



Appeal Decision

Site visit made on 2 June 2025

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th July 2025

Appeal Ref: APP/P0119/W/24/3357467

Land at Moorhouse Lane, Hallen, South Gloucestershire BS10 7RT

- 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 Missiato Design and Build Ltd against the decision of South Gloucestershire Council.
 - The application Ref is P24/00284/F.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published. Parties have had the opportunity to comment on the changes within the appeal timetable. Therefore, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

3. The main issues are:
 - whether the proposal would comply with local and national policies that seek to steer new development away from areas at the highest risk from flooding;
 - whether or not the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies, including the effect on the openness of the Green Belt;
 - the effect of the proposal on the water environment and flood risk, with particular regard to drainage;
 - the effect of the proposal on protected species and biodiversity;
 - the effect of the proposal on the living conditions of the occupiers of the neighbouring dwelling, with particular regard to outlook;
 - whether the proposal would result in an unacceptable risk of pollution, with particular regard to the location of pipeline infrastructure; 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 development.

Reasons

Flood risk

4. The appeal site lies within Flood Zone 2, with Environment Agency mapping indicating that the site is at medium to high risk from surface water flooding. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It requires a sequential risk-based approach to be taken to individual applications in areas known to be at risk now or in future from any form of flooding.
5. The Framework continues that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The Planning Policy Guidance (PPG) states that the aim of the sequential approach is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk.
6. In terms of the area that a sequential test should cover, the PPG states that this will be defined by local circumstances relating to the catchment area for the type of development proposed. It continues that it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
7. The PPG further states that the planning authority will need to determine an appropriate area of search, based on the development type proposed and relevant spatial policies.
8. The appellant's sequential test (ST) limits the area of search to the village of Hallen. This is on the basis of the whole settlement boundary being included in the flood zone, thereby preventing any future development and not being able to meet development needs. Within such a search area, the appellant's evidence indicates that no alternative sites at a lesser risk of flooding are available.
9. However, I am informed that the emerging local plan which is entering its final stage of public consultation has excluded Hallen from any additional housing allocation, principally due to amongst other matters flood risk constraints. Whilst it may be the case that flood risk may prevent any further residential development coming forward in Hallen, there is no substantive evidence before me that such further development is particularly required at this settlement, as opposed to a differing settlement. In the absence of this, and in the context of the proposal relating to a single dwelling, I find it reasonable that the Sequential Test should feature a wider area of search, such as the entire district.
10. The evidence before me is not sufficient to demonstrate that there are no other reasonably available and sequentially preferable sites that could accommodate the proposal within the district.

11. The Flood Risk Assessment indicates that proposed development could be designed to minimise flooding and is 'sustainable' in terms of flood risk. However, this does not negate the requirement for a robust sequential test to be passed.
12. Consequently, I conclude that the proposal would not comply with local and national policies that seek to steer new development away from areas at the highest risk from flooding. The proposal conflicts with Policy PSP20 of the South Gloucestershire Local Plan: Policies, Sites and Places Local Plan (November 2017) (PSPLP), which aims to steer new development towards areas with the lowest probability of flooding.

Whether inappropriate development

13. The appeal site is within the Green Belt. 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 criteria. The appellant accepts that when the application was determined, the proposal did not meet any of the exceptions of Paragraph 154. Given the context of the proposal before me, I see no reason to disagree.
14. The proposal would have a high degree of permanence and introduce residential built form on the appeal site which is predominantly undeveloped land. Resultant built form would be visible in views from the highway and from within the wider local landscape. It would thereby give rise to a substantial loss of both spatial and visual openness in the context of the locality. Nevertheless, it is also put to me that the appeal site would constitute grey belt land.
15. Paragraph 155 of the Framework provides that development of homes in the Green Belt should not be regarded as inappropriate where all of certain set criteria is met, including that the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.
16. The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143 of the Framework. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in Framework footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
17. Whilst it is put to me that footnote 7 only applies to 'flood risk' and should not apply in respect of the sequential test, the footnote refers to 'areas at risk of flooding or coastal change'. Given my findings on the first main issue, the appeal site is within an area at risk of flooding, and it has not been demonstrated that flood risk at the appeal site does not provide a strong reason for refusing or restricting development. Therefore, even if the proposal were to meet the other criterion of Framework paragraph 155 or forms part of a previously consented garden area, the appeal site does not constitute grey belt land. Accordingly, I find that paragraph 155 of the Framework is not determinative in this case.
18. Consequently, the proposed development does not meet any of the exceptions listed in paragraphs 154 and 155 of the Framework. I therefore conclude that the proposal would be inappropriate development in the Green Belt having regard to the Framework and the development plan and would result in a substantial harm to

