appraisal (EA)³ that much of this is required to mitigate the effects of the construction and development of the site on hazel dormouse, to obtain a Natural England hazel dormouse mitigation licence and to compensate for the loss of Open Mosaic Habitat. These proposals would be neutral in my assessment as they would be required to mitigate the effects of development. I note however that the EA indicates that the scheme presents a significant opportunity to improve the management of the site for hazel dormouse and important habitats which are relatively uncommon in a local context. It is clear from the Council's submissions that restoring the declining woodland in the Landscape Character Type E5 Tickenham Ridges and Combes would be a benefit to the high sensitivity landscape in which the appeal site is located. These measures could be secured in an Ecological Management Plan but without specific measures before me and details of the overall benefit flowing from the implementation of those measures, I have only ascribed moderate weight to this as a benefit. In ascribing moderate weight I have had regard to the fact that the buildings would be provided on current areas of hardstanding and that Paragraph 180 of the Framework seeks the enhancement of the natural and local environment by remediating and mitigating despoiled and degraded land.

³ Carried out by Avondale Ecology. Revision 1, dated March 2021

29. The appellant argues that making use of the appeal site is beneficial to preventing urban sprawl by allowing sites elsewhere in the District to be used for housing. However, I have nothing before me to indicate that this would occur practice. For example, the appeal proposal is not the relocation of an existing facility which would lead to the vacated site subsequently being available for housing. For this reason, I ascribe very limited weight to this argument.
30. The appeal scheme includes the provision of footpath access from Nortons Wood Lane into the appeal site, and cycle storage. Whilst this would provide community access to the surrounding woodland, I understand that this was ostensibly to provide safe access for pedestrians and cyclists away from Nortons Wood Lane which does not have a footway. I have therefore given this limited weight.
31. The appellant indicates that the site has been the subject of anti-social behaviour and that developing the site as proposed would reduce such incidents. However, as there are other ways in which anti-social behaviour can be prevented such as security patrols and fencing, I have given this limited weight.
32. The appellant advises that a Neighbourhood Plan does not exist for Clevedon, Portishead or Nailsea but refers to a draft Clevedon Neighbourhood Plan which only addresses Hill Road and the town centre. The document would appear to carry very limited weight due to its stage of preparation and in any event, the appellant has not drawn my attention to any specific policies contained therein.
33. My attention has been drawn to other planning permissions granted for sports facilities and a new school in the Green Belt. This includes new facilities for use by Bristol City Football Club⁴. The Council advise that the proposal did not preserve the openness of the Green Belt and amounted to inappropriate development in the Green Belt. However, they refer to very special circumstances which clearly outweighed the harm. In particular, they reference the needs of the club and that no suitable alternative site had been identified despite a 'substantial number of sites' being examined.
34. Bristol Bears Rugby Club were granted planning permission for a new training facility in the Green Belt⁵. In that instance, there was an extant planning permission for a large building and again, an extensive search of alternative sites had been undertaken. The Council say that very special circumstances outweighed the harm to the Green Belt.
35. I have been provided with a copy of the Officer Report relating to a site in Cheltenham⁶. I note that in that instance, the proposal had the support of

⁴ LPA Ref: 17/P/5424/FUL Land to the East of QEH Sports Club, Clevedon Road, Failand - Football training facility including the erection of a new pavilion building, formation of grass pitches and associated site re-contouring, provision of flood lighting columns, the erection of a groundman's store, the provision of a new access to the B3128, landscaping works, car parking and other ancillary development.

⁵ LPA Ref: 16/P/2607/F Land at Kingcott Farm, Beggar Bush Lane, Abbots Leigh – Rugby training facility to include: erection of a two-storey training barn and support building containing a gym, changing rooms and ancillary sports facilities. Construction of a floodlit all-weather pitch and 3no. grass pitches with associated parking and landscaping.

⁶ Tewkesbury Borough Council Ref: 20/00221/FUL at Bentham Country Club, Bentham Lane, Bentham GL3 4UD for redevelopment of Bentham Country Club to a Climbing Park with the erection of a Climbing Centre building, replacement multi-use dome, high rope with zip line course and ancillary guest accommodation.

Sport England who identified a strategic need for the facility and that the proposal would result in an overall improvement to the Cotswolds Area of Outstanding Natural Beauty by the removal of unsightly buildings.

36. With regards to the proposal for a new school⁷ in the Green Belt, the Council have drawn my attention to the 'clearly defined and specialist need' referred to in the officer report and that the proposal was the only reasonable option available to address the clear and demonstrable need for additional provision.
37. For the reasons set out in the preceding paragraphs, none of the other planning permissions which have been put to me, are directly comparable with the proposal before me in this appeal and I have given them limited weight. Whether very special circumstances were found to exist depended on the particular circumstances of each case and whether the very special circumstances outweighed the harm to the Green Belt, was a matter for the decision maker in each case.
38. The appellant refers to permissions being granted for new climbing centres in Gloucester, Swindon and Ferry Meadows in Peterborough which they say are all within Green Belt. However, as I have no specific details before me, I cannot draw any comparisons with the appeal site.

Green Belt Balance

39. I have concluded that the proposal would result in moderate harm to the openness of the Green Belt and as such, is inappropriate development that, by definition, harms the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.
40. I have set out above the weight to be applied to other considerations referred to by the appellant including giving moderate weight to the provision of facilities for persons with protected characteristics. There is no doubt that a number of benefits would arise from the appeal proposal, and when combined, they amount to significant weight in favour of the proposal. However, Paragraph 153 of the Framework states that very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations. It follows therefore that in this instance the significant weight in favour of the proposal does not clearly outweigh the substantial weight given to the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal is contrary to the Framework and Policy DM12 of the LP.
41. I have had due regard to the Public Sector Equality Duty set out under the Equality Act 2010. The harm caused by the appeal development outweighs its benefits in terms of eliminating discrimination against persons with the protected characteristics of disability, advancing equality of opportunity for those persons and fostering good relations between them and others.

⁷ LPA Ref: 20/P/0605/R3 Land adjacent to Brookfield Walk – erection of up to 85 place, single storey Profound and Multiple Learning Difficulties School.

Other Matters

42. I have considered other matters raised by interested parties including, but not limited to, the need or otherwise for a flood risk assessment, highway safety matters, contamination and noise and disturbance to neighbouring occupiers but given that I have identified harm in respect of the main issues, these are not matters on which my decision turns.
43. The appellant refers to overwhelming support for the proposal but I note that the proposal attracted a number of letters of objection and did not receive the support of the parish and town councils who were consulted on the proposal. However, I have considered the matters raised by interested parties who have expressed support for the proposal in the main issues above.
44. The Council have identified the appeal site as a non-designated heritage asset and that it is within the setting of a number of Grade II listed buildings. Had I been minded to allow the appeal, I would have had to consider the impact of the appeal proposal on the setting of the heritage assets but as I am dismissing, those impacts will not arise.
45. The appeal site lies within consultation zone B of the North Somerset and Mendip Bats Special Area of Conservation (SAC). Had I been minded to allow the appeal, I would have had to consider the impact of the appeal proposal on the integrity of the SAC but as I am dismissing, those impacts will not arise.

Conclusion

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

Alison Fish

INSPECTOR