



Appeal Decision

Site visit made on 27 September 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 16 October 2017

Appeal Ref: APP/P0119/W/17/3176056

Land opposite Dean and Chapter Farm, Codrington, Bristol, South Gloucestershire BS37 6RY

- 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 James Fannon against the decision of South Gloucestershire Council.
 - The application Ref PK16/5397/F, dated 26 September 2016, was refused by notice dated 22 December 2016.
 - The development proposed is the erection of two detached dwelling houses and garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have referred to emerging policies within the South Gloucestershire Local Plan Policies, Sites and Places Plan (PSPP) and I have been provided with copies of the policies. The parties are aware of, and have had the opportunity to comment on, this information and they are not therefore prejudiced by my consideration of it. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.
3. The Council are currently unable to demonstrate a 5 year housing land supply (HLS), and in accordance with paragraph 49 of National Planning Policy Framework (the Framework) relevant policies for the supply of housing should not be considered up-to-date. I have therefore had regard to paragraph 14 which states that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against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 as a whole or where specific policies in the Framework indicate development should be restricted.

Main Issues

4. The main issues are:-
 - Whether the development is inappropriate development in the Green Belt and the effects on openness and the purposes of including land

within the Green Belt having regard to development plan policies and the Framework; and

- Whether the site is a suitable location having regard to development plan policies and the Framework for housing in rural areas; and
- The effect of the development on the character and appearance of the area including the setting of nearby listed buildings; 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

5. The appeal site comprises an area of land that currently has no buildings within it and has a slightly raised area that appears to consist of soil and random pieces of stone. There is metal fencing, typically found on construction sites, along the site frontage. The site is located at one end of a row of dwellings that form a small area of ribbon development alongside Wapley Road.
6. Ostlands Farmhouse, a grade II listed building and its associated agricultural buildings are to the south-east of the appeal site and there are intervening fields/paddocks between them and the site. There are also fields/paddocks to the south of the site. On the opposite side of Wapley Road is Dean and Chapter House which is also grade II listed.

Whether the proposal would be inappropriate development in the Green Belt and openness and purpose

7. Policy CS5 of the South Gloucestershire Local Plan Core Strategy (CS) states, amongst other things, that small scale infill development may be permitted within the settlement boundaries of villages shown on the Policies Map within the Green Belt. It also states that other proposals in the Green Belt will need to comply with the Framework. Under paragraph 215 of the Framework full weight is therefore given to this policy in respect of its degree of consistency with the Framework. The Council have stated that the site is located outside of any defined settlement boundaries and I have no reason to dispute this.
8. The PSPP is at an advanced stage of preparation as public consultations on the Inspector's Main Modifications ended on the 24 July 2017. PSPP Policy PSP7 states that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances can be demonstrated that clearly outweigh the harm to the Green Belt, and any other harm. I have no evidence to indicate that there are any outstanding objections in relation to this policy. Consequently, and having regard to paragraph 216 of the Framework I consider that considerable weight can be given to this policy.
9. Apart from certain clearly defined exceptions set out in paragraph 89 of the Framework the construction of new buildings in the Green Belt is to be regarded as inappropriate development. Such development is harmful by definition and should not be approved except in very special circumstances. The exceptions defined within paragraph 89 of the Framework include, amongst other things, the replacement of a building, provided the new building is in the same use and is not materially larger than the one it replaces.

10. Even though there were buildings on this site, as shown on the aerial photograph, those buildings were demolished at some time prior to 1997. Consequently, as there are no buildings currently existing on the site, then the fourth bullet point of paragraph 89 cannot apply as there is no building to be replaced.
11. I have read everything that has been said about the case law surrounding the abandonment of a use in the context that the appellant claims the land is previously developed land. However, the buildings or permanent structures that were on the site appear to have been demolished and there were no walls visible on the site. The stone that is incorporated in the raised area of soil may be remnants of the buildings but it cannot be reasonably considered that it presently constitutes part of a building or permanent structure.
12. Even though the site appears to have been recently cleared of vegetation the Council's Officer Report states the site was overgrown with tall weeds. The Glossary at Annex 2 of the Framework specifically excludes land that was previously developed but where the remains of the permanent structure have blended into the landscape in the process of time. Taking into account all of the above, the proposed development would not fall within the definition of previously developed land in the Framework.
13. Moreover, even if the site did fall within the definition of previously developed land paragraph 89 also states that the development in this respect should not have a greater impact on the openness of the Green Belt than the existing development. The proposal would result in 2 detached dwellings and garages being introduced on this site where there is presently no built development. Consequently, the footprints of the dwellings, their bulk and accompanying domestic accoutrements, would lead to a significant loss of openness both in terms of its visual and spatial aspects.
14. Furthermore, it would undermine the Green Belt purpose of safeguarding the countryside from encroachment. I therefore consider that the development 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 therefore not fall within the exception stated in the final bullet point of paragraph 89.
15. The exception at bullet point 5 of paragraph 89 relates to limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan. There is no definition of 'limited infilling' within the Framework. The Council's Officer Report states that the CS defines infill as "*The development of a relatively small gap between existing buildings, normally within a built up area.*" In the absence of any more compelling alternative, I find it appropriate to rely on that definition in this instance.
16. Although the development would be adjacent to the row of dwellings and opposite Dean and Chapter House the site is within a large gap of undeveloped land between the row of dwellings and Ostlands Farmhouse. It is also seen within the context of the adjacent fields/paddocks. To my mind, despite the presence of other properties near the appeal site, by virtue of the distance between the existing properties, the site does not appear in the street scene as a relatively small gap. Consequently, the proposal cannot be treated as infill.

17. I consider that the number of dwellings can be treated as a limited amount. However, I note that the Council considers that the proposal would not be subsidised affordable housing as defined in CS Policy CS18. I have no reason to dispute this. The development would therefore not comply with the exception stated at the fifth bullet point of paragraph 89.
18. I have no evidence before me to show that the scheme would fulfil any of the other categories as set out at paragraph 89 of the Framework. As such, the proposal would constitute inappropriate development within the Green Belt. The proposal would be harmful to the openness of the Green Belt and would conflict with the purpose of including land within it. This harm would be in addition to that arising from the inappropriate nature of the development.

Suitable location

19. As stated above, the Council cannot demonstrate a HLS and its Officer Report states that saved Policy H3 of the South Gloucestershire Local Plan(LP) and CS Policies CS5 and CS34 are out-of-date for the purpose of housing provision in relation to paragraphs 14 and 49 of the Framework. I have no reason to dispute this. I note that it is not part of the Council's case that the appeal proposal fails to comply with these policies on this main issue.
20. Paragraph 55 advises that to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and that (with certain identified exceptions) local planning authorities should avoid new isolated homes in the countryside. However, the contribution 2 dwellings would make to the vitality of the rural community would be small.
21. I have very little detailed information in front of me in relation to services and facilities within the vicinity of the site and there is no evidence to suggest that existing services and facilities are under threat. However, there is a public house within easy walking distance of the site and the appellant has stated that there is not a regular bus service through Codrington. Wapley Road is mainly unlit and without pavements, other than adjacent to the row of dwellings, and as such it is not an attractive environment for walking especially after dark and when wet. There would be limited employment opportunities at the nearby golf course which would be within cycling distance of the site.
22. Nevertheless, the majority of services and facilities would appear to be an appreciable distance, around 3 kilometres, from the site. As such, I consider that any future occupiers of the dwellings would be dependent on the private motor car to access day-to-day services, facilities and employment opportunities. Accordingly, even though there has been a residential use of the site this was many years ago and I consider that the site can be treated as isolated in terms of accessibility.
23. I have no evidence before me to indicate that the proposal would comply with any of the special circumstances outlined within paragraph 55. I note that the appellant considers that the residential use of the site has never been abandoned. However, the last residential use of the site was in the 1950/60's before the need to reduce greenhouse gas emissions and locate development in accessible locations was recognised. Consequently, I do not consider that this represents the special circumstances which would direct an approach contrary to the Framework's aim to avoid isolated new homes in the countryside.

24. In conclusion I do not consider that the site is a suitable location for housing in the rural area as it would not comply with paragraph 55 of the Framework. Future occupants of the dwellings would be mainly car dependant and it follows that the proposal would not comply with CS Policy CS8 which, amongst other things, states that developments which are car dependent or promote unsustainable travel behaviour will not be supported.

Character and appearance

25. The proposal would involve the erection of 2 similar in appearance detached dwellings and a pair of garages. The appeal site lies within attractive, gently undulating countryside. The majority of boundary treatments around the adjacent fields and the appeal site are low hedges with trees within them which allow some medium distance views through the site and its immediate vicinity. There is taller mature landscaping on the boundaries of Dean and Chapter House.
26. I accept that the metal fencing at the front of the site and its unkempt appearance is not attractive. However, the development of 2 dwellings with their own curtilages would extend the urbanising nature and line of domestic buildings into the countryside. Even though there were buildings on this site it has been undeveloped for many years. Moreover, the scale and overall height of the dwellings would be appreciably taller than that of the adjacent Dean Cottage.
27. Dean Cottage is an attractive vernacular stone cottage and is locally listed. As such it is an undesignated heritage asset. Its significance mainly derives from its age, materials and architectural detailing. The elements of setting that contribute to its significance include its relationship with the street, and its immediate plot. In that context, I consider that the appeal site contributes little, if anything, to the significance of that building, or its setting. Nevertheless, the row of dwellings that Dean Cottage forms part of exhibit a similar overall scale and height even though they are of a variety of different ages and setbacks to the road. Consequently, the proposed dwellings would appear incongruous when viewed alongside this row of dwellings.
28. Dean and Chapter House and Ostlands Farmhouse are grade II listed buildings. S.66(1) of the Act requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
29. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive, negative or neutral contribution to its significance.
30. From the evidence before me, including the listing descriptions, I consider that the significance of the listed buildings nearby is largely derived from their form, historic fabric and particular architectural features.