its openness. In this regard, it would conflict with PSPLP Policy PSP7 which seeks to apply national Green Belt policy to protect the openness of the Green Belt.

Water environment

19. The application form, site plan and covering letter indicates that a mix of grey water harvesting, sustainable drainage system (SuDS) and an expansion of an existing watercourse to increase water run off capacity would be utilised. Full details of these systems of drainage have not been provided.
20. Even if the recently constructed dwelling adjacent the appeal site has been developed with associated drainage systems, given the appeal site is within a medium to high risk from surface water flooding and the presence of a watercourse, the information before me is not of sufficient detail to show appropriate drainage arrangements are achievable. Inappropriate drainage facilities could harm the quality of the water environment, particularly given the proximity of the water course, as well as increase flood risk.
21. I am therefore concerned that any planning permission granted might be negated by the lack of suitable drainage facilities. Consequently, and notwithstanding the appellants suggestion that a pre-commencement condition could be utilised, this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition.
22. To conclude, insufficient evidence has been provided to show that the proposal would protect the quality of the water environment and manage the impact of flood risk, with particular regard to drainage. As such, the proposal is contrary to Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (2013) (CS). This Policy, amongst other matters, seeks to reduce and manage the impact of flood risk through location, layout, design, choice of materials and the use of SuDS, and protect the quality and quantity of the water environment and its margins.

Protected Species & Biodiversity

23. The appeal site consists of scrubland, with some hedgerow boundaries as well as a watercourse and has been identified by Natural England as within coastal floodplain grazing marsh habitat. Furthermore, the Council suggests that the watercourse could potentially support European Eel as well as mammals such as water voles and Otters.
24. Although the plans indicate an area of the appeal site would be utilised as a 'biodiversity area', and planning conditions could be imposed in relation to matters such as lighting, the scrubland would give way to a domestic garden and associated use. No evidence has been presented to confirm whether or not any protected species making use of the watercourse, or indeed wider site would be affected.
25. In the absence of any baseline ecological evidence, the presence or otherwise of protected species cannot be reliably established and the effect on biodiversity cannot be fully assessed.
26. It appears the appellant was not specifically invited to provide the required ecological evidence prior to the Council's decision. Nevertheless, it is essential that the presence or otherwise of a protected species, and the extent that they

may be affected by the proposal, is established before planning permission is granted.

27. Based on the substantive evidence before me, I am not persuaded that the proposal would satisfactorily avoid or mitigate harm to protected species and biodiversity. Consequently, it would conflict with PSPLP Policy PSP19 and CS Policy CS9, which requires amongst other things that development conserves and enhances the natural environment, avoiding or minimising impacts on biodiversity.

Living conditions

28. The proposal would be sited in close proximity to the boundary of the appeal site with the neighbouring property. This neighbouring property features a number of ground floor and first floor windows within the appeal site facing elevation, which floor plans indicate to relate to a ground floor open plan kitchen diner, and first floor bedroom and en-suite.
29. However, despite the proximity of the proposal and the lack of architectural detail to the northeastern elevation, the dwellings would not run directly parallel to each other. This, in combination with the stepping of the elevation of the proposal closest to the neighbouring property, would minimise any dominant or overbearing effects.
30. Furthermore, even if the proposal did result in some harmful effect on outlook to these windows, the rooms within the neighbouring property with windows facing the appeal site benefit (aside from the en-suite) with windows to the rear elevation, thereby providing alternative sources of natural light and outlook, unaffected by the proposal.
31. Consequently, I conclude that the proposal would result in acceptable living conditions for occupiers of the neighbouring dwelling, with particular regard to outlook. In this respect, it would accord with PSPLP Policy PSP8 which requires that new development provides adequate living conditions for neighbouring occupants.

