



Appeal Decision

Site visit made on 3 May 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 May 2022

Appeal Ref: APP/F0114/W/22/3291569

Land at The Orchard, Stanton Drew, BS39 4DS

- 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 Mr N Warfield of Freemantle Developments Ltd against the decision of Bath and North East Somerset Council.
 - The application Ref 21/04521/PIP, dated 6 October 2021, was refused by notice dated 23 November 2021.
 - The development proposed is permission in principle for the erection of up to 3 dwellings with associated access, drainage and hard/soft landscape works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle (PiP). Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The PiP consent route has 2 stages: the first stage (or 'permission in principle stage') establishes whether a site is suitable in-principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for PiP are limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent technical details consent application if PiP is granted. I have determined the appeal accordingly.
4. The submitted site plan shows how the development could be laid out. However, as this appeal does not relate to technical details, I have taken this plan to be illustrative only.

Main Issues

5. Whether the site is suitable for residential development, in terms of its location, land use and amount of development, with particular regard to:
 - 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,
 - b) development plan policy relating to the location of new housing, and

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

- c) the loss of agricultural land.

Reasons

Whether inappropriate development in the Green Belt

6. Paragraph 149 of the Framework establishes that new buildings within a Green Belt are inappropriate unless, amongst other things, they constitute limited infilling in villages. There is no definition of 'limited infilling' or 'village' within the Framework. Where the Framework is silent it is appropriate for a local plan to provide guidance on how this policy should be applied locally.
7. Policy GB2 of the Bath and North East Somerset Placemaking Plan (PP) states that development in villages in the Green Belt will not be permitted unless it is limited to infilling and in the case of residential development is within the defined Housing Development Boundary (the HDB). The proposal borders the HDB but is outside of this area. This approach is repeated in Policy P&D1 of the Stanton Drew Neighbourhood Development Plan 2017-2036 (NP). The proposal would not accord with this Policy position.
8. However, with reference to caselaw that is referred to within the appeal submissions, I also need to consider whether the site should be regarded as within a village by assessing the situation 'on the ground'. The site holds a strong visual and physical relationship with the existing cul-de-sac development of The Orchard. Indeed, the undeveloped site area appears as something of an oddity within this developed area, as an unexplained gap between Nos. 1 and 2 in the context of what is otherwise a continuous arrangement of detached dwellings around all sides of the short road. The dwellings to either side address the site with blank side elevations, as if arranged to accommodate further development within the gap.
9. Although only part of the land to the southwest of the site is within the HDB, the depth of the site matches the side boundary of No. 1 The Orchard. This appears to define a residential garden across its entire length and includes domestic planting at its southern boundary. The northwest side of the site bounds the road and the side of No. 2 The Orchard.
10. I accept that the remaining boundary adjoins open countryside, and the level of enclosure along this boundary is modest. However, when standing within the site the presence of existing development adjoining the site is strong. This is a significant defining feature that gives one the impression of standing within land associated with the developed area of the cul-de-sac, as opposed to within open countryside, which is beyond the site to the south and east. I therefore find it reasonable to conclude, when assessing the proposal against part e) of paragraph 149 of the Framework, that the site is within the village of Stanton Drew.
11. Having established that the site is within the village I also need to consider whether its development would constitute limited infilling. The development plan defines infilling as the filling of small gaps within existing development. Although the site is large along its rear boundary, its portion facing the road is more modest. The illustrative layout suggests that dwellings could be sited towards the road, in a similar manner to those opposite, with similarly large rear gardens. In this respect it would be possible at the TDC stage to develop a scheme where up to three dwellings would occupy the gap between the

existing dwellings and face the road, in a manner that would constitute the filling of a small gap. Furthermore, the provision of up to three dwellings would be limited in the context of the extent of existing development that makes up this part of Stanton Drew.

12. The development plan goes on to suggest that limited infilling would generally be surrounded on at least three sides by developed sites or roads. This is a guide and is in any case difficult to apply to a triangular site. I have already concluded that development at the site would be well related to the existing development. The lack of development on all three sides of the site does not mean that it would not constitute limited infilling in this case.
13. The site was considered in the housing options document that formed part of the evidence base for the NP, where it was found to not be applicable as an infill or rural exception site. This document does however not form part of the made NP and it contains very limited detail to show how the author arrived at this conclusion. It does not carry sufficient weight to outweigh my finding that development at the site would constitute limited infilling within a village.
14. In summary, I acknowledge that the proposal would conflict with Policy GB2 of the PP and Policy P&D1 of the NP insofar as they state that infill residential development should be within a HDB. However, having undertaken an assessment of the proposal 'on the ground' I am satisfied that the scheme accords with the Framework exception set out at paragraph 149 e). It would therefore not be inappropriate development in the Green Belt and would accord with Policy CP8 of the Bath and North East Somerset Core Strategy (CS), which seeks to protect the Green Belt from inappropriate development.

Location

15. Policy DW1 of the CS sets out the Council's district wide spatial strategy, focusing development on Bath, Keynsham, the Somer Valley and in rural areas within settlements with a good range of local facilities. I have established that Stanton Drew has a HDB, but that the site sits just outside of this area.
16. The presence of the HDB suggests that the settlement is considered suitable for some development, and this is reflected in Policy GB2 of the PP and Policy P&D1 of the NP. The site is near to a primary school and there are a limited number of further services and facilities, as well as some employment opportunities within the settlement. The settlement is served by limited bus services that connect it to larger urban areas.
17. It is suggested that there is no safe walking route between the site and local services and facilities, yet dwellings at the site would share the same access as the existing dwellings at The Orchard. These are within the HDB where limited infill development is supported by the development plan. The journey between the proposed dwellings and local services and facilities would be no greater or no more difficult than the equivalent journey made from the existing dwellings.
18. This is a material consideration that carries significant weight, particularly as I have found that the proposal would constitute limited infilling within the village. The site is well related and shares the same locational characteristics as existing development that is within the HDB. I am thus satisfied that this matter outweighs the conflict with the development plan, and that the site is suitably located for the development proposed.

Agricultural land

19. The Provisional Agricultural Land Classification (ALC) (England) produced by Natural England shows that this site has a Grade 1 ALC. Supporting text to Policy RE5 of the PP advises that Grade 1 ALC constitutes less than 3% of UK agricultural land. Indeed, it is clear from the strategic map of the southwest region that areas of Grade 1 ALC, which are referred to on this map as excellent, are very limited. I therefore give this matter significant weight. Policy RE5 of the PP establishes that development which would result in the loss of such land would not be permitted unless significant sustainability benefits are demonstrated to outweigh any loss.
20. I appreciate that the site area is modest and has been put to limited agricultural use in recent years. I have found that the proposal would be well related to the existing settlement and the HDB. However, the position established by Policy RE5 is clear.
21. The proposal would deliver a modest windfall development of up to 3 dwellings. It would be within a settlement that does not benefit from a wide range of accessible services or facilities that future occupiers could access easily by means other than a private car on an everyday basis. The economic benefits arising during the construction process and from future occupiers making use of local services and facilities would be limited by the small scale of the proposal. Furthermore, the proposal would make only a small contribution to local housing need, for which there is an emphasis in the NP for smaller housing. The proposal would be unlikely to deliver this given the scale of existing dwellings at The Orchard to which it would need to be well related.
22. The Policy aligns with the Framework, which recognises the benefits of the best and most versatile agricultural land. I accept that paragraph 174, 175 and footnote 58 of the Framework establish a hierarchical approach, and that the development of land with a high ALC is not necessarily ruled out. However, as I have established above, there are limited factors that weigh in favour of the proposal that could justify the loss of land with a Grade 1 ALC. I therefore give this matter significant weight. I am unable to conclude that the proposal would deliver significant sustainability benefits that would outweigh the loss of Grade 1 ALC. The proposal would therefore be contrary to Policy RE5 of the PP.

Other Matters

23. It is suggested that development at the site would reduce the spatial and visual aspect of Green Belt openness. However, there is no requirement for me to consider this matter having found that the proposal would accord with the exception set out at paragraph 149 e) of the Framework.
24. The Council referred to Policy RE4 of the PP in its refusal reason. This Policy relates to housing for rural workers, which the proposal would not deliver. Accordingly, this Policy has not been determinative.
25. The Council also referred to Policy P&D2 of the NP in its refusal reason. However, the submissions before me establish that this reference was made in error, and that the decision should have referred to Policy P&D1. For these reasons Policy P&D2 of the NP has also not been determinative.

Conclusion

26. I have found that the proposal would not be inappropriate development in the Green Belt, and that it would be suitably located for the development proposed. However, for the reasons given above, I have not found that the locational characteristics of the site or the nature of the development would deliver the sustainability benefits necessary to comply with Policy RE5 of the PP.
27. In conclusion, the proposal would conflict with the development plan and there are no other material considerations, including the Framework, that outweigh this conflict. Therefore, the appeal should be dismissed.

A Tucker

INSPECTOR