
Appeal Decision

Site visit made on 1 October 2019

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/P0119/W/19/3234390

Springwood House, 62 Over Lane, Almondsbury, Bristol BS32 4BW

- 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 Mrs J Hodges against the decision of South Gloucestershire Council.
 - The application Ref: PT18/6207/F, dated 13 November 2018, was refused by notice dated 17 May 2019.
 - The development proposed is the erection of 2no. self-build dwellings (Use Class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt (GB);
 - the effect on the openness of the GB;
 - whether the proposed houses would be in a suitable location, having regard to the development plan and national planning policy;
 - the effect on the character and appearance of the area;
 - whether sufficient information has been provided to assess the safety of the proposed vehicular access;
 - whether sufficient information has been provided to assess the effect on heritage assets of archaeological interest;
 - whether sufficient information has been provided with regard to effects on trees; and,
 - 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 required to justify the proposal.

Reasons

Background

3. The appeal site comprises an area of grassed garden land adjacent to a sizeable detached dwelling, known as Springwood House, 62 Over Lane, which stands roughly in the centre of a spacious plot. It is proposed to erect two detached dwellings on the site, which would be accessed via a link to an existing access lane to Springwood Nurseries just to the west. The site fronts onto Over Lane and is located outside any defined settlement boundary and lies within the Bristol and Bath Green Belt.

Whether inappropriate development

4. The National Planning Policy Framework (the Framework)¹ sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Section 13 deals with the GB and paragraph 143 states that inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. Similar wording is included in Policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (PSPP).² Paragraph 145 of the Framework goes on to advise that the construction of new buildings should be regarded as inappropriate development in the GB, unless it meets one or more of a list of exceptions.
5. One of the exceptions at Framework paragraph 145(e) concerns '*limited infilling in villages*.' The terms 'limited' and 'infilling' are not defined in the Framework and are, therefore, essentially a question of fact and planning judgement. The proposal is for two dwellings which the appellant contends, and the Council accepts, would be 'limited'. I see no reason to take a different view from the parties on that isolated point.
6. A definition of 'infill development', referred to in the Council Officer's Report, is contained in the glossary to the South Gloucestershire Local Plan: Core Strategy 2006-2027 (CS).³ It refers to it as '*the development of a relatively small gap between existing buildings, normally within a built up area*.' Although there is a variation on that definition within the Council's Development in the Green Belt Supplementary Document (SPD) dating from 2007, the CS is more recent and forms part of the development plan. Therefore, I give the CS definition greater weight. It offers some assistance in considering the relevant Framework criterion.
7. While the proposed dwellings would be adjacent to the existing house at No 62, they would be a significant distance from the next property to the west, 'The Hawthorns'. That building is also set further back than No 62 and although the new houses would be staggered, they would still be in front of 'The Hawthorns'. Moreover, the houses would be physically separated from that existing dwelling by a tree line, a further strip of land and an access lane leading to Springwood Nurseries. Given the overall distances, the development would not, therefore, be filling a relatively small gap between existing buildings. As a result of those site-specific characteristics, I do not consider that the development would be 'infilling'.

¹ February 2019

² Adopted November 2017

³ Adopted 2013

8. Even if it was considered to be 'infilling', the relevant Framework exception requires that infilling to be in a village. Within the GB, CS policy CS5 indicates at 6(a) that small scale infill development may be permitted within the settlement boundaries of villages shown on the Policies Map. The relevant Framework exception refers simply to infilling in villages and does not indicate that any defined settlement boundary is necessarily determinative. That approach is confirmed in a High Court judgement referred to by the appellant,⁴ which says that *'while a village boundary as defined in a Local Plan would be a relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector's assessment of the extent of the village on the ground.'* Given those factors, I have considered the matter on the basis of the wording of the Framework exception and relevant case law.
9. According to the Council, the appeal site is about 0.8km from the defined settlement boundary of Almondsbury, which is a relevant consideration, albeit not determinative. Moreover, it is about 1.1km from the core of the village comprising a church, primary school, community shop and public house. While there are irregularly spaced houses, on plots of varying sizes and with different set-backs, on the north side of Over Lane, including No 62, there are agricultural fields on the other side of the road, where the land gently rises towards wooded areas beyond.
10. Although there is a road sign to 'Almondsbury' west of the appeal site, such signage is often found on the outskirts of villages and does not signify a boundary. While the road leads towards the village, this part of it near the appeal site has the character of a country lane, bounded by hedges or low stone walls with fields to the south and lacking any footway. The housing is ribbon development on one side of a road on the outskirts of the village. Those factors give the immediate area a semi-rural feel and mean that it has a clearer affinity with the countryside than the more built-up parts of the village towards its core to the north-east. Therefore, I do not consider that the appeal site is within the village.
11. Given the above factors, the proposal does not satisfy the exception in Framework paragraph 145(e), as it is not limited infilling in a village.
12. The appellant refers to three appeal decisions. An appeal relating to Rock House, 15 Townsend Lane, Almondsbury⁵, which was allowed, also considered the issue of limited infilling in a village. However, at the time of that appeal, decided in November 2016, the Council could not demonstrate a 5-year housing land supply (HLS), which affected the weight given by the Inspector to policies for the supply of land and settlement boundaries. Furthermore, the site was also said to be close to the settlement boundary and the Council accepted that it could be considered to be within the village.
13. Therefore, the facts and context of that appeal differ from the appeal before me as the Council advises that, as confirmed by the publication in December 2018 of an extract from the Authority Monitoring Report, it can now demonstrate a 5-year HLS, which does not appear to have been specifically disputed within the appellant's appeal statement. Moreover, the appeal site is

⁴ Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

⁵ APP/P0119/W/16/3151719

about 0.8 km away from the settlement boundary and the Council does not accept that it is within the village.

14. The appellant suggests that the gap considered acceptable as infill in that case was about 70m, although no specific figure is referred to in the appeal decision. Nonetheless the implication appears to be that the extent is similar to the size of the gap in the appeal before me, which the Council estimates to be about 80m. However, it is clear from paragraphs 10 and 11 of the decision that it was the specific layout and context of the surrounding plots, including similar plot widths adjacent and opposite, which led to the Inspector's conclusion on that issue. With existing residential housing on both sides of the road, the context of that site is different from the site in this appeal, where there is only development on one side of the road with agricultural fields on the other.
15. Therefore, there are various material differences between the circumstances of the Townsend Lane appeal and the appeal before me. In any event, all appeal proposals must be judged on their individual merits and I have made my own assessment of the appeal site and its context above.
16. The main points made by the appellant, in relation to the two other allowed appeals at Willis House in Rudgeway⁶ and Livery Stables in Iron Acton⁷, concern the emphasis on settlement boundaries and the role of the Framework, which I have already considered. Otherwise, those decisions simply reinforce the importance of site-specific factors in influencing the outcome of individual appeals.
17. The appellant has not suggested that the proposal meets any of the other exceptions within paragraphs 145 or 146 of the Framework. Even if it was submitted that the land was 'previously developed', on the basis that it forms part of the residential garden of No 62, it would not satisfy Framework paragraph 145.g), which also requires that there should not be a greater impact on the openness of the GB than the existing development. The erection of two houses on a part of the garden without existing buildings would have a greater impact on openness and thus not comply. The general effect on openness is discussed in more detail below.
18. A consideration of the above factors leads me to find that the proposal would not constitute limited infilling in a village or meet any of the other exceptions set out in the Framework. Therefore, I conclude that the scheme would be inappropriate development in the GB.

Openness

19. As set out in paragraph 133 of the Framework, the fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open. Additional bulk and physical presence may affect openness, which can also have a visual element.
20. The appeal site, adjacent to the existing dwelling at No 62, comprises grassed garden land and is currently devoid of substantive built form. The erection of two new sizeable detached, two storey houses with pitched, hipped roofs and single storey side garages, would, therefore, have an adverse impact on openness. While the site is partially screened in some views by vegetation,

⁶ APP/P0119/W/18/3214856

⁷ APP/P0119/W/19/3225618

including mature hedgerow alongside its western boundary, a low stone wall fronts the road, from where public views could be obtained. Additional planting or allowing existing hedges to grow would fail to negate the basic increase in built form and the bulk and physical presence of two houses, notwithstanding other development in the area.

21. Overall, given the presence of other houses, albeit on relatively spacious plots, and Springwood Nurseries to the rear, I consider that the proposal would have a moderate adverse effect on the openness of the GB.

