
Appeal Decision

Site visit made on 31 October 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 18th November 2016

Appeal Ref: APP/P0119/W/16/3151719

**Rock House, 15 Townsend Lane, Almondsbury, South Gloucestershire
BS23 4EQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ivor Jones against the decision of South Gloucestershire Council.
 - The application Ref PT15/4957/O, dated 16 November 2015, was refused by notice dated 13 January 2016.
 - The development proposed is the erection of two (No.2) dwellings and associated access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two (No.2) dwellings and associated access at Rock House, 15 Townsend Lane, Almondsbury, South Gloucestershire BS23 4EQ in accordance with the terms of the application, Ref PT15/4957/O, dated 16 November 2015, subject to the conditions set out in the Annex to this decision.

Procedural matters

2. The application is made in outline with all matters reserved for subsequent approval. The application was accompanied by an illustrative layout which shows two detached dwellings and garages, with access taken from Townsend Lane on the south-western side of the site. I have taken this into account in my decision.
3. The 1:1250 scale site plan submitted with the application shows a smaller, narrower site than that depicted on the 1:500 scale plan. I have taken the more detailed plan to be the correct one.

Main Issue

4. The main issue is whether the proposal amounts to inappropriate development in the Green Belt.

Reasons

5. The site lies in the Bristol and Bath Green Belt, where there is a presumption against inappropriate development set out in Policy CS34 of the South Gloucestershire Local Plan Core Strategy (CS), adopted in 2013.
 6. This proposal follows a previous appeal decided in July 2015 in relation to the Council's refusal of a similar application. That application was refused for a
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number of reasons, which included harm to the Green Belt through inappropriateness and loss of openness, the suitability of the location in terms of accessibility to services and facilities, harm to the setting of Rock House, a Grade II listed building, and harm to the setting of the Lower Almondsbury Conservation area. The Inspector found against the proposal solely on the grounds of harm to the Green Belt through inappropriateness and loss of openness. The Council now opposes the proposal solely on the Green Belt issue.

7. Since the previous appeal, the Council concedes that it can now no longer demonstrate a 5 year supply of housing land. Paragraph 49 of the National Planning Policy Framework (the Framework) provides that, in such circumstances, relevant policies for the supply of housing should not be considered to be up-to-date. Framework paragraph 14 says that where relevant development plan policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.
8. This has particular relevance to this case, because the Council's policies for the supply of land are to be treated as out-of-date, as are the settlement boundaries. The Council's Green Belt policies restrict the supply of housing, and are also to be considered out of date. However, the Framework indicates that inappropriate development in the Green Belt should be restricted, saying that the construction of new buildings should be regarded as inappropriate, other than for a number of specified exceptions. The most relevant of these is limited infilling in villages.
9. The previous Inspector found that the proposal before her was inappropriate because it was not within the village, lying close to, but outside of the settlement boundary. That settlement boundary is now to be regarded as out of date, and the Council accepts that the proposal is both limited and within the village of Almondsbury. However it disputes that it constitutes "infilling". The Council's Green Belt Supplementary Planning Document (SPD), adopted in 2007 defines infilling as "*development that is small in scale and which fits into an existing built up area in a defined settlement boundary, normally in-between existing buildings, in a linear formation.*" However, that definition pre-dates the Framework and is inconsistent with the definition contained in the CS, which is "*the development of a relatively small gap between existing buildings, normally within a built up area*". Thus, being more recent and being a policy contained within a development plan, the CS definition has the greater force.
10. I accept that there is not an established building line on either side of the road and gaps between dwellings are uneven. Even so, it appears to me that there is a continuous line of houses leading from The Pound into Townsend Lane, with those on the southern side possessing larger curtilages, with more generous gaps between them. This continuous line ends at the bungalow at No 11, with the appeal site forming a gap to the house at 15 Townsend Lane.
11. The gap would accommodate 2 dwellings in a layout not dissimilar to the surrounding pattern of development, possessing plot widths about the same size as that of 11 Townsend Lane on the one side, and Nos 20 and 22

Townsend Lane opposite. The use of the word “relatively small” must have more meaning than just a small gap. It must be small relative to other properties, and in my view, the gap would be relatively small, sufficient to accommodate the limited infill proposed without appearing squeezed, with unduly large dwellings, or a profligate use of the space. In my view, the proposal would amount to limited infilling, and thus would not constitute inappropriate development.

12. I note that the previous appeal was argued on the basis that the proposal amounted to infilling. Whilst the Inspector noted the inconsistency between the Framework and local policies which restrict infilling to within defined settlement boundaries, she did not make any finding as to whether those policies were outweighed by the Framework. Moreover, although she commented on the more open, sporadic nature of development on the south side of Townsend Lane, this was said in the context of the impact of the proposal on openness. She did not rule out the proposal on the ground that it could not constitute “limited infilling”. Thus my conclusion on this issue is not inconsistent with hers.
13. It follows that as the proposal would not be inappropriate development in the Green Belt, the question of the impact of the buildings on openness is no longer an issue, as any impact on openness is accepted as being implicitly taken into account in the exceptions set out in the Framework. This principle was upheld by the High Court in 2015 and subsequently approved in the Court of Appeal in 2016¹.
14. I therefore conclude on the main issue that the proposal would not amount to inappropriate development in the Green Belt and that it would not conflict with CS Policy CS34, or with the SPD to which I have referred.

Other matters

15. I have had regard to concerns expressed by the Parish Council about the stability of the access, but in the absence of substantive evidence, I see no reason why a suitable access could not be provided.
16. I have taken into account the effect of the proposal on the setting of both the conservation area and the adjacent listed Rock House, but I consider that , subject to an appropriate design, their settings would be preserved.

Conditions

17. The Council has suggested conditions which I have assessed in the light of national guidance. Beside the standard outline conditions, the submission of details of parking and cycle storage is needed in the interests respectively of highway safety and the promotion of sustainable travel. Drainage details are required to ensure that the site is drained satisfactorily. A programme of archaeological investigation is needed to protect heritage interests.

Conclusion

18. As I find that the proposal would not represent inappropriate development, and in the absence of any other harm being found, the benefits of the proposal are

¹ *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor* (Rev 1) [2016] EWCA Civ 404,

not clearly and significantly outweighed by harm, and therefore the appeal must be allowed.

JP Roberts

INSPECTOR

ANNEX

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of development, details of the access and parking arrangements shall be submitted to and approved in writing by the local planning authority. The approved details shall then be implemented prior to first occupation of the dwellings hereby approved.
- 5) The dwellings shall not be occupied until two covered and secure cycle parking spaces have been provided for each dwelling in accordance with details to be submitted to and approved in writing by the local planning authority beforehand.
- 6) No development shall commence until surface water drainage details including SuDS (Sustainable Drainage Systems e.g. soakaways if ground conditions are satisfactory), for flood prevention; pollution control and environmental protection have been submitted and approved by the local planning authority as part of the subsequent reserved matters application. The approved details shall be implemented prior to first occupation of the dwellings hereby approved.
- 7) Prior to the commencement of development a programme of archaeological investigation and recording for the site shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved programme shall be implemented in all respects, unless the local planning authority agrees in writing to any variation.