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# Appeal Decision

Site visit made on 15 June 2021

**by Stuart Willis BA Hons MSc PGCE MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 July 2021**

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**Appeal Ref: APP/P0119/W/20/3264030**

**8 Fairacre, Over Lane, Almondsbury BS32 4BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Sanj Chohan against South Gloucestershire Council.
  - The application Ref P20/13905/O, is dated 9 July 2020.
  - The development proposed is demolition of existing property and erection of 6 detached dwellings.
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## Decision

1. The appeal is dismissed, and planning permission is refused.

## Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have had regard to the indicative details provided but have regarded all elements of these as illustrative. I have determined the appeal on this basis.
3. The appellant lodged an appeal against non-determination after the expiry of the statutory period without the Council having issued a decision. Subsequently they stated that had they determined the application they would have refused it for reasons relating to inappropriate development in the Green Belt, local housing policies, archaeology, accessibility to services and facilities and highway safety. In addition, comments and concerns were raised over the lack of ecological surveys and the effect of the scheme on the character and appearance of the area.
4. The appellant has had the opportunity to respond to all these matters in their final comments. Therefore, they would not be prejudiced by my taking these into account and forming part of the main issues.

## Main Issues

5. The main issues of the appeal are:
  - The effect of the proposed development on archaeology,
  - The effect of the proposed development on biodiversity,
  - Whether the site is a suitable location for housing with regard to the local housing strategy,

- Whether the site is a suitable location for housing with regard to accessibility to services and reliance on private motor vehicles,
- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies,
- The effect of the proposed development on the character and appearance of the area; and
- Highway safety, with particular regard to refuse vehicle turning facilities.

## **Reasons**

### *Archaeology*

6. Planning Practice Guidance (PPG) states that the Historic Environment Record (HER) will be a useful indicator of archaeological potential in the area. The Framework and PPG state that where a site includes, or has the potential to include, heritage assets with archaeological interest, developers should submit an appropriate desk-based assessment and, where necessary, a field evaluation.
7. The HER indicates that there are a number of features recorded in the locality. These include an Iron Age hillfort, an Iron Age/Roman enclosure with significant Iron Age burials, a deserted Medieval settlement, Medieval and Post-Medieval ridge and furrow, a Medieval manor and a moated site, pillow mounds. The site itself is within the bounds of the Medieval deer park. Consequently, there is potential for heritage assets with archaeological interest at the site.
8. From the evidence before me the features from the HER are non-designated heritage assets. Their significance, in part, would come from the open and undeveloped setting of the site and nearby land. The presence of, and effect on, designated heritage assets is identified in the LVIA. Nevertheless, the appeal scheme has not provided any detailed assessment on non-designated assets.
9. Excavation and construction as part of the appeal scheme could impact on, and potentially harm, any surviving archaeology. While main and third parties have indicated that ground works have previously taken place at the site, again I have limited information on the extent, nature or effect of the works.
10. In the absence of any detailed assessment of non-designated assets the scale of any harm or loss to them has not yet been established. As a result, the use of the suggested condition(s) would not be reasonable and I cannot be sure that the benefits of the scheme outweigh any adverse impact on the significance of the assets.
11. Consequently, it has not been demonstrated that the proposal would conserve or enhance the significance of non-designated heritage assets. The proposal would be contrary to the archaeological and heritage asset protection aims of PSP17 of the PSP<sup>1</sup>, Policy CS9 of the CS<sup>2</sup> and the Framework.

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<sup>1</sup> South Gloucestershire Local Plan: Policies, Site and Places Plan

<sup>2</sup> South Gloucestershire Local Plan: Core Strategy

### *Biodiversity*

12. PPG indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
13. Circular 06/2005 states it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It also advises that surveys should only be required by condition in exceptional circumstances.
14. The Council's 'Biodiversity and the planning process' document states that an ecological survey should accompany all planning applications, whether outline or full.
15. The evidence provided indicate that the proposal would involve works across areas of the site that are currently undeveloped. There are also a number of mature landscape features at the site. Furthermore, the scheme involves the removal of the existing dwelling and ancillary buildings. Nonetheless, the application has not been accompanied by any ecological surveys. While the appellant suggests the ecological value of the site is low, I have no detailed information to support this.
16. Furthermore, there has been no convincing evidence presented to indicate that the proposal represents exceptional circumstances where surveys could be subject to conditions.
17. The absence of sufficient information means that I cannot rule out potentially significant harm to biodiversity. No specific policy has been identified with regard to this matter. However, the scheme would be contrary to the Framework where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

### *Local Housing Strategy*

18. Policy CS34 of the CS seeks to maintain settlement boundaries and Policy PSP40 of the PSP sets out exceptions where residential development is considered acceptable outside of settlement boundaries. Policy CS5 of the CS considers the location of development and it states proposals for development in the Green Belt will need to comply with the relevant CS policies. There is no clear evidence that the strategy is proving ineffective or that the Council are unable to demonstrate a 5-year supply of housing land.
19. Although adjacent to the settlement boundary for Almondsbury, the site is outside it and does not meet any of the exceptions listed in the above policies. Consequently, the proposed development would not be a suitable location for housing with regard to the local housing strategy. It would conflict with the aims of Policies CS34 and CS5 of the CS and Policy PSP40 of the PSP.

### *Accessibility to Services*

20. Much of the routes between the site and the services and facilities within Almondsbury are unlit or with no pedestrian footway. The path alongside the site is unmade, steeply sloping in part and covered with overhanging trees. These factors would discourage walking and cycling.
21. Notwithstanding this, although not all the way to the centre of the village, parts of the routes are lit with pedestrian footways or verges to give refuge. Moreover, the route down past Church View would be along residential streets where I saw the small amounts of traffic travelled at slow speeds. While only a snapshot in time, the route was well used by walkers.
22. Rather than being remote from a settlement, there are residential properties adjacent to the site and the services and facilities within Almondsbury are not a considerable distance. Despite the infrequent timetable the presence of bus stops in the area would provide an option at times for more distant journeys.
23. While it is inevitable that there would be some reliance on private motor vehicles, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
24. Consequently, the site would be a suitable location for housing with regard to accessibility to services and reliance on private motor vehicles. It would comply with Policy CS8 of the CS and Policy PSP11 of the PSP where they aim to provide users of new development with a range of travel options.

### *Whether Inappropriate Development*

25. The appeal site is situated in the Green Belt. The Framework outlines that the construction of new buildings, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt. One of the exceptions is limited infilling in villages. The Framework does not provide a definition of 'limited', 'infill' or 'villages'.
26. Policy PSP7 of the PSP, as the Framework does, states that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances can be demonstrated. Policy CS34 of the CS aims to protect the Green Belt from inappropriate development.
27. Policy CS5 of the CS refers to small scale infill development being within the settlement boundaries of identified villages and that development in the Green Belt will need to comply with the provisions of the Framework and the CS. The SPD<sup>3</sup> describes infill development as being small scale and fitting into an existing built up area in a defined settlement boundary, normally in-between existing buildings, in a linear form.
28. As the site is not within the defined settlement boundary, it would not comply with the requirements of Policy CS5 or the SPD for that exception. The SPD, PSP and CS pre-date the Framework which does not include such a requirement. Case law<sup>4</sup> has established that when considering whether a settlement is a village or whether a site is in a village, regard should be had to the situation "on the ground" as well as any relevant policies. The immediate

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<sup>3</sup> Development in the Green Belt

<sup>4</sup> Julian Wood v SSCLG and Gravesham Borough Council [2015]

context of a site needs to be assessed to consider if it complies with the exception in the Framework.

29. The appeal site comprises an existing single plot and is adjacent to the settlement boundary. Although much of the appeal site is currently absent of built form, there is a dwelling, ancillary buildings and hard surfacing at the site. Other dwellings and gardens are located close to 3 sides of the appeal site. The appeal scheme would be seen in the context of nearby built form rather than separate from other properties. Therefore, it would be within the village.
30. There is no considerable gap between the properties around the appeal site and plots adjacent to it. Although there is generally linear development along Over Lane, there are cul-de-sac developments nearby. As such it would fit into the existing built up area and would be infill development.
31. While the CS and SPD refer to infill development being small scale in small gaps, these terms are not defined. The proposal would include 6 dwellings, 5 more than on site at present. There are a large number of nearby properties, with several in close proximity and adjacent to the site. Given the quantum of development in the area the appeal scheme would be small scale and therefore limited.
32. Consequently, the proposal would be limited infilling in a village in accordance with the Framework and would not be inappropriate development within the Green Belt as defined in the Framework. Therefore, there is no need for the appellant to demonstrate very special circumstances exist or for me to go on to consider the effect of the proposed development on the openness or purposes of the Green Belt.
33. Paragraphs 212 and 213 of the Framework state plans may need to be revised to reflect policy changes that the replacement Framework has made. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with it.
34. Restricting limiting infilling in villages to only locations within a settlement boundary is not consistent with the Framework. Therefore, I give the conflict with Policies CS5 and CS34 of the CS and Policy PSP7 of the PSP limited weight with regard to this main issue.

#### *Character and Appearance*

35. There is a mixed pattern of development in the area with both linear development and cul-de-sac streets. The site would be largely screened from Over Lane. The existing dwelling and ancillary structures are clearly seen in views of the site from below.
36. Views of the scheme from below would be with Church View in the foreground that extends the built form up the hill and close to the site boundary. The existing dwelling, garage building and other properties accessed off the upper road are the backdrop to the site from lower views. Nonetheless, the extensive built form near and surrounding topography means the site is not seen as an obvious visual break at present.
37. The proposal would involve the demolition of the existing building. There is a varied layout, appearance and scale to the dwellings nearby. While information

has been provided relating to reserved matters, these are not to be considered at this stage and any potential visual benefits of the proposed scheme in terms of layout, design and scale are unknown.

38. Details of the retention and protection of landscape features along with any additional planting would also be covered at the later stage were the appeal to be allowed. There has been no compelling case made to indicate that subject to appropriate design, a satisfactory scheme is not possible.
39. Therefore, the proposed development would not harm the character and appearance of the area. No specific policy has been identified with regard to this matter. However, the scheme would accord with the Framework where it states proposal should be sympathetic to local character.

### *Highway Safety*

40. While concerns over the turning space for refuse vehicles within the site have been raised, access is a reserved matter. Were the appeal to be allowed conditions could be imposed to require details of the layout and internal routes as part of a reserved matters submission. They would be assessed at that time.
41. Therefore, the proposed development would not cause harm to highway safety, with regard to refuse vehicle turning facilities. The scheme would accord with Policy PSP11 of the PSP and Policy CS8 of the CS. These, in part, seek to avoid developments that would have an unacceptable effect on highway and road safety, and ensure schemes provide appropriate vehicular access.
42. It would also accord with the Framework where it states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### **Other Matters**

43. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. Given the number of units proposed, the scheme would make a small contribution towards housing supply.
44. There would be benefits arising from the construction period and future spend of occupants giving support to the local services and facilities. However, as construction benefits would be short term, and due to the scale of the proposal, these factors attract limited weight. There is limited information before me regarding energy efficiency benefits and therefore I give those little weight. Even if I were to consider the site as previously developed land and a more efficient use of land, the associated benefits would be small.

### **Conclusion**

45. I have found the proposal would be acceptable in regard to character and appearance, highway safety, Green Belt policy and accessibility to services and facilities. Nevertheless, these are neutral factors and do not outweigh the harm that would arise in relation to archaeology, biodiversity and the local housing strategy.

46. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

47. For the above reasons, I conclude that the appeal should be dismissed.

*Stuart Willis*

INSPECTOR