Pipeline

32. A subterranean pipeline runs through the part of the appeal site. The operator of the pipeline (Exolum) has stated that works in close proximity to the pipeline would require consent from Exolum and have highlighted the requirement for access for both routine maintenance and in an emergency situation.
33. However, it is put to me that agreement has now been reached with Exolum for an easement on the site. Moreover, given the location of the proposed dwelling in relation to the pipeline route, and notwithstanding the area above the pipeline would be garden, I see no reasons why the protection requirements both during construction and following construction as outlined within the letter from Missiato¹ cannot be achieved.
34. Furthermore, matter of easements are a civil matter and protection of the pipeline are conserved by differing legislation that falls outside of the planning regime. It is not the role of the planning system to intervene where more specific legislation exists.

¹ 18th June 2024

35. Given the substantive evidence before me, I conclude that the proposal would not result in an unacceptable risk of pollution, with particular regard to the location of pipeline infrastructure. In this regard, the proposal would accord with PSPLP Policy PSP21, which amongst other matters, seeks to ensure that development is sited and designed to prevent unacceptable risks and avoid unacceptable levels of pollution.

Other considerations

36. Inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
37. The Council's 'Development in the Green Belt – Supplementary Planning Document 2007' (SPD) outlines that when attempting to prove very special circumstances, the onus is on the applicant to prove the exceptional nature of the proposal. The SPD continues that circumstances that are accepted as being "very special" are very rare but will usually involve a specific judgement being made that no other option is available in light of the unique circumstances and individual case.
38. The proposal would result in an energy efficient dwelling on the appeal site, stated within the appellants Sustainability Statement² to utilise amongst other things a fabric first approach and a utilisation of air source heat pump and PV panels. The appellants have indicated that this would result in 'Passivhaus' levels of energy efficiency. Furthermore, it is suggested to me that unspecified additional biodiversity measures could be secured by planning condition.
39. An Inspector in a differing appeal³ referenced by the appellant found that due to the proposed energy saving by an innovative system of heat storage, and the design of that proposal reflecting the highest standard in architecture, very special circumstances were of sufficient weight to clearly outweigh harm to the Green Belt.
40. However, the proposal before me materially differs in that whilst the proposal would achieve notable energy efficiency levels, nothing before me indicates that this would result in a truly innovative or otherwise unique development.
41. Nevertheless, the proposal would result in an additional dwelling to the districts housing stock, although given the scale of the proposal for one dwelling, I attach modest weight to the benefit to housing supply. Given the demonstrated energy efficiency figures, I do however afford moderate weight to the energy efficiency credentials of the proposal. In respect of biodiversity benefits, given limited substantive information to the benefits of such measures before me, I afford this minimal weight.

Other Matters

42. The Council are unable to demonstrate a 5-year housing land supply, indicating it can demonstrate 4.41 years. However, the policies in the Framework relating to the Green Belt and flood risk provide a strong reason for refusing the development

² Complete Energy Consultancy 29/01/2024

³ APP/N0410/A/14/2220241

proposed and as such the proposal would not benefit from the presumption in favour of sustainable development set out in the Framework.

Green Belt balance

43. The proposal constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.
44. There would be harm arising from the inappropriate development and the erosion of the Green Belt's openness. I attach substantial weight to these harms, in accordance with Paragraph 153 of the Framework. Other considerations, either individually or cumulatively, carry at most moderate weight and therefore do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

45. For the reasons given above, I find that the proposal would be inappropriate development in the Green Belt and erode its openness. Furthermore, insufficient evidence has been provided to show that the proposal can demonstrate adequate drainage arrangements or satisfactorily avoid or mitigate harm to protected species and biodiversity. Accordingly, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR