



Appeal Decision

Site visit made on 24 May 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2022

Appeal Ref: APP/G1630/W/22/3290632

Land at Meadow View, Gloucester Road, Staverton, Cheltenham GL51 0TF

- 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 permission in principle.
 - The appeal is made by Mr & Mrs Stevens against Tewkesbury Borough Council.
 - The application Ref 21/00777/PIP, is dated 16 June 2021.
 - The development proposed is described as, "Permission in principle for the erection of up to 3 dwellings and associated access (Rural Exception Site)".
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Decision

1. The appeal is dismissed, and permission in principle is refused.

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 Tewkesbury Borough Plan 2011-2031 (adopted 8 June 2022) (Borough Plan) was adopted. The main parties were provided with an opportunity to comment on the relevant policies of the new Borough Plan and I have taken their comments into account. I have had regard to the newly-adopted Borough Plan, in my decision.
4. Since the appeal responds to the Council not having determined the application, there is no decision notice. Nonetheless, they have stated it would have been refused. The reasons for which have informed the main issues of the appeal.

Main Issues

5. 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:
 - the settlement strategy for the area;
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt; and

- 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

6. The appeal site comprises a parcel of land predominantly located to the rear of residential properties. Also included within the site area is an access way to that land. The site is located off the B4063 road, amongst a small cluster of houses.
7. Policy SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (adopted 2017) (JCS) relates to the distribution of new development, with reference being made to Policy SD10 of the JCS. Policy SD10 permits affordable housing on rural exception sites in accordance with Policy SD12 of the JCS.
8. Policy SD12, and Policies RES4 and RES6 of the Borough Plan contain similar formulations regarding the required locational characteristics for affordable housing on rural exception sites. Policy RES4 provides that, amongst other things, very small-scale residential development will be acceptable in principle within and adjacent to the built up area of other rural settlements (i.e. those not featured within the settlement hierarchy) providing the site is not located in the Green Belt, unless the proposal would involve limited infilling in a village, limited affordable housing for local community needs (in accordance with Policy RES6) or any other exceptions explicitly stated within the National Planning Policy Framework (the Framework).
9. In this respect, paragraph 3.32 of the Borough Plan provides that, amongst other things, for the purpose of Policy RES4 and the application of Policy SD10 of the JCS, the Council will consider the built up area of the settlement to be its continuous built form as it existed at the start of the plan period and excluding individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement.
10. In context, it is common ground between the main parties that the site is within the Parish of Staverton, that the site is adjacent to existing residential development, and that Staverton is named as a settlement within the Joint Core Strategy Rural Area Settlement Audit (July 2017 Refresh) (Settlement Audit). The Settlement Audit also mentions that there are other small settlements/hamlets within the borough which have not been included in the audit, due to their very modest scale, and/or remote location within the open countryside.
11. Nevertheless, the Settlement Audit does not confirm the exact geographical extent of the settlement of Staverton, and neither the Settlement Audit, or any of these facts mentioned, confirm that the site is within, or on the edge of, Staverton in relation to the planning policies mentioned above.
12. The appellants have mentioned that their Council Tax bill shows that they pay sums to cover Parish Council costs, and that the appellants' property as well as neighbouring properties and local employers were canvassed in relation to a housing needs assessment. However, whilst of some relevance, this evidence

does not specifically relate to the particular text given in Policy SD12 with respect to rural exception sites.

13. According to figures provided by the Council, which have not been disputed by the appellants, the main built-up area of Staverton lies approximately 1.7km away from the site. Moreover, although the site is sat within a cluster of other residential properties and is near to employment opportunities, this cluster of residential properties is physically separated from the main built-up area of Staverton by the M5 and large areas of agricultural land.
14. As such, I consider that the site is not located within or adjacent to the continuous built form of Staverton, and that the site is located amongst a group of dispersed buildings clearly detached from the continuous built-up area of Staverton. It is clear, then, that when considering the guidance given in paragraph 3.32 of the Borough Plan, the locational characteristics of the site are such that the site is not within or adjacent to the built up area of a rural settlement for the purpose of Policy RES4 of the Borough Plan. Thus, the proposal would not comply with Policy RES4 in this respect, nor with Policy RES6 which contains a very similar locational requirement.
15. Moreover, although no defined settlement boundary map showing Staverton is before me, as the site is clearly detached from the continuous built up area of Staverton, and noting that the application of Policy SD10 requires compliance with the provisions of Policy SD12 in relation to rural exception sites, I consider that the site is not within, or on the edge of, a rural settlement for the purpose of Policy SD12, or for the application of Policy SD10. It follows that the site is also not within an existing built-up town or village area and so does not constitute infilling for the purposes of criterion ii. of paragraph 4 of Policy SD10.
16. The site is located on a main transport corridor. Bus stops are within easy walking distance of the site. Nearby business parks are within walking and cycling distance. At the time of my site visit a designated cycleway was under construction, which passes the front of the site. Even so, whilst the site offers access to sustainable modes of transport, and the appellant has asserted that the site is better located in this respect than land within the core / heart of the village, as the site is not within or on the edge of a rural settlement the policy conflicts identified above remain.
17. I note the presence of clusters of development along the B4063 road, the B4634 road, Bamfurlong Lane, and Hayden Lane, but these areas are also found beyond the main built-up area of Staverton, and few details have been provided to demonstrate on what basis these areas might be considered to be within the settlement of Staverton for the purposes of Policy SD12. Furthermore, appeal decision Ref APP/G1630/W/20/3255200 related to a site on the edge of the main built-up area of Staverton, in contrast to the appeal site which is situated some distance from the main built-up area of Staverton. Accordingly, neither of these matters change my findings.
18. I therefore find that, 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 JCS, the appeal site would not be a suitable location for new residential development, with particular regard to the settlement strategy of the area.

