
Appeal Decision

Site visit made on 22 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2020

Appeal Ref: APP/P0119/W/20/3253685

Land at Chapel Lane, Old Sodbury BS37 6NG

- 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 David Hemmings against the decision of South Gloucestershire Council.
 - The application Ref P19/14499/O, dated 20 September 2019, was refused by notice dated 4 December 2019.
 - The development proposed is outline planning permission for up to five residential dwellings with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline form with all matters reserved for future approval(s). From the description of development, it is clear that the quantum of development being sought is for up to five dwellings. The appeal is determined on this basis, treating the submitted site plan as illustrative only, insofar as it indicates a possible layout for the development.

Main Issues

3. The main issues are:
 - (a) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies including the effect on its openness;
 - (b) whether the site is in an appropriate location for housing in relation to defined settlement boundaries;
 - (c) the effect on character and appearance of the area;
 - (d) the effect on archaeology;
 - (e) the effect on protected species; and
 - (f) would any harm to the Green Belt by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development in the Green Belt and Effect on Openness

4. The site comprises agricultural land which does not meet the definition of previously developed land and is located within the Bristol and Bath Green Belt. Policy CS34 of the South Gloucestershire Local Plan Core Strategy 2013 (CS), states that the Green Belt will be protected from inappropriate development. Paragraph 145 of the Framework indicates that the construction of new buildings is inappropriate in the Green Belt unless it can be demonstrated that specific exceptions apply. The proposal would extend the existing pattern of development at Old Sodbury, rather than infilling gaps within the existing perimeter of its urban extent. This is particularly evident when considering both the defined settlement boundary, which for all intents and purposes the proposal is outside of, and the particular circumstances on the ground, where the proposal would depart from the linear pattern of ribbon development that can be observed along Chapel Lane, extending behind it in a non-linear fashion.
5. The cited appeal decision¹ deals with development plan policies that were out of date and where defined settlement boundaries carried reduced weight, whereas in this case the Council's five year housing land supply is not disputed and the development plan policies are otherwise up to date and defined settlement boundaries carry full weight. The cited appeal² relates to a site between development, whereas the proposal in this case sits behind and is therefore beyond development. The cited appeal³ deals with previously developed land whereas the proposal in this case does not deal with previously developed land. Accordingly, these appeal decisions are not directly comparable to the case in hand and carry limited weight in my determination.
6. Policy CS5 does not preclude other exceptions outlined in the Framework, it merely states one instance where development may be considered acceptable (within the defined settlement boundaries) for the purposes of the development plan. Consequently, it does not appear at odds with the Framework, and can be read in conjunction with it. Reinforcing this point of view is the fact that Policy CS5 includes provisions relating to other proposals for development in the Green Belt that comply with the Framework and other policies in the development plan.
7. Within the CS, infill development is clearly defined as the development of a relatively small gap between existing buildings, normally within a built up area. Even if the proposal is to be regarded as limited, it would clearly extend beyond the defined settlement boundary and the existing extent of linear ribbon development of Chapel Lane as a component of Old Sodbury. It would be located behind existing buildings, not between them, within the open countryside and not within a built up area. Accordingly, having regard to Paragraph 145 e) of the Framework, Policies CS5 and CS34 of the CS and Policy PSP7 of the South Gloucestershire Policies, Sites and Places Plan 2017 (PSP), the proposal would constitute inappropriate development in the Green Belt. Implicit therein is harm to the openness of the Green Belt and Paragraph 144 of the Framework is clear that any such harm to the Green Belt should be given substantial weight in the decision making process.

¹ APP/P0119/W/16/3151719

² APP/P0119/W/18/3214856

³ APP/P0119/W/19/3225618

Location

8. The site is located on land west of Chapel Lane and adjacent to the village of Old Sodbury. Notwithstanding a small part of the access, for all other intents and purposes, the site is outside defined settlement boundaries as delineated on the Proposals Map associated with the CS and PSP. In this context, Policy PSP40 of the PSP states that areas outside defined settlement boundaries will be treated as part of the open countryside. The site is therefore in the open countryside for the purposes of this appeal. The policy goes on to state that residential development in the open countryside will only be acceptable in a limited set of exceptional circumstances, none of which apply to the proposal in this case. Policy CS34 of the CS controls development in the open countryside more generally and is consistent with the thrust of Paragraph 78 of the Framework, which requires policies to identify opportunities for rural areas, including its villages, to grow and thrive. It also states that within the open countryside, development will be strictly controlled in line with other policies.
9. Paragraph 79 of the Framework makes clear that planning policies and decisions should avoid the development of isolated homes in the open countryside unless very special circumstances exist. It is a very specific matter within the wider ambit of development in the open countryside and should not be conflated with policies (including those within the development plan) relating to residential development in the open countryside more broadly. The proposal is for market housing, which is a form of development that does not benefit from open countryside exception policies under the development plan. This is irrespective of Paragraph 79 of the Framework, the issue of isolated homes, and special circumstances therein. What constitutes a settlement is a matter of planning judgement. However, the issue at hand is not whether Old Sodbury is a settlement or not, but whether the proposal is located within the open countryside, which it is for the purposes of the development plan.
10. The issue of infilling in the context of Green Belt policy within the Framework, and how this is defined in accordance with the relevant judgement⁴, has been dealt with in the preceding section of this decision. It specifically relates to the fact that an assessment should be based on the extent of a village on the ground and not on the defined settlement boundary in isolation. This is logical insofar as it relates to Green Belt policy within the Framework, which does not contain a limiting dimension specifically relating to defined settlement boundaries, and therein lies the flexibility to consider the extent of the village on the ground when assessing whether proposals amount to infill development in villages, or not as the case may be. However, this logic does not necessarily extend to an assessment of residential development in the open countryside more broadly, in accordance with the settlement strategy set out by the development plan.
11. This is because the development plan is explicit in its application of defined settlement boundaries and how it considers development within and outside of them. There is no evidence that such an approach is not consistent with the Framework. Consequently, the issue of whether a proposal is located within the open countryside or not, and whether it is appropriate or not, is more binary in nature and predicated on the defined settlement boundaries set out within the development plan.