31. Ostlands Farmhouse has its side elevation fronting Wapley Road and its front elevation faces in the direction of the appeal site. The significance of the farmhouse is mainly experienced from within its curtilage. However due to its proximity to Wapley Road its significance is also experienced in views from this road. I have no evidence before me as to whether the listed building is still associated with an agricultural use. However, due to the layout of the farmhouse and its associated outbuildings and their physical form the perception of the original function remains. The visual link of the farmhouse to the surrounding rural landscape therefore makes a contribution to its significance.
32. Whilst there may be some intervisibility between the farmhouse and the appeal site there is no evidence before me to indicate that the appeal site had any formal relationship with the farmhouse. Accordingly, I consider that the appeal site contributes little, if anything, to the significance of the listed building. The farmhouse can be readily appreciated in views from Wapley Road, those views would not change outside its immediate curtilage to any material degree as a consequence of the development proposed. Accordingly, the ability to appreciate and understand the building's past connection with agricultural use of the land would not be affected materially by the development proposed. I find therefore, that the special interest and thus, significance, of the listed farmhouse would be preserved.
33. The tall dense planting within the grounds of Dean and Chapter House means that the primary context in which this building and its significance is experienced is from within its grounds. Whilst the boundary wall is evident alongside Wapley Road only glimpse views of the listed building are possible when the landscaping is in full leaf and there would be minimal intervisibility between it and the appeal site. I acknowledge that the vegetation is not permanent and that views to and from the listed buildings could be increased or decreased in the future. Nevertheless, there is no evidence before me to suggest that the existing situation is likely to change in the near future.
34. There is nothing to indicate that the appeal site had any formal relationship or designed vistas across it related to Dean and Chapter House. Whilst the listed building can be glimpsed in views from Wapley Road, those views would not change as a consequence of the development proposed, the appeal site being on the opposite side of the road and thus behind anyone looking at Dean and Chapter House. All in all, I consider that the appeal site contributes little, if anything, to the significance of the listed buildings or their setting. As such, the ability to appreciate and understand its significance would not be materially affected by development of the application site. I find, therefore, that the special interest and significance of the listed building, and its setting, would be preserved.
35. The appellant has drawn my attention to other developments that have been built or approved within close proximity of the listed buildings. However, I do not have the full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. Moreover, since the matter under consideration in this appeal is specific to the site and its immediate surroundings I have given them limited weight. In any case, I am required to determine the appeal on its own merits.

36. In conclusion whilst I have found that the settings of the listed and unlisted buildings would be preserved I consider that the proposal would have a harmful impact on the character and appearance of the area. The inherent and urbanising impact would be localised but the development would appear incongruous within the street scene. As stated above, the development of the site would have limited benefits by the removal of the metal fencing and tidying the site.
37. However, overall I consider that the proposal would harm the character and appearance of the area even though that harm would not be significant. As such, even though it would comply with LP Policy L13 as the settings of the listed buildings would be preserved the proposal would conflict with paragraph 58 of the Framework. This states that development should establish a strong sense of place and respond to local character and history and reflect the identity of local surroundings.

Other considerations

38. As stated, above the appellant considers that the residential use of the site has not been abandoned and that this could allow the stationing of a caravan on the site. However, the current lawfulness or otherwise of the use of the site for residential purposes is not a matter for me to determine under Section 78 of the above Act. It remains open to the appellant to apply for a determination under Sections 191/192 of the same Act in relation to this matter and my decision under Section 78 would not affect this. As such, this issue has limited weight.
39. There would be social and economic benefits through the provision of 2 dwellings. The dwellings would provide a limited contribution to housing supply within an area with an acknowledged shortfall there would be modest economic benefits through the activity associated with their construction and occupation. These social and economic benefits weigh in favour of the appeal proposal. The appellant has cited a High Court judgement to indicate that a lack of HLS can amount to a very special circumstance, although infrequent. However, the Planning Practice Guidance states that *"Unmet housing need (including for traveller sites) 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."*
40. Landscaping and other measures could enhance the bio-diversity of the site. The appellant has stated that the dwellings would be insulated to a high standard and built to Code 5 of the Sustainable Homes Environmental Assessment Regulations. These would be limited benefits.
41. The removal of the metal fencing and the tidying of the site would improve the visual appearance of the site and as stated above is a limited benefit.

Conclusion

42. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

43. For the reasons given above, I find that the totality of the other considerations do not clearly outweigh the harm to the Green Belt, the creation of isolated new homes in the countryside and to the character and appearance of the area. As a result there is conflict with the development plan and the Framework as a whole. Consequently, the very special circumstances necessary to justify the development do not exist.
44. Even though the Council cannot demonstrate a HLS, given the finding above, and with reference to footnote 9 from the Framework, specific policies in the Framework indicate that the development should be restricted. As such, the presumption in favour of sustainable development as envisaged by the first limb of the fourth bullet point of paragraph 14 of the Framework does not apply.
45. Having had regard to all other matters raised, it is concluded that the appeal should be dismissed.

D. Boffin

INSPECTOR