19. Thus, in relation to the locational characteristics of the site referred to above, the proposal would conflict with Policies SP2, SD10, and SD12 of the JCS which collectively guide the distribution of new development, and with Policies RES4 and RES6 of the Borough Plan which collectively provide that, amongst other things, to support the vitality of rural communities and the continued availability of services and facilities in the rural areas, very small-scale residential development will be acceptable in principle within and adjacent to the built up area of other rural settlements.

Whether Inappropriate Development

20. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. There is a closed list of exceptions to this in paragraph 149 of the Framework. One of which relates to limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites) (paragraph 149 f)).
21. Similarly, Policy SD5 of the JCS provides that, amongst other things, within its boundaries, development will be restricted to those limited types of development which are deemed appropriate by the Framework, unless very special circumstances can be demonstrated, and Policy GRB4 of the Borough Plan provides that, amongst other things, new buildings are inappropriate in the Green Belt, apart from certain exceptions, one of which relates to limited affordable housing for local community needs.
22. I have found on the first main issue, above, that the proposal would conflict with policies within the adopted development plan. As the proposal would not accord with specific policies as set out in the development plan (including policies for rural exception sites), the proposal does not comply with paragraph 149 f) of the Framework. Given my findings on infilling with respect to Policy SD10 of the JCS, mentioned in the first main issue, above, the proposal would also not comply with paragraph 149 e) of the Framework, which refers to limited infilling in villages.
23. On this basis, the proposal does not comply with any of the Framework's exceptions to the construction of new buildings in the Green Belt. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework and Policy SD5 of the JCS and Policy GRB4 of the Borough Plan. Inappropriate development is, by definition, harmful to the Green Belt. It follows from this finding of inappropriateness, that the proposal would conflict with the purpose of the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.

Openness

24. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
25. My assessment relates to the principle of the site for residential development. Accordingly, matters such as height, massing, scale and design are to be considered as part of the Technical Details Consent stage. In this regard, given that up to 3 dwellings are proposed and considering that the site is largely

enclosed by trees and hedgerows, the effect of the proposal on the openness of the Green Belt in visual terms would be limited.

26. Nevertheless, even the lower end of the proposed amount, i.e. 1 or 2 dwellings, would serve to add built form and associated domestic paraphernalia to what is currently an open and undeveloped parcel of land, meaning that the proposal would reduce the openness of the Green Belt in spatial terms. Whilst this reducing effect on the openness of the Green Belt would be limited and localised, the proposal would result in harm to the openness of the Green Belt.

Other Considerations

27. No concerns have been raised by the Council, in the context of this proposal for permission in principle, with respect to matters relating to access, parking, highway safety, landscaping, flood risk, the living conditions of the occupiers of nearby properties or the future occupiers of the proposal, the size of the site in relation to the amount of dwellings proposed, nor the character and appearance of the area. However, bearing in mind that some of these elements would likely be part of a possible future Technical Details Consent application, in terms of the proposal before me even if I were to reason that the proposal would be acceptable in all these respects, these would be neutral factors rather than ones which weigh positively in favour of the proposal.
28. By way of providing up to 3 dwellings in a location that is well-served by sustainable transport options, the proposal would support the Government's objective of significantly boosting the supply of homes, and in doing so it would provide employment for construction professionals and other local employers, and the future occupiers of the proposal would likely assist in supporting existing services within the surrounding neighbouring villages, albeit considering the maximum amount of dwellings involved, the contribution of the proposal in these respects would likely not be significant.
29. The proposal is for limited affordable housing, aimed to address local needs. In this respect, it is common ground that a local affordable housing need exists that is commensurate with the scale of the proposal. In addition to this identified local need, 3 individual prospective purchasers have already been identified who are, I have been told, also all in housing need.
30. To secure this outcome, the appellants intend to enter into a planning obligation at Technical Details Consent stage, to require the dwellings to be made available for sale to persons whose needs are not met by the market, and firstly to those people who have a local connection to Staverton Parish. In this way, the proposal would likely assist first-time buyers (intended to be the 3 identified prospective purchasers) whose housing needs would not otherwise be met by the market, thereby potentially assisting the Local Housing Authority in its role in providing affordable housing. This is clearly a matter to which I must give weight in the planning balance.

Planning Balance

31. 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.

32. The proposal would be inappropriate development in the Green Belt and would result in a reduction in its openness. These matters carry substantial weight. Whilst the proposal would offer a number of discrete benefits, as described above, given the maximum quantum of development proposed, overall these would amount to no more than moderate weight in favour of the proposal. As such, I find that these benefits do not clearly outweigh the harm that I have identified.
33. Consequently, 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 JCS or Policy GRB4 of the Borough Plan, or the Framework, and consequently would be unacceptable.
34. The lack of a 5 year housing supply means that the policies which are most important for determining the proposal are out-of-date in accordance with paragraph 11 d) of the Framework. However, part i. of paragraph 11 d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As I have explained, there would be harms to the Green Belt that would not be clearly outweighed. This provides a clear reason for refusing the proposed development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

35. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR