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## Appeal Decision

Site visit made on 24 October 2017

**by Rory Cridland LLB (Hons), Solicitor**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14<sup>th</sup> November 2017**

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**Appeal Ref: APP/F0114/W/17/3178000**

**Whitehall House, Breach Hill Lane, Chew Stoke, Bristol BS40 8YA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Lawson against the decision of Bath & North East Somerset Council.
  - The application Ref 17/01311/FUL, dated 17 March 2017, was refused by notice dated 15 May 2017.
  - The development proposed is demolition of existing dwelling and outbuildings, and erection of a replacement dwelling and garage.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and outbuildings, and erection of a replacement dwelling and garage at Whitehall House, Breach Hill Lane, Chew Stoke, Bristol, BS40 8YA in accordance with the terms of the application, Ref 17/01311/FUL, dated 17 March 2017, subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. The Council's first reason for refusal includes a reference to Policy HG.14 of the Bath and North East Somerset Local Plan 2007 ("the 2007 Local Plan"). During the course of the appeal the Council adopted a new development plan document, the Placemaking Plan<sup>1</sup> (2017) (PP) which supersedes the 2007 Local Plan. Although the parties have confirmed that the PP does not contain policies which would impact on the determination of this appeal, I must nevertheless determine this appeal in accordance with the development plan in place at the present time. Accordingly, I have not considered the proposal against the policies set out in the 2007 Local Plan.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
4. The Council's second reason for refusal relates to a lack of information on the effect of the proposal on protected species. However, following the submission of additional information by the appellant, the Council has

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<sup>1</sup> The Bath and North East Somerset Placemaking Plan (2017).

confirmed that it wishes to withdraw this reason for refusal. On the basis of the submitted evidence, I have no reason to disagree with the Council's approach in respect of this matter and, consequently, have not considered it in my reasoning below.

### **Main Issues**

The main issues are:

- (i) whether or not the proposal is inappropriate development in the Bristol and Bath Green Belt ("the Green Belt");
- (ii) the effect of the proposal on the openness of the Green Belt;
- (iii) if the development is inappropriate, 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**

*Whether or not the development is inappropriate development within the Green Belt.*

5. The appeal site is located in the Green Belt. Policy CP8 of the Bath and North East Somerset Core Strategy (2014) (CS) states that the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy. The National Planning Policy Framework ("the Framework") indicates<sup>2</sup> that, other than in connection with a small number of exceptions, new development in the green belt should be regarded as inappropriate. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces is one of the listed exceptions.
6. The proposal would involve the demolition of the existing dwelling together with its ancillary outbuildings and their replacement with a new dwelling, garage, swimming pool and associated landscaping. The parties agree that the replacement building would be in the same use and therefore satisfies the first limb of the test. The central question is therefore whether the proposed replacement would be materially larger than the building it replaces.
7. The term materially larger is not defined within the Framework or elsewhere within the development plan. While I note that paragraph 8.3<sup>3</sup> of the Existing Dwellings in the Green Belt Supplementary Planning Document<sup>4</sup> ("the SPD") advises that a replacement dwelling should not normally be of a greater volume than the one that it will replace, this document pre-dates both the current development plan as well as the Framework and merely provides a useful starting point. It is ultimately a matter for the decision maker having considered all of the relevant circumstances which could include, amongst other things, volume, floorspace, overall footprint and form.
8. In undertaking this assessment, it is first necessary to establish the baseline against which the proposed new building can be compared. In addition to the

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<sup>2</sup> Paragraph 89.

<sup>3</sup> And endnote vi.

<sup>4</sup> Adopted 2008.

existing dwelling, the site presently contains a garage together with a number of single-storey outbuildings. The appellant has drawn my attention to the recent case of *Tandridge DC v. SSCLG & Syrett [2015] EWHC 2503* where the court held that there is no reason in principle why the objectives of green belt policy cannot be met by the application of the exception to a group of buildings as opposed to a single building.

9. While I note the SPD advises that unattached outbuildings should be discounted, it is clear from the *Tandridge* case that their inclusion is not necessarily excluded by the Framework. As such, I do not consider the guidance in the SPD to be consistent with the Framework in this respect and afford it only limited weight. Furthermore, although the Council has suggested that any comparison should be undertaken with reference to the size of the original dwelling, neither the Framework nor the development plan imposes any such requirement. It is the existing buildings on the site that form the basis of such an assessment.
10. The other buildings on the site are clearly used for purposes ancillary to the main dwelling. However, the appellant's calculations indicate that, even discounting the polytunnel, the amount of floorspace would increase by around 26%. Likewise, its volume would increase by around 33% and there would be an increase in height compared to any of the existing structures. Nevertheless, it would still be smaller in terms of footprint and although it would be higher than the existing dwelling, it would be comparable to neighbouring properties and would not appear large or out of keeping with its surroundings.
11. Furthermore, the site is generally well contained and where views are possible from within the surrounding landscape, it is seen within the background of the surrounding properties, which in some cases are substantial. In the context of this specific site, the impact that replacing the existing buildings with the development proposed would have only a minimal spatial and visual impact on this part of the Green Belt. As such, although the new dwelling would be larger, I do not consider it would be materially so.
12. Accordingly, I find that the proposal would fall within the fourth bullet point of paragraph 89 of the Framework and accordingly would not constitute inappropriate development. As such, it would not be in conflict with CS Policy CP8 and I am satisfied that the proposal would accord with the development plan as a whole. In such circumstances, it is not necessary to consider its impact on openness further and the need for the very special circumstances required by the Framework does not arise.

### **Other Matters**

13. I have noted the comments expressed by Chew Stoke Parish Council as well as those of local residents both at the application stage and as part of this appeal. These have been taken into account in reaching my conclusions above.

### **Planning Conditions**

14. I have had regard to the planning conditions suggested by the Council. In addition to the standard time commencement condition, a condition requiring the development to be carried out in accordance with the approved plans is

necessary in order to provide certainty. Likewise, I consider a condition requiring the submission of samples of the materials to be used in the construction of the dwelling is appropriate to ensure it integrates well into the surrounding area.

15. Furthermore, a condition requiring the submission of a bat mitigation scheme as necessary in order to protect local bat populations, while those which relate to water efficiency are appropriate in view of the requirements of PP Policy SCR5. Likewise, I consider the suggested removal of permitted development rights in respect of extensions and external alterations to be appropriate in view of the sensitive nature of the surrounding area.
16. I have, where appropriate, amended the wording of some of these conditions in the interests of certainty and precision.

### **Conclusion**

17. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Rory Cridland*

INSPECTOR

## SCHEDULE

### CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
Drawing Nos: 16202-01; 1932/12; 1932/13; 1932/11; 1932-10; and  
Plan entitled "Landscape proposals".
- 3) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Part 1, Class A (extensions and alterations) of Schedule 2 of that Order shall be carried out other than those expressly authorised by this permission.
- 4) No development shall commence until a sample panel of the materials to be used in the construction of the external surfaces of the development hereby permitted shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 5) No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. Water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.
- 6) The approved dwelling shall not be occupied until the Building Regulations optional requirement for water efficiency of 110 litres per person per day has been complied with.
- 7) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a Bat Mitigation Scheme to include the mitigation measures detailed in section 4 of the Ecological Appraisal dated 27 January 2017. The development shall be carried out in accordance with the approved details.

END OF SCHEDULE