Suitability of location

22. As detailed in CS policy CS5, the Council's spatial strategy for the district broadly directs new development to existing urban areas, market towns and within defined settlement boundaries in rural areas. Development beyond these locations is strictly controlled. In terms of development within the GB, policy CS5 largely defers to the Framework. Policy CS34 seeks, amongst other things, to protect the GB, to safeguard the character of rural areas and maintain settlement boundaries around rural settlements.
23. The supporting text to policy PSP40 of the more recent PSPP confirms that open countryside relates to all land outside of the main urban boundaries and settlement boundaries, as defined on the Policies Map. While it allows some limited development in the open countryside outside settlement boundaries, including for rural housing exception sites, rural workers dwellings, replacement dwellings or conversion and re-use of existing buildings, the proposal does not fall into any of those categories.
24. As in many development plans, settlement boundaries are used here as an instrument to restrict development in locations generally considered to be inappropriate, such as the open countryside. Therefore, as the appeal site is some 0.8km outside the defined settlement boundary there would be prima facie conflict with PSPP policy PSP40 and the general thrust of the Council's spatial strategy.
25. While settlement boundaries can be a blunt policy instrument, they are not precluded by the Framework or other national guidance. However, as in some of the appeals referred to above, there are circumstances where, even if a site is outside a settlement boundary, other factors such as proximity to it and the character of the area may lead to a finding that development is acceptable.
26. In this case however, as already established, the site is some distance from the core facilities of the village. It is also located towards the end of ribbon development on the village outskirts and opposite open fields, which gives the immediate area a semi-rural character.
27. The appellant accepts that the facilities in the village '*may not be within a convenient walking distance*'. Although there is a 30mph speed limit, and the road has two lanes, the absence of footways would discourage use by pedestrians, while traffic and the lack of dedicated cycle lanes may deter cyclists. Public transport is also said to be limited.
28. The Framework, at paragraph 103, promotes sustainable transport but advises that opportunities to maximise its use will vary between urban and rural areas. Nevertheless, policy PSP11 of the recent PSPP, which would have been

examined for consistency with the Framework,⁸ encourages residential developments to be located where they are accessible to key services and facilities, via safe usable walking and/or cycling routes or at least have safe access to appropriate public transport services.

29. There are services and facilities within the village and a wider range, including greater employment opportunities, at Cribbs Causeway and the outer areas of Bristol to the south. However, the location of the appeal site and the nature of Over Lane is likely to mean that most journeys, even relatively short ones, made by future occupiers would be by private motor car, which does not weigh in favour of the development, even though it is limited in scale.
30. On balance, therefore, I conclude that the proposal would not be in a suitable location having regard to relevant development plan policies and the Council's spatial strategy.

Character and appearance

31. The two detached dwellings would face away from the road, with their main entrance, vehicle access, parking areas and garage entrances located to the north. The appellant submits that the detailed design and articulation of the dwellings would not be read as facing away from the highway. However, while comments in the Council Officer's Report regarding the front and rear elevations are noted, the proposed rear elevations have an extension and full length glazing across much of the ground floor level, with the back of the garage to the side. Those design elements and the lack of any central focus or main entrance on the rear elevation, combined with the other aspects referred to above, mean that the houses would be read as facing away from the road.
32. Although the proposed layout positions the houses on a roughly similar building line to the existing dwelling at No 62, most of the properties along this stretch of the road, including No 62, clearly face towards the highway with their main accesses leading from it. In that context, I consider that notwithstanding the set back from the lane and some screening from vegetation, the orientation of the new houses would appear out of keeping with the general pattern of development in the immediate street scene.
33. Therefore, I conclude that the proposed development would have a moderate adverse effect on the character and appearance of the area. It follows that the proposal would fail to comply with CS policy CS1 and PSPP policy PSP1, which together seek to ensure that development is of high-quality design which respects the character of an area and that its overall layout is well integrated with existing adjacent development. It would also be contrary to similar considerations expressed within paragraph 127(c) of the Framework.
34. CS policies CS16 and CS17, referred to in the Council's decision notice, are concerned with housing density and housing diversity and are not directly relevant to the issues discussed above. The Council and the appellant also both refer to PSPP policy PSP38 in their appeal submissions. However, while that policy does relate in part to residential design, its wording and supporting text appears to indicate that it is most obviously focussed on development within defined settlement boundaries, which is not the case here. In any

⁸ The 2012 Framework included similar guidance at paragraph 29

event, it adds little of relevance in relation to this appeal beyond that already contained in CS policy CS1 and PSPP policy PSP1.

Highway Safety

35. It is proposed to use the existing access from Springwood Nurseries onto Over Lane, which also serves the dwelling at The Hawthorns just to the west. The Council describes the access as sub-standard and says that the appellant has failed to demonstrate that adequate visibility splays can be achieved at the junction with Over Lane.
36. The appellant has supplied a Technical Note (TN)⁹ prepared by a highways consultant. Referring to the 'Manual for Streets' (MfS) and the 'Manual for Streets 2' (MfS2), it states that for a 30mph road a stopping sight distance (SSD) of 43m is recommended. It advises that, using the MfS methodology, existing visibility splays at the junction with Over Lane, based on measurements taken from 2m back from the road (the X distance), are 19m to the left (north-east) and 30m to the right (south-west).
37. The Council maintains that the standard 2.4m X distance would be more appropriate than the 2m X distance used in the TN, which would reduce the visibility claimed. According to the MfS and MfS2 that lesser 2m X distance may be considered in some slow-speed situations on lightly trafficked routes. The Council does not consider Over Lane to be low speed, notwithstanding the 30mph speed limit, or lightly trafficked. It refers to speed readings taken adjacent to the lane suggesting actual vehicle speeds are in the region of 40mph rather than 30mph and that the road is a connection between the A38 and Cribbs Causeway. However, there is limited detailed objective evidence before me regarding traffic volumes or speed data.
38. The MfS methodology does not consider views over potential obstacles, such as walls, because of uncertainty about whether they would remain in their current form or at their present height. Nonetheless, as stated in the TN to the left (the north-east) of the wide junction, there is a low stone wall, about 0.9 metres high, which is under the appellant's control. Therefore, from the driver's eye height of 1.05 metres, the actual visibility over the low wall would be approximately 70 metres (with a 2m X distance) according to the TN.
39. MfS2 suggests at paragraph 10.5.8 that using the lower 2m X distance will mean that the front of some vehicles will protrude slightly into the main carriageway, with many drivers tending to cautiously nose out into traffic. It says that the ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty should be considered and that this also applies in lightly-trafficked rural lanes.
40. Although actual traffic volumes are unclear, I consider from my site visit that given the width of the access, the speed limit and the dual lane nature of the road, approaching drivers and cyclists would be able to see any overhanging vehicles from a reasonable distance away and take appropriate action, if necessary.
41. It is relevant that this is an existing junction, apparently constructed in the 1980s to serve Springwood Nurseries and that it also serves as the access to an existing dwelling at The Hawthorns. The TN advises that a review of

⁹ Connect Consultants – dated: April 2019

Department for Transport road safety statistics indicates that there have been no personal injury accidents at the junction over the last 5 years. Given that the junction is already used and has been for some time by cars and commercial vehicles exiting from Springwood Nurseries and The Hawthorns, I do not consider that the intensification of use resulting from two further residential dwellings is likely to be significant or have an adverse effect on highway safety.

42. In reaching that view, I am cognisant of MfS2 which, at paragraph 10.4.2, notes: *'It has often been assumed that a failure to provide visibility at priority junctions in accordance with the values recommended in MfS1 or DMRB (as appropriate) will result in an increased risk of injury collisions. Research carried out by TMS Consultancy for MfS2 has found no evidence of this (see research summary below). Research into cycle safety at T-junctions found that higher cycle collision rates are associated with greater visibility.'* Therefore, it appears that visibility splays below those recommended do not automatically translate into increased risk of collisions causing injury.
43. Given the lack of footways and the nature of the road and the area, the requirement for visibility to 0.6m above the carriageway is not essential, as it is not likely that unaccompanied small children will be walking along this part of Over Lane.
44. Overall therefore, having seen the position on the ground and given that this is an existing access which has been used by domestic and commercial vehicles over a relatively long period of time, I consider sufficient information has been provided to demonstrate that visibility in both directions is adequate. It follows that the proposal would comply with CS policy CS8 and PSPP policy PSP11 which seek to ensure that appropriate, safe, accessible, convenient accesses are provided which do not compromise highway safety.

Heritage assets of archaeological interest

45. The Council advises that the appeal site is located within a 16th century deer park and later parkland and in close proximity to a significant prehistoric and Roman site and not far from a 'potential' hill fort. However, the Council has provided limited details and does not suggest that designated heritage assets may be affected.
46. In its appeal statement the Council suggests that *'as a minimum a desk-based assessment should be provided'* which could lead to further follow up evaluation work, all prior to determination, as it may affect the scope of the development.
47. However, the appellant points to the appeal at Rock House, 15 Townsend Road, referred to earlier, which is nearby. In that case the Council appeared content for that aspect to be dealt with by means of a pre-commencement condition. Although the Council refers to that being a different site with a differing set of circumstances, it does not provide any explanation of the specific nature of those differences. Therefore, I am not persuaded that the difference in approach and requirements is sufficiently justified.
48. Paragraph 189 of the Framework indicates that applicants should describe the significance of any heritage assets affected. However, it also says that: *'The*

level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact on their significance'.

49. As the proposal relates to relatively limited development in a residential garden, and scant information has been provided by the Council about potentially affected heritages assets or their location, I am satisfied that it would be proportionate to deal with the issue by means of a suitably worded pre-commencement condition. That would be sufficient to ensure compliance with CS policy CS9 which seeks to ensure that heritage assets are conserved.

Trees

50. It is also alleged by the Council that insufficient information has been submitted to demonstrate that the proposal would not harm high quality trees. The Council's Tree Officer refers to high quality trees growing around the boundary of the site. While the trees are not subject to Tree Preservation Orders, I agree that those along the western boundary, in particular, contribute positively to the character and appearance of the area.
51. Although an Arboricultural report has not been submitted, a proposed landscape plan¹⁰ indicating tree protection measures has been provided. I understand that the development would not require any trees to be removed and there appears to be a reasonable distance between the proposed development and most boundary trees. Further details are required to confirm the position regarding root protection areas and measures to protect the existing trees during construction.
52. However, given the above factors, I am satisfied that existing trees could be sufficiently protected by means of a suitably worded condition requiring an arboricultural report, recommending any necessary tree protection measures. That would avoid potential conflict with PSPP policy PSP3, which seeks to *'minimise the loss of existing vegetation on a site that is of importance in terms of ecological, recreational, historical or landscape value.'*

Other Considerations

53. With regard to the GB, the appellant's case mainly focussed on the contention that the proposal was not inappropriate development. However, I have already found otherwise for the reasons given. Nevertheless, it is still necessary to consider if there are any 'other considerations' which weigh in favour of the proposal.
54. The appellant says that the provision of two 'self-build' dwellings is a positive benefit in favour of the scheme. Although the Government and policy PSP42 of the PSPP support such schemes, the definition of 'self-build and custom-build housing' in the Framework is: *'Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing.'* That is based on the legal definitions contained in section 1(A1) and (A2) within the Self-build and Custom Housebuilding Act 2015 (as amended). No evidence beyond the use of the term 'self-build' has been presented by the appellant to confirm that the proposal meets that definition.

¹⁰ Ref: 1829(0)03B

55. Notwithstanding the above, the proposed development would contribute to the supply of housing by providing two market dwellings in a rural area. However, the Council advises that it can demonstrate a 5-year HLS and, whilst that should not be treated as a cap, two houses would be a relatively small contribution. Therefore, I give it limited weight.
56. Some economic benefits would arise from, for example, the purchase of building materials during the construction period. Future occupiers would also contribute to the local economy and towards the viability of local services. However, again given the modest scale of the development such benefits would be limited.

Planning Balance and Conclusion

57. As stated earlier, paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances.
58. I have already found that the proposal would be inappropriate development in the GB and that there would be moderate harm to openness. The access is acceptable and concerns about effects on archaeological heritage assets and trees could be addressed by condition. However, I also identified that the location of the proposal would be unsuitable and that its orientation and layout would be unsympathetic to the character and appearance of the area, contrary to relevant development plan policies.
59. Paragraph 144 of the Framework advises 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 resulting from the proposal, is '*clearly outweighed by other considerations.*'
60. Other considerations, including the contribution to the supply of housing and economic benefits, have been discussed above. However, given the modest scale of the development they attract only limited weight.
61. Overall therefore, I find that the other considerations do not, either individually or cumulatively, clearly outweigh the harm to the GB and the other harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.
62. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

JP Tudor

INSPECTOR