



Appeal Decision

Site visit made on 7 April 2025

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/P0119/W/24/3352315

Bennett Engineering Ltd, Horton Road, Horton, South Gloucestershire, BS37 6QH

- 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 Stuart Bennett against the decision of South Gloucestershire Council.
 - The application Ref is P22/06179/F.
 - The development proposed is for the demolition of a commercial building, the erection of a new commercial building and an extension to an existing commercial building.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In order to address the third reason for refusal the appeal is supported by additional drainage information. The Council have confirmed that this information is sufficient to overcome the reason for refusal relating to drainage. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on the living conditions of nearby residents and protected species, namely great crested newts.

Reasons

Living Conditions

4. The proposed development would involve the construction of a building, detailed as Unit B on the plans, close to the boundary with River Cottage, a residential dwelling. River Cottage would be directly to the north of Unit B, approximately 1.6 metres from its boundary and approximately 9.2 metres from its rear elevation. Unit B would vary in height, with the section closest to River Cottage measuring 5 metres in height. During my site visit I noted that a temporary structure and lorry back were located along the boundary with River Cottage.
5. The submitted drawing that the Unit B would be located at an elevated position when compared to River Cottage. They also detail that Unit B would span the entire width of the garden of River Cottage and the building would be of a similar height to the dwelling.
6. In these circumstances Unit B would be unduly prominent in views from rear facing windows. The height, width and proximity of the development would result in an

overly oppressive and unpleasant sense of enclosure. The development would therefore appear overbearing and give rise to an unacceptably poor outlook.

7. It is acknowledged that temporary structures and lorry backs are sometimes located at the boundary with River Cottage, however the evidence before me differs from what I saw on site suggesting that these are moved and only located close to the boundary for limited periods of time, whereas the proposed development would be a permanent feature. Whilst there is an existing 2-metre-tall concrete block wall at the boundary, first floor rear facing windows of River Cottage are visible above the wall and are therefore afforded a more open view than should the proposed development be constructed.
8. I note the appellants assertion that there would be a reduction in noise and the construction of the development would result in an improvement in visual appearance. I have also had regards to the comments regarding the need for the height of the building to accommodate articulated vehicles. However, the appeal is not supported by a noise assessment to confirm this, and I am not convinced that the proposed development is the least harmful way to redevelop the site.
9. The proposed development would therefore harm the living conditions of the residents of River Cottage, contrary to Policy PSP8 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) (PSPP) which seeks to ensure that developments do not have an unacceptable impact on the residential amenity of occupiers of nearby properties.

Protected Species

10. During my site visit I noted that the appeal site is largely finished in concrete, however there were areas where there were piles of material near the western boundary of the site. Areas of mature vegetation and a watercourse run along the western boundary of the appeal site.
11. The Council's concerns relate Great Crested Newts (GCNs). GCNs are protected species under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). GCNs are also of 'principal importance' under the Natural Environment and Rural Communities Act 2006 (the NERC Act).
12. The appeal is supported by a Preliminary Ecological Assessment (PEA) and a Bat Survey – Emergence and Activity Surveys. The PEA stated that a small section of the site, where Unit B will extend to, may be suitable for GCNs. As there are also waterbodies located in close proximity to the appeal site the PEA concluded that GCNs could potentially hibernate in and around the western area of the site and that the nearby watercourse should be sampled by eDNA to check for their presence. Despite the recommendation in the PEA, no eDNA sampling has been submitted with the appeal.
13. Circular 06/2005¹ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On the basis of the evidence before me, I do not consider that it would be appropriate to condition the undertaking of further survey work. A condition to require mitigation in the absence

¹ Biodiversity and geological conservation: circular 06/2005

of further surveying would also not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to GCNs.

14. In light of the above, I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on GCNs. Having regard to my duty under the Habitats Regulations and the NERC Act, I conclude that the proposal fails to demonstrate that its effects on the biodiversity of the site and the surrounding area would be acceptable. The proposed development is therefore contrary to PSPP Policy PSP19 which seeks, amongst other things, to ensure that developments do not result in the loss or deterioration of irreplaceable habitats.

Conclusion

15. The proposal would be contrary to the development plan as a whole and there are no other material considerations, including the approach of the Framework, which outweigh this finding. I therefore conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR