
Appeal Decision

Site visit made on 27 March 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 26th April 2017

Appeal Ref: APP/P0119/W/16/3158946

Greystones, Siston Lane, Siston, South Gloucestershire BS30 5LX

- 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 Cumberland Developments Limited against the decision of South Gloucestershire Council.
 - The application Ref PK15/4561/O, dated 16 October 2015, was refused by notice dated 14 July 2016.
 - The development proposed is described as 'outline application with all matters reserved except access for up to 5 dwelling houses with associated parking, hard/soft landscaping, and drainage. Demolition of existing buildings and structures'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form for up to 5 dwellings and with all matters reserved apart from access. However, the appellant has indicated on the appeal form that the description of the development proposed changed to 4 dwellings with access, layout and scale to be determined with all other matters reserved. It is clear that the Council dealt with the proposal on this basis and so shall I.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt.
 - Whether provision for affordable housing is required.
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Green Belt

4. The appeal site is a 'L' shaped site that lies between Greystones, a 2 storey detached property and Nos. 29-31 Siston Lane, single storey dwellings
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separated from the appeal site by a small field that is within the appellant's ownership. It has a lawful use for the sale of sheds and associate products and in part the sale of garden plants and associated products, a sui generis use¹. There are a number of buildings and evidence of former structures along with sizeable areas of hard surfacing. There is no dispute that the site is previously developed land ('PDL') but given the presence of the field to the side it would not fill a gap between buildings in an otherwise built up frontage, a commonly understood meaning of the term infill and would not therefore represent limited infilling.

5. Policy CS5 of the South Gloucestershire Local Plan Core Strategy 2013 ('CS') states that development in the Green Belt will need to comply with the provisions in 'the Framework' or relevant local plan policies in the Core Strategy. Policy CS34 requires proposals to protect the Green Belt from inappropriate development. The National Planning Policy Framework ('the Framework') states at paragraph 89 that new buildings in the Green Belt should be viewed as inappropriate and then specifies exceptions, which includes 'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'.
6. The existing buildings include a metal framed and clad former shed store and workshop, with open bays onto a concrete hardstanding. The other, much smaller structure is a pitched roof, gable end outbuilding with a brick, lean to extension. This building is sited on the same building line as Greystone but sits at a considerably lower height on the boundary. Other than those buildings, three, roughly square and small workshops on the boundary appeared to have been demolished. The site was predominantly laid to concrete hardstanding with areas of gravel and earth and overall, appeared low key in scale and set behind a mature hedgerow.
7. Because the properties on this side of the lane are set back from it and in combination with the lack of any significant structures across the majority of the frontage, the absence of built form is clearly evident in the gap between Greystones and the appeal site and from further along the lane, especially given the lack of any landscaping to the side boundaries. This openness positively contributes to this semi-rural area.
8. The existing buildings have a combined area of 574sqm² (excluding temporary structures) and an estimated volume of 1934 cubic metres. The proposal would result in the demolition of all of these and the Council has not disputed the figures provided by the appellant.
9. However, the intention is for the proposal to provide a mix of two storey and chalet bungalow dwellings. Openness can have both spatial and visual aspects and whilst the existing buildings on the site undoubtedly have an impact in this respect, the proposal would result in the redistribution of floor space across a larger and significantly less developed part of the site, extending into a part of the site which is open and free from any significant development.

¹ PK15/1646/CLE granted 26 August 2015.

² Paragraph 3.5 of appellant's statement of case.

10. In particular the close spacing of 3 dwellings along the frontage would give the perception of an almost continuous frontage when viewed in between the front boundary and Greystones and from further along Siston Lane. In combination with the layout and scale of the proposed dwellings, with the smaller chalet bungalows indicated as being no higher than 7m³, these would appear considerably taller, larger and of a greater bulk and site coverage than the buildings and structures they would replace. I am also mindful that the Framework also advises that it should not be assumed that the whole of the curtilage should be developed.
11. The proposal would also substantially reduce the gap between the appeal site and the adjoining field. Notwithstanding the fact that this would be onto a part of the site that contains existing hard surfacing there would be additional bulk and a greater impact on openness, both in spatial and visual terms resulting in a clear intrusion into this part of the countryside. This impact would be much greater than any existing development which is present or removed as part of the proposal and in my view, additional landscaping would not mitigate it, mindful that there would be limited space for it and it would take a significant amount of time to mature.
12. For these reasons, the proposal would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. It would not therefore constitute an exception as specified within Policy CS5 of the CS or Paragraph 89 of the Framework. On the evidence before me, no other exceptions would apply and the proposal would be inappropriate development in the Green Belt. By definition this is harmful and in accordance with paragraph 88 of the Framework, I attach substantial weight to it.

Affordable housing

13. Policy CS18 of the CS requires that the site should provide 1.4 affordable housing units because it is over the 0.2 hectare threshold and this approach is repeated in Policy CS34. The site area is 0.24 hectares and although I note the appellant's contention that this would be 0.21 hectares if the front hedge was removed, either way the site area requires affordable housing provision and no provision has been offered by the appellant. The proposal would therefore conflict with Policies CS18 and CS34 of the CS.
14. Although national policy also provides that where a vacant building is demolished to be replaced by a new building, a financial credit should be offered in the calculation of affordable housing contributions, there is little substantive evidence from either party to enable me to reach a definitive conclusion on this matter.
15. Nonetheless, following the Court of Appeal judgement dated 11 May 2016¹, the Written Ministerial Statement of 28 November 2014 ('WMS') and subsequent alterations to the Planning Practice Guidance ('PPG') on planning obligations for affordable housing and social infrastructure contributions were reinstated. The PPG states that such contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000m² or 5 units or less in designated rural areas. The PPG sets out that the purpose of these policies is to tackle the disproportionate burden

³ Site Layout Plan – Proposed.

of developer contributions on small-scale developers, custom and self-builders with the broader aim of increasing housing supply. This applies to the appeal scheme and is a material consideration.

16. Although the Council refer to a number of studies carried out between 2010 and 2015 which confirmed the continued use of the 35% target, I have been provided with little substantive evidence to support the Council's position. The WMS and changes are also more recent than the plan and the studies cited and in the absence of the full details I am not persuaded that the evidence is entirely up to date or that specific local circumstances or need have been demonstrated.
17. The development plan is clearly the starting point but the WMS is the clearest and most recent expression of national planning policy and taking everything together and on the evidence before me, the conflict with Policies CS18 and CS34 is outweighed by it and in this regard, it indicates that a decision should be made other than in accordance with the development plan. In this particular case, an affordable housing contribution is not therefore required. Whilst I have had regard to the numerous appeal decisions cited by both parties they are of little assistance given that each case is determined on its own merits and they have not been determinative in reaching this view.

Other considerations

18. Four new homes would be provided on PDL in an area with an acknowledged under supply. Whilst I attach moderate weight to this, I am also mindful of the PPG which states that, *'Unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt'* (ref ID 3-034-2014006). There would be some economic benefits associated with the scheme, including during construction and the support future occupiers would give to local businesses and services. To my mind, given the proposal is for 4 dwellings however such benefits would be minimal.
19. The appellant also contends that there would be a fall-back position. Whilst the site may well be capable of being used as any kind of wholesale, storage or retail use, I cannot be certain that the effects of development in Green Belt terms would be similar. Moreover, there is no evidence to suggest that such a fall-back position is more than a merely theoretical prospect and would be implemented if I were to dismiss the appeal. I therefore afford it minimal weight.

Other Matters

20. My attention has been drawn to numerous appeal decisions from the appellant which are contended to be similar to the proposal before me. Whilst the Inspectors in those appeals may well have had the same Green Belt issues before them, the consideration of openness and other Green Belt considerations requires a planning judgement based on site and location specific circumstances and context as well as consideration of more quantitative data such as volume and floor space. Furthermore, I have also not been provided with the full details so cannot be certain they are directly comparable and the decisions cited do not therefore alter my views in relation to the main issues.

21. My attention has also been drawn to a recent decision by the Council⁴ for 80 houses. However, that site does not appear to be within the Green Belt and therefore the policy considerations and planning judgements are not comparable. It therefore does little to alter my view in relation to the main issues.

Planning balance and conclusion

22. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
23. As explained above I give only moderate and minimal weight to the considerations that weigh in favour of the proposal and find that these considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness because of its harm to openness and the purposes of including land within the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
24. Policies CS5 and CS34 are concerned with the location of development and has the effect of restricting the locations where housing may be developed. As a result, they affect and constrain the supply of housing land. Consequently, as the Council does not have a 5 year supply of housing land they should be regarded as relevant policies for the supply of housing in this case, as set out in the Framework.
25. However, the Government attaches great importance to Green Belts and because the policies are broadly consistent with the Framework in Green Belt and other terms I have given them significant weight. In circumstances where relevant policies are out-of-date, paragraph 14 of the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances; Green Belt policy provides that to be the case here. Overall, therefore, the proposal does not represent sustainable development.
26. For the reasons set out above, although I have found that material considerations indicate that with regard to affordable housing a decision should be made other than in accordance with the development plan, the proposal would conflict with the development plan, when taken as a whole and the Framework. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

⁴ Wickwar, South Gloucestershire.