
Appeal Decision

Site visit made on 22 July 2019

by J Alderman BA(Hons) MA MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/B1605/W/19/3225401

Land to the North of Lake Street, Prestbury, Cheltenham, GL52 3BH

- 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 Centaur Homes against the decision of Cheltenham Borough Council.
- The application Ref 18/02403/FUL, dated 26 November 2018, was refused by notice dated 24 January 2019.
- The development proposed is a single infill dwelling in the village of Prestbury, with associated garaging and private amenity space, a new adoptable turning head (to assist with service and emergency vehicles as well as other road users), and landscape enhancements

Decision

1. The appeal is dismissed.

Procedural Matters

2. The emerging Cheltenham Plan (Regulation 19 version) is at an advanced stage, with an examination that was scheduled in February 2019, however, it is understood that it is still subject to due process and is not yet adopted. As such I have given little weight to it in coming to my decision, this includes emerging policy GB1.
3. The parties are agreed that the Council does not have a five year land supply, as a result the policies relevant to this appeal are deemed out of date and paragraph 11 of the Framework therefore applies. However, the policies relied upon in the Council's decision, Policies SD5 and SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (the DP), are broadly consistent with the principles of the Framework in their approach to the Green Belt and historic assets. I have therefore applied significant weight to them in coming to my decision.
4. I note that the National Planning Policy Framework (the Framework) was revised in February 2019, I have had regard to the latest version in reaching my decision.

Main Issues

5. The main issue are

- (1) Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
- (2) The effect on the openness of the Green Belt;
- (3) The effect of the proposed development on the character and appearance of the area with particular reference to the Prestbury Conservation Area;
- (4) The effect of the proposed development on the setting of the listed buildings; and
- (5) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. The appeal site is located in Lake Street, which runs at right angles from the Burgage, one of the main thoroughfares running through Prestbury. Lake Street is a narrow road, comprising a mixture of mainly detached and semi-detached properties, in a mixture of styles.
7. The appeal site itself comprises a fairly substantial plot, which at the time of my visit was mainly covered with undergrowth, bushes and trees. Lake Street forms the boundary for the Cheltenham and Gloucester Green Belt which lies to the North and includes Cheltenham race course. The appeal site is located within the Green Belt with the area behind the site opening out towards the surrounding countryside.
8. The development that is proposed would be the construction of a detached dwelling, with an annex that would be attached by a glazed link and a separate garage and carport, along with associated gardens and landscaping. It is proposed that the area forming the entrance to the driveway of the property, would provide a turning area, which would be available to be used by refuse and emergency vehicles as well as residents of Lake Street.
9. When considering proposals affecting the Green Belt, paragraph 145 of the Framework states that Local Authorities should regard the construction of new buildings in the Green Belt as inappropriate, apart from in the case of specifically identified exceptions.
10. The main parties dispute whether Prestbury is a village or part of the urban expanse of Cheltenham. This has consequences in terms of whether the scheme accords with the Framework, in particular paragraph 145 e), as this allows limited infill within villages. Consequently such infill is not considered to be inappropriate development. However, the Framework does not give a definition of what constitutes a village. Turning to the adopted Development Plan, in particular Policy SD5, which is concerned with the Green Belt, it similarly does not provide a local definition of a village in this context.

11. In such circumstances the dictionary definition of the term is often helpful as a starting point. The appellant has provided the Oxford English Dictionary definition of a "village", which includes describing it being "a group of houses and associated buildings" which is smaller than a town situated in a rural area. The definition extends to areas in cities or towns that have "features characteristic of village life".
12. During my site visit I reviewed the location of Prestbury in relation to the urban development of Cheltenham. There are no distinguishing or obvious boundaries to the urban extent of Cheltenham when travelling to Prestbury. It is located within fairly close proximity to the city centre, linked by roads which are surrounded by a mixture of development, of various ages that clearly indicate that over the years Cheltenham has expanded its suburbs and from a spatial perspective Prestbury has now been absorbed in to Cheltenham.
13. Although Prestbury is partially within the Green Belt it has an urban feel with a number of fairly busy roads in its vicinity and general activity associated with an urban location. For these reasons it does not give the impression of being a rural area. A village would normally be expected to have its own visual separation from surrounding settlements and particularly nearby larger towns and cities. This rural aspect would mean it would most likely be surrounded by countryside. Prestbury has countryside adjoining it, on its northern edge, mainly protected by Green Belt land. One of the purposes of the Green Belt is to check the unrestricted sprawl of large built-up areas. (paragraph 134 of the Framework). On its other sides Prestbury is mainly built up and blends into Cheltenham.
14. I noted during my site visit that Prestbury has a number of facilities including shops, pubs and a school, which give it aspects of self-containment. However, many neighbourhoods in towns and cities have such facilities, with residents using the wider facilities offered by the larger area as well and it is very likely that this is the case for residents in Prestbury. There is no suggestion made that Prestbury is an urban village, as the emphasis has been primarily up on identifying its rural characteristics.
15. The appellant has provided a number of examples of how local people view Prestbury and its description in various contexts as a village. However, these views are selective and cannot be representative enough to provide a definitive position although it is acknowledged that they do provide some flavour of opinion. However, planning is primarily concerned with spatial matters and I have focused and placed emphasis on this in coming to my decision.
16. The appellant has drawn my attention to various appeal cases which they consider to be relevant to this case. I do not have the full details of these cases, but the majority seem to be related to what constitutes an "infill" in a village. The case specifically referred to (Ref: APP/R0660/W/17/3170279), provides useful information regarding what might contribute to identifying a settlement as a village, although its context is different in that it is not in an urban setting. In any event each case is different and must be looked at on its own merits.
17. My attention has been drawn to the Prestbury Conservation Area Character Appraisal and Management Plan 2009. This document highlights Prestbury's historic role as a village and how some of these characteristics are retained. However, it also acknowledges that Prestbury is joined to Cheltenham both

administratively and physically, through development particularly in the latter half of the 20th Century. This has affected its “previous rural setting”. It is only the historic core which has retained the village features rather than Prestbury as a whole.

18. Finally the appellant has pointed out that the Council has not historically been consistent in their description of Prestbury, calling it a village in other planning decisions and in Council documents. However, from the information provided the nub of these documents do not seem to be directly concerned with determining whether Prestbury should be defined as a village or not, but rather are based on a general description and as can be seen the term village can be used in many contexts.
19. I therefore conclude that despite Prestbury often being described as a village, when viewed on the ground, it forms part of the urban environment of Cheltenham. For this reason the proposed development does not fall within the exceptions set out in Paragraph 145 of the Framework, it therefore constitutes a development of new buildings within the Green Belt and as such is inappropriate development.

Openness

20. The appeal site is currently covered in dense vegetation. It is surrounded on one side by Pilgrim cottage and on the other by the lane which curves round the site to a property known as Frogmore. Immediately behind is an open field leading towards the surrounding countryside. The proposed development comprises a substantial dwelling and associated buildings which will introduce a more urban feel to its surroundings. The new development would result in a reduction in overall openness to an area of land that does not currently contain any structures.
21. The appellant references a study carried out by the Council in 2007, the AERC Green Belt review, conducted by the Council identified the land in which the appeal site is situated as performing an average Green Belt function. According to the appellant the site itself should be given a low function. However, the Framework does not differentiate between different types of Green Belt land and in addition this study was carried out some years ago.
22. The introduction of new buildings with associated parking and garden area would result in a reduction in openness and greater urbanisation and I conclude that moderate harm would be caused to the Green Belt.
23. I therefore conclude that the proposed development does not accord with the policy SD5 of the DP, which seeks to protect the Green Belt from harmful development, additionally it fails to comply with the Framework paragraphs 143, 144 and paragraph 145, specifically point g).

Conservation Area

24. The Prestbury Conservation area is based on the original village layout, it is characterised by historic and architecturally important buildings as well as having a diverse mix of “building type, style, age and function”. The addition of mature trees, open spaces and buildings positioned in large plots all contribute to a sense of space. The fields to the north of Lake Street are described as private open space and are seen as a contributor to the special character of the conservation area and its setting.

25. Lake Street is a quiet lane dotted with residential dwellings of different ages and styles typical of the conservation area. Some of the buildings are set back within their own plots, whilst others are at the pavement edge. The proposed development site provides a green area within Lake Street and although it is currently overgrown it contributes to the less urban, more peaceful surroundings.
26. Lake Street is a no through road leading to houses and a footpath and this adds to a sense of calm away from the main busy thoroughfares.
27. Green spaces are considered to be an important part of the conservation area and the appeal site is situated on the edge of an area which is specifically referenced as being reflective of this character. The proposed development would include the introduction of substantial buildings, into a currently undeveloped green space.
28. The impact of the proposed development on the views from the distant surrounding countryside, as illustrated in the appellants Townscape and Visual Impact Assessment would be minimal, mainly due to the size of the site. However, the more local views within lake street would be affected and these were identified in the same document as "moderate to minor" effect. The overgrown nature of the site currently detracts from the important view referenced in the Prestbury Conservation Character appraisals, however, as illustrated in the photographs provided, at certain times of the year the vegetation is less dense giving potential glimpses of the countryside. Over time vegetation can also be lost or removed, but the proposed development would be permanent feature and there is no evidence to clearly show to what degree the original valued view would be retained.
29. For the reasons set out above I therefore conclude that the development would fail to preserve or enhance the character and appearance of the Prestbury Conservation Area.
30. This harm would be 'less than substantial' in the context of Paragraphs 196 of the Framework.

The setting of the listed buildings

31. The proposed development would be in the vicinity of a number of listed buildings. The listed buildings comprise Pilgrim Cottage, which is next door to the proposed development and is a two storey, grade II listed 17th century timber frame building. Lake House which is opposite along with a building described as "stables" and located in the grounds of a more modern house, are both Grade II listed and date from the 18th to 19th century.
32. Lake House and the stables are located adjacent to the pavement and have no front garden area. Thus they are in close proximity to Lake Street and their setting is particularly sensitive to the proposed development which is opposite to them.
33. The massing of the buildings proposed, by virtue of their combined size, offer an unsympathetic and overbearing context to the listed buildings. Pilgrim Cottage would appear to be rather dominated by a new larger neighbour, despite the screening proposed as boundary treatment. Although the stables do not have fenestration in the elevation facing Lake Street, there would still be a drive and turning area on the opposite side of the narrow road which would

have a detrimental effect and would not enhance its setting or that of Lake House. The side gable wall of the proposed annex would be visible as would views in to the proposed development site which would provide a distraction and cause harm to the setting of the listed buildings.

34. However, due to the main building of the proposed development being set back to some degree and orientated away from Lake House and the stables and not immediately adjacent to the boundary with Pilgrim Cottage, along with proposed screening, I conclude that this harm would be 'less than substantial' in the context of paragraph 196 of the Framework.
35. Various benefits of the proposed development have been identified, which the appellant has described as "public benefits". Paragraph 196 of the Framework requires such benefits to be weighed against the harm caused.
36. The main public benefit identified relates to the provision of a turning space which would be provided for the benefit of refuse and emergency vehicles, however this turning space would not enhance the setting of the heritage assets.
37. The appellant has highlighted that a view from Lake Street through the development site is currently lost due to the over grown nature of the site and the new development would offer opportunities to reintroduce this view. However, the view will be altered by the proposed new buildings and it is unclear the degree to which that lost view will be reinstated and will retain its previous value.
38. In coming to my decision in accordance with Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and have had special regard to the desirability of preserving the setting of the listed buildings. I have attached considerable importance and weight to this desirability. I therefore conclude that the public benefits put forward would not mitigate the harm caused to the heritage assets.
39. The proposal therefore does not accord with DP Policy SD8, which seeks to conserve and enhance the setting of historic assets. It also fails to comply with the Framework paragraphs 192, 193 and 196 as well as the guidance within the Prestbury Conservation Area Character Appraisal and management plan (June 2009).

Other considerations

40. Paragraph 144 of 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 can only exist if the harm I have identified is clearly outweighed by other considerations.
41. The proposed development would offer social and economic benefits through the contribution made to the local community and economy and would add to housing within the area. This contribution is considered to be minimal due to the proposed development comprising only one unit of housing.
42. It would add some benefit through the provision of the public turning area, although it is unclear the degree to which the lack of this facility has had a

negative impact to date. The Highway Authority has made no comment on this proposal to verify whether they regard it as necessary and there is no information provided from the emergency services.

43. The proposed development should result in the better management of vegetation on the plot and it is asserted that previously lost open views of the countryside will be reinstated. Whilst it is acknowledged that the currently overgrown land should be better managed as a result of the proposed development. The introduction of new buildings and screening would add a new dimension to previously valued views. It is unclear from the amount of screening required to mitigate the effect of the proposed development, as well as the visual impact of the development itself, the degree to which the value of those views will be retained.
44. It is agreed that the Council do not have a five year housing land supply. The Council confirmed this in their Statement published in August 2018, which stated that the housing land supply is 4.6 years. When this situation arises the proposal needs to be considered against the presumption in favour of sustainable development and paragraph 11 d) of the Framework applied.
45. Paragraph 11 d) deals with situations where there are no relevant development plan policies, or where the policies which are most important for determining the application are out-of-date (including the ability to demonstrate a five year land supply). In that event, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance (these are set out in Footnote 6 to paragraph 11 and include the Green Belt and historic assets) provide a clear reason for refusing the application.
46. The proposed development is inappropriate development in the Green Belt, with moderate harm being caused to it, along with less than substantial harm being caused to heritage assets. This presents a clear reason for refusing the application and as such puts it in conflict with paragraph 11 d) i and for this reason it would therefore not be sustainable development.

Other Matter

47. Various concerns have been raised by third parties, these have been largely addressed in the reasoning above.

Conclusion

48. The proposal is inappropriate development in the Green Belt. The Framework clearly states that inappropriate development is harmful to the Green Belt, and that substantial weight should be attached to that harm.
49. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Accordingly, there are no very special circumstances to justify the proposal and the appeal is dismissed.

J Alderman

INSPECTOR