⁴ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

12. Overall, the proposal would not be in an appropriate location for housing in relation to defined settlement boundaries. It would therefore conflict with Policies CS5 and CS34 of the CS, and PSP40 of the PSP. Among other things, these seek to ensure development comes forward in accordance with the area's settlement strategy, where residential development in the open countryside is strictly controlled.

Character and Appearance

13. Chapel Lane extends to the south of Old Sodbury and comprises ribbon development along the majority of its extent up to the junction with Mill Lane. By its very nature, ribbon development is linear and along Chapel Lane the residential development is typically only ever a single unit deep. Some dwellings along the route are set back from the highway, but never to the extent that they appear detached from it.
14. Beyond the ribbon development to the east and west of Chapel Lane are agricultural fields, which remain in keeping with the open countryside location, and rural character and appearance therein. Appreciating that all matters of detail are reserved, my assessment of the proposal's effects on the character and appearance of the area relate to the fundamental principles of developing the land for housing within the parameters applied for therein, and notwithstanding its final form.
15. In this context, the depth of the site would depart from the ribbon development and linear nature of Chapel Lane, extending the urban environment into the open countryside. This would erode the rural character and appearance of the environment. Overall, the proposal would harm the character and appearance of the area and conflict with Policy CS1 of the CS, and Policies PSP1 and PSP2 of the PSP. Among other things, these seek to ensure that development responds to the existing pattern of the development in the area.

Archaeology

16. There is no evidence in front of me to demonstrate that the site is within proximity of any heritage assets. The Council has not provided substantive evidence demonstrating that there is a reasonable likelihood that the proposal would otherwise undermine the integrity of such assets in this context. Having complied with the validation process for the application and all other potential triggers for further information requests therein (arising from explicit policy requirements or consultation with statutory consultees etc.) it appears the appellant was not required to submit further information relating to heritage assets under the application.
17. Consequently, if the Council has substantive reasons for refusing the application in this context, it is only reasonable to make clear the evidence underpinning its decision. In the absence of substantive evidence to this effect, I cannot conclude that the proposal would be in conflict with Policy CS9 of the CS or PSP17 of the PSP. Among other things, these seek to ensure that heritage assets are conserved, respected and enhanced in a manner appropriate to their significance.

Protected Species

18. There is no evidence in front of me to demonstrate that the site is within proximity of protected species or their habitats. The Council has not provided substantive evidence demonstrating that there is a reasonable likelihood that the proposal would otherwise undermine the integrity of such assets in this context.
19. Having complied with the validation process for the application and all other potential triggers for further information requests therein (arising from explicit policy requirements or consultation with statutory consultees etc.) it appears the appellant was not required to submit further information relating to protected species or their habitats under the application. Consequently, if the Council has substantive reasons for refusing the application in this context, it is only reasonable to make clear the evidence underpinning its decision.
20. In terms of the particular circumstances on the ground, notwithstanding its open countryside location, it is unclear why the existing agricultural use of the site would represent suitable habitat for protected species if it has been consistently worked in such a way that prevents habitats or protected species from becoming established. In the absence of substantive evidence to this effect, I cannot conclude that the proposal would be in conflict with Policy CS9 of the CS or PSP19 of the PSP. Among other things, these seek to prevent loss or deterioration of irreplaceable habitats.

Other Considerations and Green Belt Balance

21. Given that the proposal constitutes inappropriate development in the Green Belt, paragraph 143 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. Substantial weight should be given to any harm to the Green Belt. Consequently, very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I now turn to these other considerations.
22. It is acknowledged that the proposal would contribute to housing land supply and generate additional footfall that would lead to an increase in vitality within the village and rural community by supporting local shops and services, among other things. The site is also well located in respect of its proximity to local shops and services whereby future occupants could use sustainable modes of travel, such as walking and cycling, reducing reliance on the private car and the impact on climate change therein. However, given the small scale of the proposal, any such benefits would carry only limited weight in its favour.
23. The absence of harm in relation to archaeology and protected species are neutral matters, which cannot be advanced in favour of the proposal and therefore carry limited weight. Consequently, these other considerations would not overcome the substantial weight attributed to inappropriate development in the Green Belt, nor other harms associated with the location of the development in relation to defined settlement boundaries, character and appearance.

24. Overall, the development is inappropriate development in the Green Belt, and I find that the other considerations in this case do not clearly outweigh the harm I have identified. The very special circumstances necessary to justify the development do not exist. Consequently, the development would be contrary to Paragraphs 143, 144 and 145 of the Framework, Policies CS5 and CS34 of the CS and Policy PSP7 of the PSP, which seek to control inappropriate development in the Green Belt.

Conclusion

25. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR