
Appeal Decision

Site visit made on 23 November 2020 by A J Sutton BA Hons DipTP MRTPI

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2021

Appeal Ref: APP/G1630/W/20/3258448

Land Adjacent to 1 St Clair Cottages, Staverton, Cheltenham, GL51 0TW.

- 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 and Mrs Andrew Reed against the decision of Tewkesbury Borough Council.
 - The application Ref 19/01229/FUL, dated 29 December 2019, was refused by notice dated 16 March 2020.
 - The development proposed is a new 3 bedroom detached dwelling adjacent to 1 St Clair Cottages.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. My attention has been drawn to policies of an emerging plan. The pre-submission version of the Tewkesbury Borough Plan 2011 - 2031 (Pre-submission Borough Plan) was approved for submission in July 2019, and as such I have given policies of the emerging plan limited weight in reaching this recommendation.

Main Issues

4. The proposed development is for a detached dwelling that would be built in the existing garden of No 1 St Clair Cottages in the rural settlement of Staverton, which is located in the Green Belt.
5. Therefore, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and

- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons for Recommendation

6. The Framework states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It requires, when considering any planning application, that substantial weight is given to any harm to the Green Belt. Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) states that to ensure the Green Belt continues to serve its key function, it will be protected from harmful development. The JCS predates the latest revision of the Framework, however, the policy generally accords with the Green Belt policy of this document.

Whether inappropriate development

7. The construction of new buildings should be regarded as inappropriate in the Green Belt. However, the Framework identifies a number of exceptions to this, which are considered below.
8. Paragraph 145 e) identifies limited infilling in villages is one such exception. Although the Council submit that the appeal site is located within the countryside outside of any defined settlement in the JCS, the Framework exception does not make specific reference to a site having to be within defined settlement boundaries. Moreover, case law¹ has also established that it is necessary to consider whether, as a matter of fact on the ground, a site appears to be within a village. Whether or not a site lies outside a village boundary as designated in the development plan is not determinative in cases such as this.
9. The appeal site is closely related to development comprising St Clair Cottages and residential development on both sides of the road. The speed limit changes to 30 mph just to the east of the appeal site and continues through the village, along with a pavement located on the opposite side of the road to the appeal site. Although not seen in the context of the core of the village because of the bend in the road, I am satisfied that it is closely related to, and forms part of the village for the purposes of Green Belt policy.
10. Whilst there is no definition of 'infilling' within the Framework, it is generally accepted as the filling of a gap between existing built development. Whilst reference is made to JCS Policy SD10 which defines infilling as "development of an under-developed plot well related to existing built development", the supporting text makes it clear that the definition of infilling is for the purpose of this policy only. This definition does not follow through to the Framework.
11. Accordingly, in this case, whilst I acknowledge that the appeal site is located within a village and that the quantum of development proposed would be limited, the location of the appeal site at the end of a row of built development with open land to the side, would not result in the proposal infilling of a gap between existing built development. The proposal would thus not comprise limited infilling in a village for the purpose of paragraph 145 e) of the Framework.

¹ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin)

12. The host property has planning permission for a two storey side extension which was partially constructed at the time of my visit. I also noted a detached garage to the side/rear of this. Framework paragraph 145 d) allows the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
13. In this case the new dwelling would have a greater floor area than the side extension and garage which it is intended to replace. Reference is made to the dwelling having a floor area which would be 37% greater than these developments, which is not disputed. The new dwelling would also be higher than these buildings; reference is made to the dwelling having a ridge height of 7.8 metres compared to the garage with a ridge height of 4.7 metres and the extension, when completed having a ridge height of 7.6 metres. Given these matters I find that the volume and overall scale of the new dwelling would be substantially greater than the buildings it is intended to replace.
14. Having regard to the above I find that the new dwelling would be materially larger than the buildings it would replace and accordingly it would not comprise an exception under paragraph 145 d) of the Framework.
15. The appeal site comprises previously developed land as defined in the Glossary of the Framework. As such paragraph 145 g) is also relevant in this case. Whilst the criterion allows partial or complete redevelopment of previously developed land this is subject to the requirement that development does not have a greater impact on the openness of the Green Belt than the existing development. This matter is considered below.

Openness

16. Paragraph 133 of the Framework establishes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
17. The proposed two-storey building would fill a substantial portion of the site which currently has a sense of openness, hosting only a single storey garage and modest sized two-storey extension. The new dwelling would result in a material visual and spatial change in the existing openness of the appeal site. It would have a greater impact on the openness of Green Belt than the existing/approved development, in that openness would be reduced.
18. In light of the foregoing, I conclude that the proposal would result in a loss of openness to the Green Belt. Whilst the effect would be limited and localised given the scale of development, harm to the openness of the Green Belt would occur; a matter to which I am required to attach substantial weight in reaching this recommendation.

Conclusion on whether inappropriate development

19. Given my findings above that the proposal would reduce the openness of the Green Belt, it would fail to satisfy the requirements to qualify as an exception under para 145 g) of the Framework.
20. I conclude that the proposal would not fall within any of the exceptions set out within the Framework. Accordingly, it would comprise inappropriate development in the Green Belt. Inappropriate development is, by definition,

harmful to the Green Belt and should not be approved except in very special circumstances.

Character and Appearance

21. No 1 is a paired dwelling, which is part of a small group of generally paired properties which front the Main Street and form St Clair Cottages' short spur road. The immediate setting of the appeal property is characterised by the pleasing pattern of well-spaced pairs/group of dwellings, including Nos 7 and 8 and the attached dwelling to No 8. The new development adjacent to No 4 appears consistent with these features and Farhill Close is set towards the rear therefore not harmfully interrupting the distinct style and pattern of development near the appeal property. Properties on the opposite side of Main Street are of a different character, being detached dwellings in large plots. However, space around built forms is an overriding characteristic on both sides of the road.
22. The proposed development would be detached and would not reflect the rhythm or form of development nearby. It would appear as an unsympathetic and incongruous addition, in a prominent edge of village location, which would not relate well to the adjacent properties. Moreover, the new dwelling would disrupt the pleasant balance of nearby development which fronts Main Street and would not reflect the sense of space which is a distinct and positive characteristic of the immediate setting of the site.
23. Accordingly, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would be contrary to Policy SD4 of the JCS which requires, amongst other matters, that new development should respond positively to, and respect the character of the site and its surroundings, enhancing local distinctiveness.

Other Considerations

24. Very special circumstances to justify inappropriate development 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.
25. I have found that the proposal would be inappropriate development in the Green Belt and that it would also be harmful to the openness of the Green Belt. In line with paragraph 144 of the Framework, I attach substantial weight to this harm. Further harm would be caused to the character and appearance of the area.
26. The appellants have referred me to development at No 8, which is on a plot between two existing dwellings and thus comprises limited infilling for the purposes of Green Belt policy. I have also observed permissions granted at Down Hatherley and Shurdington which are on sites bound by existing buildings and are thus not comparable to the proposal before me.
27. Reference is made to proposals at Sandhurst which was refused, and I do not have the details of the Old Gloucester Road proposal before me. Paragraph 89 of the Framework relates to retail and leisure development. Suggested amendments to the internal floor space would be unlikely to resolve the harm identified. Therefore, these matters have not been determinant in this case.

28. I note concerns regarding the development at Farhill Close. However, this matter is not relevant to the consideration of this proposal which has not been identified as a rural exceptions site, and, for the reasons outlined, would not satisfy the requirements for an exception for new buildings in the Green Belt.
29. Supporting evidence suggests that the Council may not be able to demonstrate a 5 year housing land supply and in this regard I acknowledge that the new dwelling would make a small contribution to boosting the supply of housing in the area and would make efficient use of previously developed land. However, given the quantum of development proposed, I find that these matters weigh moderately in favour of the proposal. The tilted balance given by paragraph 11 of the Framework does not apply in this case because the Green Belt is a protected area listed in paragraph 11 d) i.

Planning Balance and Conclusion

30. I have found that this proposal would be inappropriate development in the Green Belt and would lead to a loss of openness to the Green Belt. The proposal would also be harmful to the character and appearance of the area. These issues are not outweighed by the considerations advanced by the appellants. As a result, the very special circumstances that are necessary to justify the development do not exist. The proposal therefore would conflict with Policies SD5 and SD4 of the JCS and the Framework. There are no other considerations which outweigh this finding.

Recommendation

31. For the reasons given above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

32. I have considered all the submitted evidence and concur that the appeal should be dismissed.

RC Kirby

INSPECTOR