



Appeal Decision

Site visit made on 15 January 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2024

Appeal Ref: APP/F0114/W/23/3321859

Land Adjacent to Greystones, Ashgrove, Peasedown St John BA2 8EG

- 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 Chapel Hill Homes Ltd against the decision of Bath and North East Somerset Council.
 - The application Ref is 23/01116/PIP.
 - The development proposed is Permission in Principle for an infill residential development of 2 no. dwellings.
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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 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 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. I have determined the appeal accordingly.
4. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance, permission in principle has been sought for the erection of a maximum of 2 dwellings at the appeal site. For the avoidance of doubt, I have determined the appeal on that basis, having regard to the requirements of the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 and the PPG.
5. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have taken the revised Framework into account as part of the determination of this appeal.

Main Issues

6. The main issues are:

- whether the location and land use of the proposal would represent inappropriate development in the Green Belt, taking into account the purposes of including land within it;
- the effect of the proposal on the openness of the Green Belt;
- whether it would provide a suitable location for housing, having regard to the development strategy for the area; and
- if the proposal is 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 the development.

Reasons

Inappropriate Development in the Green Belt

7. The appeal site is located within the Green Belt. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. Paragraphs 154 and 155 of the Framework lists a number of exceptions to this. One of the exceptions, criterion e) of paragraph 154, is the limited infilling in villages.
8. The appeal site lies outside of the settlement limits of Peasedown St John, with the settlement limit running along the southern boundary of the site. Whilst the Framework does not define 'limited infilling', I have had regard to the Council's definition of infilling in the Bath and North East Somerset Core Strategy (July 2014) (the Core Strategy) which expresses 'infilling' in relation to housing 'as the filling of small gaps within existing development e.g. the building of one or 2 houses on a small vacant plot in an otherwise extensively built up frontage, the plot generally being surrounded on at least three sides by developed sites or roads.' I note that this approach is more prescriptive than the Framework and therefore not entirely consistent with it.
9. Nevertheless, I am aware of a Court of Appeal judgement¹ which determined that the village need not be the same as a settlement boundary for the purposes of the Framework, depending on the situation 'on the ground'. Furthermore, whether or not a proposal represents limited infilling is ultimately a matter of planning judgement², having regard to factors such as the number of buildings or properties that are grouped together, their inter-relationship and spacing, and the juxtaposition of the site with surrounding buildings and any open land beyond.
10. In regard to the relationship of the appeal site and its association to the existing built form, 'Greystones', the property to the south, is the last in the line of the more regular ribbon built form on the western side of Ashgrove. The detached property to the north, known as Eastfield, is currently an isolated dwelling on the western side beyond the settlement boundary. The appeal site separates Eastfield and Greystones.
11. Along with the agricultural access track immediately to the south which leads to the agricultural land to the west, the appeal site is a notable change in

¹ Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015]

² R (Tate) v Northumberland CC (2018) [EWCA] Civ1519

character from Greystones. There is also established vegetation along the northern boundary of Greystones, alongside the access track. Notwithstanding that Eastfield is set a similar distance back from the highway as the 3 properties to the south of the appeal site, when viewed from Ashgrove to the east, due to its position to the north of its large plot, I do consider that Eastfield appears as visually detached from the settlement. Therefore, given the situation on the ground, the appeal site currently has a greater affinity with the surrounding countryside than the built up form of the village.

12. The three properties opposite, Highfield, Kingswell and Ken Lea, are also outside of the settlement boundary of the village. They are not as visually detached as Eastfield. However, the more consistent ribbon built form within the village, which are primarily enclosed to the front with low stone walls, changes to more sporadic detached buildings in larger plots beyond the settlement boundary, such as these 3 properties. The presence of grass verges and established vegetation enclosing the highway to the west of these properties also adds to the change in character outside of the settlement limits.
13. The vehicular entrance to Eastfield has a 'tarmacked drive, maintained grass verges and an ornamental lamppost'. However, the entrance sits relatively discreetly along Ashgrove, with no gate or gate posts along the highway, and the 'ornamental lamppost' set back from the road and thus not overtly prominent. Although the pavement and street lighting continue along the frontage of the appeal site, the speed limit changes from 20 mph to 50 mph to the south. This is a clear sign that you are leaving the more built up form of the village into the countryside.
14. The appeal site lies between 2 residential curtilages and the frontage length of a gap on its own, which the appellant states is approximately 35m, is 'not necessarily enough to deem a gap as limited or not'. The 'built-up frontage' needs to consider both boundary treatment and curtilages, as well as the dwellings themselves. The gap between the vehicular accesses is closer than the built development itself, and it is acknowledged that 'a large gap between built form is not the determining factor to an assessment of a site being within the village'. However, given the size of the gap, the positioning of Eastfield to the northern half of the plot, the boundary treatment alongside Greystones, and the context of the existing built form within and outside of the village, it is my view that the development proposed does not represent infilling as envisaged by the Framework.
15. Therefore, taking in to account the situation 'on the ground', the open appeal site represents a definite visual break, marking the point where the character of Ashgrove changes from village to open countryside. Consequently, notwithstanding its position next to the settlement boundary, that there is no requirement in the Framework for 'the frontage to be extensively built-up', and that 'it is not uncommon that, as one leaves the core and nears the edge of (but remains still within) a village, development becomes more spread out', I would not describe the appeal site as being located within the village.
16. I note the visibility of the houses within the settlement limits is possible from the appeal site. I also acknowledge the visibility of Eastfield, as well as Highfield, Kingswell and Ken Lea, and the relationship that it would have with the residential curtilages associated with these properties. However, none of these matters convince me otherwise. Furthermore, whilst the occupants of

Ken Lea, Kingswell and Highfield might respond that they are residents of the village, this would not alter my findings above.

17. The Council has identified that the proposal would conflict with 3 of the 5 purposes of the Green Belt. Given the scale of the proposed development, I consider that Peasedown St John and Tunley, the nearest settlement, would not merge into one another. However, as I have found that the proposal would not represent limited infilling, the development would result in the sprawl of the built-up area of the village and would encroach into the countryside, both of which the Framework seeks to avoid. The Framework 'does not define 'countryside' and 'open countryside' in planning policy terms may not be the same as the dictionary definition of countryside. However, I have found that the appeal site would not be located within the village. Given my conclusion, and the fact that the appeal site is outside of the settlement boundary of the village, for the purposes of this appeal, the site is considered to be in the countryside.
18. I note that no changes were applied to the housing development boundary of the village as part of the Local Plan Partial Update (LPPU) (January 2023). Therefore, no assessment or changes to the defined settlement boundary of Peasedown St John was undertaken, which now pre-dates both the Framework and the *Julian Wood* judgment. Nevertheless, even if the Framework should take primacy over the settlement boundary, I do not consider that the proposal would fall under the definition of 'limited infilling' under the terms of the Framework.
19. The appellants have cited a number of appeal decisions that consider infilling in the Green Belt. These relate to different Councils and whilst I have been provided with the relevant plans, I do not have the full details before me so I cannot be certain that the circumstances are directly comparable to the appeal scheme. I note in one of the appeal proposals³, it was an agreed matter between the main parties that the proposal was limited infilling, and the development was not therefore inappropriate development in the Green Belt. In another, part of the site was a builders' yard⁴, not an open agricultural field. To my mind, these notable differences only emphasise the need for the decision maker to exercise their individual planning judgement, based on the specific circumstances of the scheme before them. I note the Inspector in the Long Ashton appeal decision was also provided with a series of appeal decisions but stated that they 'attach limited weight to these cases as the circumstances of what constitutes limited infilling is very much site dependent in the context of each village and the relationship to surrounding development'⁵.
20. Therefore, the proposal would fail to accord with any of the exceptions set out in paragraphs 154 or 155 of the Framework. Notably, it would not be limited infilling in villages, as set out in criterion e) of paragraph 154. Consequently, the location and land use of the proposal would represent inappropriate development in the Green Belt, as set out in the Framework and Policy CP8 of the Core Strategy, which is, by definition, harmful to the Green Belt. It would also conflict with Policy GB2 of the LPPU, which 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, the proposal is within the defined

³ Appeal Ref: APP/R3650/W/15/3005025

⁴ Appeal Ref APP/D0121/W/20/3253758

⁵ Paragraph 19 of APP/D0121/W/20/3253758

Housing Development Boundary. In addition, it would conflict with the purposes of including land within it, in particular to check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment, as set out in paragraph 143 of the Framework.

Openness

21. A fundamental aim of Green Belt policy, as set out in paragraph 142 of the Framework, is to keep land permanently open. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
22. Permission in principle has been sought for the erection of a maximum of 2 dwellings at the appeal site. They would be located in a field which is currently free from any built form. Whilst I acknowledge that this is a permission in principle application, where the technical details are to be agreed at a later stage, the introduction of up to 2 dwellings on to a parcel of land that is currently absent of any built form would inevitably lead to a loss of openness. It would also be reasonable to expect a more intensive residential use of the land immediately around the proposal, including planting and domestic paraphernalia. These features would also result in an erosion of openness. The site is also part of the open vista across the open countryside when viewed from the highway to the east. Therefore, the principle of introducing 2 dwellings would be visually intrusive and thus diminish the openness of the Green Belt.
23. The proposal would therefore result in the erosion of openness. This would conflict with paragraph 142 of the Framework which identifies openness as an essential characteristic of Green Belts. It would conflict with Policy GB1 of the Bath and North East Somerset Placemaking Plan (Placemaking Plan) (2017), and CP8 of the Core Strategy. These policies, in combination, seek to ensure that the openness of the Green Belt is protected from inappropriate development and that development within or conspicuous from the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt.

Suitable Location

24. Policy DW1 of the LPPU sets out the district-wide spatial strategy, which includes focussing new housing in Bath, Keynsham and the towns and villages in the Somer Valley in order to make provision to accommodate around 13,000 homes. As already stated above, the appeal site lies outside of the adopted settlement limits of Peasedown St John and the proposal would be new dwellings in the open countryside. The principle of development would, therefore, be contrary to the spatial strategy set out in Policy DW1.
25. The proposal does not fall within any of the exceptions set out by the development plan to enable new development in the open countryside, including Policy RE4 of the Placemaking Plan, which supports new dwellings outside a housing development boundary where there is an essential need for a rural worker. It would not be supported by any other policies. As such, it would be contrary to the development strategy for the area.
26. I acknowledge that future occupants would have good accessibility to local facilities in the village, including the Bath Road local centre and the primary

school, and that higher order services beyond the village would be accessible by means other than the private car, offering a genuine sustainable choice of transport modes. I also acknowledge that the settlement would be accessible via pedestrian methods via the footpath to the front of the property and that the bus stops along Ashgrove provides regular bus services into Bath, Wells, Bristol and Paulton. Despite the proximity of the appeal site to the housing development boundary, it remains classed as open countryside and in conflict with the adopted development strategy.

27. In view of the above, I conclude that the proposal would not provide a suitable location for housing, having regard to the development strategy for the area. In particular, it would not accord with Policy DW1 of the LPPU and Policy RE4 of the Placemaking Plan, which set out the district-wide spatial strategy and the exceptions to new dwellings in the open countryside.

Other Considerations

28. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I turn now to address other considerations that, potentially, might clearly outweigh harm arising from inappropriate development in the Green Belt, and the other harm I have identified above, so as to provide the very special circumstances required to justify a grant of planning permission.
29. There would be some social and environmental benefits associated with the provision of the 2 new dwellings in a sustainable location, with access to a reasonable level of services (including a primary school, public house, church and village hall) and the provision of a bus service, to which I afford moderate weight. The 2 dwellings would go towards the objective of the Framework to significantly boost the supply of homes, despite the Council's ability to demonstrate a five-year housing supply. This is particularly as the adopted housing targets are not an upper limit. I again afford this moderate weight.
30. Furthermore, the proposal would have economic benefits in employment during the construction phase and support for local businesses. These benefits would however be limited by the scale of the appeal scheme. Accordingly, they would attract modest weight.

Conclusion

31. I have identified that the scheme would be inappropriate development in the Green Belt as defined by the Framework. The proposal has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness and the conflict with the purpose of including land within it to which I give substantial weight. The proposal would also be in an unsuitable location for housing, having regard to the development strategy for the area, harm to which I ascribe considerable weight.
32. Overall, I give moderate weight to the other considerations cited in support of the proposal outlined above. I therefore find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not

exist. As such, the proposal would be contrary to the Framework, which seeks to protect the Green Belt from inappropriate development.

33. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Laura Cuthbert

INSPECTOR