



Appeal Decision

Site visit made on 9 January 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/G1630/W/23/3325962

Blackhedge Farm, Leckhampton Hill, Cheltenham, Gloucestershire GL53 9QJ

- 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. Jan Chappell against the decision of Tewkesbury Borough Council.
 - The application Ref 23/00165/PIP, dated 10 February 2023, was refused by notice dated 19 May 2023.
 - The development proposed is described as "permission in principle for the erection of a single dwelling with associated works."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two 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 two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted.
4. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published, replacing the 2022 version. The policies of the Framework that are material to this case have not fundamentally changed. I have offered the main parties an opportunity to comment. I have proceeded to determine the appeal having regard to the revised Framework.
5. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became "National Landscapes". The legal designation and policy status of AONBs are unchanged, but I have replaced reference to the Cotswold AONB with the Cotswold National Landscape (CNL) in my decision to reflect this change.

Main Issues

6. The main issues are whether the site is suitable for residential development in terms of location, land use and amount of development having particular regard to:
- Whether the proposal is inappropriate development within the Green Belt;
 - Whether the appeal site would provide a suitable location for housing having regard to the accessibility of existing services and facilities; and
 - The effect of the proposed development on the character and appearance of the area, including the countryside and the Cotswold National Landscape (CNL).

Reasons

Inappropriate and Openness

7. There is no dispute that the appeal site is located within the Green Belt, where the Framework states, at paragraph 154, that the construction of new buildings should be regarded as inappropriate. There are a number of exceptions to this including the partial or complete redevelopment of previously developed land whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development. Inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The appeal site comprises an area of hardstanding and associated building which has previously had an equestrian use. The building and hardstanding appear as a stable and manege. The appellant contends that the site is previously developed land and the Council disagree with this.
9. The Framework that defined previously developed land as land which is or was occupied by a permanent structure, including the curtilage, and any associated fixed surface infrastructure. The definition excludes land that is or was last occupied by agricultural or forestry buildings but does not exclude equestrian buildings. Whilst there may be limited planning history of an equestrian use at the site, based on the evidence before me and what I saw during my site visit, the site has clearly been used for an equestrian use.
10. As such, it is my view that the appeal site is previously developed land and would fall to be considered under paragraph 154 g) of the Framework. In order for the exception under this criterion to apply the impact of the proposal on openness needs to be considered. As there is some built form existing on site, albeit a small structure, there is potential for a replacement structure to be constructed that would not have a greater impact on openness. It would be for the technical details consent to be considered this when full details are available.
11. In light of the above, I consider that the proposed development complies, in part, with paragraph 154 g) of the Framework, Policy SD5 Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) and Policy GRB4 of the Tewkesbury Borough Plan (2019) (TBP). A full assessment would be undertaken a technical details consent.

Location

12. The site is not located within a development boundary and is therefore considered to be in the open countryside. When travelling along Leckhampton Hill Road to the site the area has a rural character, with agricultural fields, woodland and hedgerows adding to its character. The site is located on a winding road that slopes up to the north.
13. The appeal site comprises an area of hardstanding and disused stable building to the south of Cheltenham. The site is accessed via an existing access from Leckhampton Hill Road. Due to the topography of the site Leckhampton Hill Road is located at an elevated position above the appeal site.
14. Policy SP2 of JCS controls the distribution of development in the area. Under the policy, the proposal is not within a rural service centre or service village and is subject to Policy SD10 of the JCS, which applies to residential development in other rural areas.
15. Policy SD10 of the JCS provides a list of circumstances where housing outside allocations and built-up areas may be acceptable. These include affordable housing, infilling in towns and villages, community right to build orders and other neighbourhood exceptions/circumstances. Policy RES3 of the TBP requires that new housing outside settlement boundaries only where they meet an exception such as the reuse of a redundant building, replacement dwelling, or rural exception site. Within this context, the appeal site is not normally one where new residential development would be permitted.
16. However, the explanation for JCS Policy SD10 states '*additional special circumstances where housing may be acceptable are listed in NNPF Paragraph 55.*' Paragraph 55 is now Paragraph 84 in the Framework and states that planning policies should avoid the development of isolated homes in the countryside subject to a number of criteria. Criterion e) requires that the design is of exceptional quality, is truly outstanding, reflecting the highest standards of architecture and would help raise standards of design more generally in rural areas. Additionally, criterion e) requires that it would significantly enhance its immediate setting and be sensitive to the defining characteristics of the rural area.
17. The appellant contends that the proposal is acceptable in principle as paragraph 84 of the Framework allows for housing in isolated locations and that the design can be dealt with at technical details consent. The appellant submission states that the proposed dwelling would be designed in a bespoke manner specifically for the appellant's requirements, taking into consideration the ecological enhancement within its environment.
18. The policies in the JCS and TBP are clear that the appeal site is not one where residential development would normally be permitted. Paragraph 84 of the Framework does allow for isolated dwellings in the countryside provided that both limbs of the test in Paragraph 84 e) are met. Whilst the proposal has been submitted as a permission in principle, in the absence of any detailed design guidance or plans, I am unable to conclude that the proposal would be truly outstanding, or it would significantly enhance its immediate setting and, as a result, the tests in Paragraph 84 e) would not be met.

19. The Policies in the JCS and TBP are clear that the appeal site is not one where residential development would normally be permitted. Paragraph 84 of the Framework does allow for isolated dwellings in the countryside provided that both limbs of the test in Paragraph 84 e) are met. I have found that, whilst the proposal is well designed, it would not be truly outstanding, nor would it significantly enhance its immediate setting and, as a result, the tests in Paragraph 80(e) would not be met.
20. The site is located to the south of Cheltenham, which contains a range of services to meet day to day needs. However, the site is more closely aligned with its surrounding rural characteristics than the more built-up area to its north. During my site visit, I noted that Leckhampton Hill Road benefits from a pavement, however occupiers of the proposal would need to approximately 1 mile along an unlit and sloping road to reach Cheltenham. I have not been provided with any details of any public transport and saw no evidence of a bus stop on Leckhampton Hill Road.
21. The distance between the site and Cheltenham, the sloped nature of the road and the lack of street lighting would discourage the occupiers of the proposed dwelling from walking or cycling to access shops, services and facilities. Therefore, it is reasonable to conclude that occupiers of the proposed dwelling would be heavily reliant upon the use of a private car to access shops, services and facilities, especially during the winter months when daylight hours are limited. In conclusion, the proposal would not provide a suitable location for housing having regard to the accessibility to services and facilities.
22. I therefore conclude that the appeal site is not a suitable location for new residential development having regard to the development plan and, in particular, would not constitute an example of exceptional quality. The proposal would therefore be contrary to JCS Policies SP2 and SD10 and TBP Policies RES2, RES3, RES4, and RES5 which together seek, amongst other things, to steer housing towards sustainable locations.

Character and Appearance including the CNL

23. The site is within the CNL. Policy SD7 of the JCS, in line with Framework Paragraph 182, requires development in the setting of the CNL to conserve, and where appropriate, enhance its landscape and scenic beauty. Policy SD7 also requires consistency with the Cotswold AONB Management Plan. Policy LAN2 of the TBP requires that regard must be had to the Cotswold AONB Landscape Character Assessment. Policy SD6 of the JCS provide more general protection for the landscape.
24. Details with regard to the design, size and location of the dwelling and its specific layout would be for consideration under a technical details consent. This appeal concerns only the principle of a dwellings at the site. The size of the site is sufficient to allow for a dwelling with suitable amenity space while ensuring that the separation distance between them and other buildings, and the set down from Leckhampton Hill Road, would ensure that there would be limited visibility from the highway.
25. Longer range views may also be available, most notably from public rights of way and higher ground. However, I consider it unlikely that the appeal scheme would significantly or appreciably reduce the quality of the views. This is due to the distances involved, the screening from trees.

26. Therefore, the proposed development, would not result in any more harm to the character and appearance of the site and its surroundings, or the scenic beauty of the CNL, subject to a development of suitable scale, layout and design coming forward at the technical details stage.
27. The proposal would therefore comply with JCS Policies SD6 and SD7 and TBP Policy LAN2 which together seek to ensure that developments protect landscape character for its own intrinsic beauty. It would also comply with paragraph 182 of the Framework that requires great weight to be given to the conserving and enhancing landscape and scenic beauty.

Other Matters

28. The appellant suggests that the Council cannot demonstrate the supply of housing sites required by the Framework. If this were to be the case, I would be taken to paragraph 11 of the Framework. The most important policies would be deemed to be out of date. As the erection of a single dwellings, the proposal would make a very limited contribution to any housing undersupply. The scale of the scheme would accordingly limit its associated socio-economic benefits. I have found that the proposal would not be located in a suitable location for housing. I ascribe significant weight to this harm which would be long lasting. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.
29. In respect of the Cotswolds Beechwood Special Area of Conservation (SAC), Habitats Regulation 63(1) states that a competent authority, before deciding to give permission, must make an appropriate assessment of the implications of the development of that site. Given my reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard. Even if I were to find that the proposal was acceptable in this respect, it would be a neutral factor in my determination of the case.

Conclusion

30. The proposal would be contrary to the development plan as a whole and there are no other material considerations, including the approach of the Framework, which outweigh this finding. I therefore conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR