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# Appeal Decision

Site Visit made on 31 August 2021

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

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

**Decision date: 30 September 2021**

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**Appeal Ref: APP/G1630/W/21/3275077**

**Longlands, Shurdington Road, Cheltenham GL51 4TU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mrs M Carter against the decision of Tewkesbury Borough Council.
  - The application Ref 20/00976/PIP, dated 7 October 2020, was refused by notice dated 17 November 2020.
  - The development proposed is described as, "Permission in principle application for the erection of up to 5 No. dwellings".
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle (PiP). The consent route for which has 2 stages: the first stage (PiP) establishes whether a site is suitable in-principle and the second ('Technical Details Consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages. The scope for the consideration of a scheme for PiP is limited to location, land use and the amount of development. I have determined the appeal accordingly.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment. I have had regard to the 2021 version of the Framework in my decision.

## Main Issues

4. The main issues are whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, with particular regard to a) the settlement strategy for the area; b) whether the proposal would be inappropriate development in the Green Belt; and c) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

## Reasons

### *Suitable Location*

5. The site is located outside of the defined Residential Development Boundary for Shurdington and is physically separated from its core by a field. Policies SP1 and SP2 of the Core Strategy<sup>1</sup> collectively guide the distribution of new development. Paragraph 3.2.14 of the Core Strategy sets out, amongst other things, that there are a number of freestanding villages within Tewkesbury Borough which are considered to be suitable locations for some limited residential development. Nonetheless, as the site is located outside of a freestanding village, this paragraph provides little support for the proposal.
6. Following criterion 6 of Policy SP2, due to the site's location, Policy SD10 is relevant. In this respect, paragraph 4.11.2 of the Core Strategy states, amongst other things, the policy approach directs residential development to previously-developed (brownfield) land. However, this paragraph offers little support for the proposal as the site is located outside of the areas specified in criterion 3 of Policy SD10, which relates to previously-developed land.
7. Policy RES3 of the emerging Local Plan<sup>2</sup> (ELP) offers support for very small scale development at rural settlements. Since the examination for the ELP is at an advanced stage, I can afford Policy RES3 more than limited weight. That said, considering the size of the site as a whole and the number of buildings on site which would be demolished, even if only 1 dwelling were put forward for consideration at Technical Details Consent stage, it is not reasonable to consider the proposal at PiP stage as comprising 'very small scale development'. Hence, whilst I note that the site is well-connected to Shurdington in terms of services and facilities, Policy RES3 provides limited support for the proposal.
8. As the proposal relates to the erection of new dwellings, criterion 5 of Policy SD10 is not applicable, as it relates to the re-use of vacant or redundant buildings. The appellant has referred to a 2017 review of the Green Belt and the site being included within a wider parcel of land (P25). However, the allocation referred to was not taken forward to the examination of the ELP. The appellant has also referred to site allocation SHU1. However, this relates to land to the north of the site and on the information before me is no longer a potential allocation in the latest draft version of the ELP at examination. As such, these matters only provide limited support for the proposal.
9. I have had regard to the decision notice and the Officer's Report provided for an application at Lynfield Farm. I note that this example demonstrates the principle that PiP can be granted for a proposal which is outside the settlement boundary and in the Green Belt. However, no plans have been provided, which would allow a meaningful comparison with the proposal before me. Therefore, apart from the principle demonstrated, that example does not offer further support for the proposal.
10. Taking account of the lack of policy support for the proposal, with the site not being situated in an area where new housing is promoted through the Core Strategy, the appeal site would not be a suitable location for new residential development, with particular regard to the settlement strategy of the area. The

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<sup>1</sup> Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (2017)

<sup>2</sup> Pre-Submission Tewkesbury Borough Plan 2011 – 2031 (2019)

proposal would conflict with Policies SP2 and SD10 of the Core Strategy which collectively guide the distribution of new development. The proposal would also conflict with Policy RES3 of the ELP, which seeks to guide the distribution of new housing outside settlement boundaries.

### *Whether Inappropriate Development*

11. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. There are however a limited number of exceptions to this, notably in paragraph 149 of the Framework. This reflects Policy SD5 of the Core Strategy which provides that, amongst other things and within its boundaries, development will be restricted to those limited types of which are deemed not inappropriate by the Framework, unless very special circumstances can be demonstrated.
12. It is common ground that the proposal would fall under paragraph 149 g) of the Framework. Specifically, that it would constitute the complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). I have no reason to disagree. I therefore turn to whether the proposal would have a greater impact on the openness of the Green Belt than the existing development. Openness is an essential characteristic of the Green Belt. It has a spatial as well as a visual aspect. 'Open' can mean the absence of development, and it follows that openness can be harmed even when development is not readily visible from the public realm.
13. The appeal site comprises an access track and several different buildings which, whilst not covering the whole site, have been used as a cattery and for dog training. A residential property called Longlands is situated to its east, and the garden of Longlands bounds the site to the south. Beyond trees and hedgerows, the site is surrounded by agricultural land to the north and west. Collectively, the buildings on the site are of such a size and mass to be broadly similar in that regard to residential buildings. They have an existing reducing effect on the Green Belt's openness.
14. Since my assessment relates to the principle of the site for residential development, matters such as height, massing, scale and design are to be considered as part of the Technical Details Consent stage. The appeal scheme proposes up to 5 dwellings and whilst on the evidence before me it is clear that the lower end of the proposed amount, i.e. 1 or 2 dwellings, could be reasonably created on site without having a greater impact on the openness of the Green Belt than the existing development, this would not be the case for the higher end of the proposed amount, i.e. 4 or 5 dwellings.
15. In the latter case the amount of buildings, their potential spread across the site, the accompanying residential paraphernalia, and the likely increase in vehicles entering and leaving the site would all contribute to the proposal having a greater impact on the openness of the Green Belt than the existing development. The proposal would therefore constitute inappropriate development in the Green Belt for the purposes of the Framework and Policy SD5 of the Core Strategy. Inappropriate development is, by definition, harmful to the Green Belt.

### *Other Considerations*

16. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes 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.
17. The matter of common ground that the proposal would not result in the development of isolated homes in the countryside<sup>3</sup>, is a neutral matter, which does not weigh in favour of the proposal. In addition, and in regard to the cases cited for Brickhouse Farm and Barn Close, limited additional evidence has been provided so that meaningful comparisons with the appeal proposal cannot be made.
18. The appeal scheme would provide new housing with which there would be associated aspects such as adding to choice and mix, increasing vitality, supporting and adding to the local economy and making use of a small site. The use of locally-sourced materials would be positive and would ensure a good quality outcome. That said, these matters would be limited in their effect by the overall scale of the scheme's upper limit. I agree that some of these elements would also arguably be part of a possible future Technical Details Consent application but I have nonetheless taken them into account.

### **Planning Balance and Conclusion**

19. Whilst disputing some of the Inspector's conclusions in regard to a previous appeal<sup>4</sup> and the extent of any housing shortfall is thus unclear, it is common ground that the Council is currently unable to demonstrate the supply of housing sites as required by the Framework. As such, and following my finding on the second main issue, paragraph 11 d) i) of the Framework applies. That is to say that whilst the most important policies may be considered out-of-date, a planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. In this case, and having regard to footnote 7 of paragraph 11, such a policy includes those concerning development in the Green Belt.
20. The proposal would be inappropriate development in the Green Belt through unacceptably reducing its openness. These matters carry substantial weight. Taken together, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Not only does this indicate a clear reason for refusing the development proposed under paragraph 11 d) i), it also means that the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would not comply with the Green Belt aims of Policy SD5 of the Core Strategy, or the Framework, and consequently would be unacceptable. The aims of which I have set out. Having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

*Alexander O'Doherty* INSPECTOR

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<sup>3</sup> Paragraph 80 of the Framework and *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin)

<sup>4</sup> APP/G1630/W/20/3256319