



Appeal Decision

Site visit made on 29 August 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/P0240/W/24/3341979

6 Mount Pleasant, Aspley Guise MK17 8LA

- 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 Bespoke Designs (Aspley Guise) LLP against the decision of Central Bedfordshire Council.
- The application Ref is CB/23/02578/FULL.
- The development proposed is the demolition of the existing dwelling and the erection of 2no. bespoke designed dwellings with access, landscaping and other associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the determination of the application by the Council, the National Planning Policy Framework (Framework) was updated in December 2023. Therefore, where previous paragraphs of the Framework are referenced in the Council's decision notice, I have had regard to the equivalent updated paragraphs. Additionally, in July 2024, the government published a consultation on proposed reforms to the Framework and issued a written ministerial statement (WMS) titled 'Building the Homes We Need.' While these proposed changes can only be afforded limited weight at this stage, the parties have had the opportunity to provide further submissions regarding the proposed amendments to the Framework and the ministerial statement.
3. The appellant has submitted a Bat Method Statement (March 2024) with the appeal, which was unavailable during the application stage. Following the Holborn Studios case¹, regarding the substantive test, I find that the statements do not fundamentally change the application; it merely provides further information on the presence of bats. Regarding the procedural test, the Council has had the opportunity to make representations on these findings in their statement. While it is unclear whether consultees and third parties were consulted, the Bat Method Statement serves to expand on the planning report's conclusion that bats may be present at the appeal site. Therefore, based on the evidence before me, I consider it fair to accept the Bat Method Statement. Thus, mindful of the guidance set out in the Inspectorate's 'Procedural Guide: Planning appeals – England' published guidance, I will take it into account.
4. I am aware that the appellant sought to submit a further bat report after my site visit and the deadline for submissions and statements. This was turned

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

away as late evidence as interested parties may have been prejudiced by me accepting it. Therefore, it has not formed part of my assessment of the appeal.

Main Issues

5. The main issues are:

- the effect of the proposed development on biodiversity;
- whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
- if the proposed development is inappropriate in the Green Belt, whether harm from inappropriateness together with any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Biodiversity

6. The appellant's Preliminary Ecological Appraisal identifies a limited presence of protected species within the site. However, it highlights that the main dwelling has a moderate potential to support roosting bats. As a result, it recommends further survey work, in the form of at least two survey visits comprising one dusk survey and one dawn survey to ascertain whether bat roosts are present within the dwelling which is proposed to be demolished. The Council's ecological advisor concurs, confirming that these surveys would be required before determining the scheme and specifying that they should be conducted between May and August. Subsequently, the appellant's Bat Method Statement (March 2024), reported no evidence of bat roosting, based on an inspection carried out in January 2024. While it did not find any bats on site, it nonetheless reaffirmed the presence of building features with the potential to support roosting bats.
7. The Framework seeks amongst other things to avoid significant harm to biodiversity. The Office of the Deputy Prime Minister Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it, "... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". Furthermore, The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant, and existing information is lacking or inadequate.
8. In this case, without at least two surveys of the main dwelling between the specified months of the year, the evidence before me is inconclusive as to the presence or not of bat roosts within the building between May and August. If bats do use the building for roosting, it is unclear whether the proposed

mitigation measures put forward by the appellant would be appropriate or effective.

9. The appellant states that they would accept a planning condition that relates to the submission of further bat surveys, which they consider, would reflect a more up to date position. However, given the degree of uncertainty relating to the findings of those surveys, the use of a condition would not be reasonable or precise in this case. It is essential that the presence or otherwise of protected species, and the extent to which they may be affected by development is established before planning permission is granted.
10. Therefore, the absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, the proposal would be contrary to Policy EE3 (Nature Conservation) of the Central Bedfordshire Local Plan (2021) (LP), which states that development should avoid negative impacts on biodiversity. It would also be contrary to the clear intentions of the Framework and Circular 06/2005 to avoid significant harm to biodiversity.

Whether inappropriate development in the Green Belt

11. The appeal site consists of a detached chalet bungalow and amenity land. It is located within the settlement of Aspley Guise and is surrounded on three sides by residential properties. It is situated within an established residential street, where dwellings of varied designs, types and ages are present on both side of the road.
12. The appeal site falls within the South Bedfordshire Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy SP4 (Development in the Green Belt) of the LP² sets out a general presumption against inappropriate development, requiring development proposals to be assessed in accordance with the Framework. It is therefore consistent with the Framework.
13. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions set out in paragraph 154 of the Framework. One of the exceptions, criterion e) relates to limited infilling in villages.
14. The terms 'limited' and 'infilling' are not defined in the Framework, and so whether a proposed development meets this exception will be essentially a question of fact and planning judgement. The supporting text for Policy SP4 suggests that infill development can generally be defined as small-scale development in a small gap in an otherwise built up frontage. It also suggests that infill development will be acceptable where it is wholly in accordance with the surrounding character, pattern and grain of development, having regard to plot size, frontage length and dwelling size. Without any alternative definition, I find these factors pertinent to my own considerations.
15. The proposed development would be situated on land already used for residential purposes. The plot widths and dwelling sizes would be generally reflective of other plots to either side of the appeal site such that the resultant development would read as a logical infill of a small gap in an otherwise built

² Central Bedfordshire Local Plan 2021

up frontage. More particularly, it would be limited to two houses of a density and scale appropriate to the site's dimensions and the pattern, grain and design of surrounding development.

16. Neither the development plan nor the Framework provide a definition of a village. Nonetheless, I note that Aspley Guise is identified as a Large Village within the supporting text for Policy SP7 of the LP. Furthermore, while the buildings in Aspley Guise are spread across a wide area, the appeal site is located within an existing cluster of houses near the Aspley Guise Village Primary School and playing fields. The surrounding area itself retains a distinctive village character, marked by a relatively low density of built form, narrow roads and mature landscaping. Based on my observations, the appeal site has a very clear visual and physical relationship with the village. Accordingly, I find that the proposed development would be limited infilling for the purposes of the Framework test, following an 'on the-ground'³ assessment, and would appear to be part of the village for the purposes of the Framework test.
17. Consequently, the proposal would meet the exception at paragraph 154 e) of the Framework and therefore complies with Policy SP4 of the LP. As such, it would not constitute inappropriate development in the Green Belt.
18. Given my findings, it is unnecessary to assess whether the proposed development meets the exception at paragraph 154 g) as the Framework does not require that development in the Green Belt meets more than one exception. Furthermore, there is also no need to consider the effect of the proposed development on the openness of the Green Belt as it is implicit that openness is addressed under exception 154 e). As the proposed development would not be inappropriate development in the Green Belt, it is also not necessary to consider whether very special circumstances exist in this instance.

Other Matters

19. The proposed development would contribute to meeting local housing need, make use of land already designated for residential use and bring a derelict site back into use. The appellant also contends that the proposal would provide for a high quality, energy sustainable form, extend the footway with consequential highway safety benefits and would result in biodiversity net gains. There would also be economic benefits through its construction and future support for local services and facilities by occupiers of the development. However, considering the scale and nature of the proposed development, these benefits are relatively limited and do not overcome the harm identified under the first main issue and the conflict with the development plan in this regard.
20. Several letters of support have been received from various neighbours. While community feedback is an important aspect of the planning process, the presence of supportive responses does not justify the potential harm to biodiversity.
21. I have considered other decisions in relation to the design of the proposed development, particularly in relation to the character of the street scene⁴. However, these points were assessed by the Council when it assessed the application, and no concerns were raised in this regard. Based on the evidence

³ Wood v Secretary of State for Communities and Local Government [2015] EWCA Civ 195 – 9th February 2015

⁴ Ref APP/P0240/W/20/3262804, CB/12/00672/outline and CB/20/03089/FULL

before me I see no reason to disagree. Similarly, while the appellant has referenced other decisions⁵, these primarily relate to Green Belt matters, and I have not found harm in that particular regard. While I also note the Inspector's comments on the Land at Mount Pleasant, Aspley Guise appeal, I have assessed the appeal site on its own merits against the relevant exception in the Framework. In any event, each case must be determined on its individual merits. Therefore, these are not matters that affect my findings on the main issues.

Conclusion

22. The development complies with the exception set out in paragraph 154 e) of the Framework and is not inappropriate development in the Green Belt.
23. However, it does not comply with the relevant policies regarding biodiversity. This is a matter of overriding concern and for this reason the proposed development conflicts with the development plan taken as a whole and material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR

⁵ Ref. CB/09/05325/FULL, APP/P0240/W/17/3185864, APP/P0240/W/18/3195894, APP/B1930/W/19/3225543)