



Appeal Decision

Site visit made on 15 April 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Appeal Ref: APP/P0119/W/23/3324504

Crossley Farm, Swan Lane, Winterbourne BS36 1RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Alexander Homes and Developments against the decision of South Gloucestershire Council.
 - The application Ref is P22/01009/O dated 14 February 2022, was refused by notice dated 15 April 2023.
 - The development proposed is demolition of all buildings and the erection of 9no. dwellings including a new access from Bristol Road, with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with all matters reserved for future consideration save for access, layout and scale. I have determined the appeal on this basis.
3. The appellant has submitted a planning obligation in the form of a Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 providing two affordable units on site. I have addressed this in my reasoning below.

Main Issues

4. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework;
 - The effect on the openness of the Green Belt; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development is inappropriate development in the Green Belt

5. Policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) relates to development in the Green Belt and states that development proposals will be assessed in accordance with national guidance.

6. The Framework states that the essential characteristics of Green Belts are their openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for a number of specified exceptions. These include criterion e) limited infilling in villages and criterion g) limited infilling or 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.
7. The appeal site comprises a number of disused agricultural buildings adjacent to and opposite existing development on the edge of Winterbourne. What constitutes limited infilling in a village is a matter of fact on the ground and one of planning judgement for the decision maker. The situation on the ground may not necessarily reflect the settlement boundary outlined in the development plan. The Council contend that a scheme of 9 dwellings would go beyond what could reasonably be considered to be limited infilling of a village, despite its close physical relationship with existing built in the settlement. Based on the evidence there is nothing substantive before me to come to a different view.
8. Turning to the second criterion the Framework's glossary defines previously developed land and excludes land that is or was last occupied by agricultural buildings. Accordingly, as the site comprises former agricultural buildings the proposal would not fall under this criterion.
9. Therefore, having regard to paragraph 154 of the Framework and the evidence before me the proposed development would constitute inappropriate development in the Green Belt.

The effect on openness of the Green Belt

10. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
11. The appeal site is formed of a number of former agricultural buildings and areas of hardstanding. The buildings range in size and height and are in varying states of disrepair. The site neighbours existing residential development to the south and west with open countryside extending to the north.
12. Whilst there would be a reduction in the overall footprint compared to the existing situation, this would not be the case in terms of volume. The appellant indicates that the overall volume increase could be up to 30%. Based on the evidence available the dwellings would be two storey in height and given the number of houses proposed there inevitably would be large buildings spread across the site with a greater scale compared to the existing structures resulting in a loss of openness in spatial terms.
13. The site lies on the edge of Winterbourne and is seen in the context of both existing built form and open countryside. Expansive views of the site exist from the north along Bristol Road and the proposed development would be appreciable from the surrounding area given the overall scale of the dwellings

and extent of development across the site. There would, therefore, be a visual impact upon openness.

14. Whilst the proposed development would lead to parked cars and domestic paraphernalia it is likely that the previous agricultural use would have resulted in a potentially similar quantum of paraphernalia in the form of farm vehicles and machinery. The change from farm items to domestic ones whilst resulting in a visual change would have a neutral impact on the openness of the Green Belt.
15. One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The proposal is well contained due in part to the neighbouring built form. As such, there would be no encroachment into the countryside. Nor would the development undermine the other purposes of the Green Belt.
16. Taking the above into account, I am of the view that the proposal would lead to a greater impact on openness in both spatial and visual terms due to the layout and the greater height and scale of buildings. Taken together, I assess the overall harm to the openness of the Green Belt to be moderate.

Other Matters

17. It is common ground between the main parties that there is no requirement for affordable housing to be provided as the proposed development falls below the threshold set out in the Core Strategy. Despite this the appellant has provided a signed and dated UU by which to secure two dwellings on the site as affordable in the form of discounted market sales housing that would be sold at a discount of at least 20% below local market value.
18. Having regard to the information before me it is evident that the submitted UU is deficient in a number of respects, as highlighted by the Council. Most notably it does not set out the phasing or delivery of the units, the eligibility criteria in respect of local incomes and house prices and how the units would be secured as discounted market sales housing in perpetuity. As such, it would not secure the provision of affordable housing units as advanced by the appellant.
19. The appellant contends that a condition could be imposed to secure the units as affordable, however, no suggested wording is before me. Moreover, the Planning Practice Guidance (PPG) states that conditions should not be used for the payment of money or other considerations. A positively worded condition requiring an applicant to enter into a planning obligation under the Act or other agreement is unlikely to pass the test of enforceability.
20. The PPG does say that, in exceptional circumstances, a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate. However, the PPG infers caution with regard to the imposition of such conditions.
21. On the basis of the submitted evidence it is apparent there is some disagreement between the main parties with regards to the acceptability of affordable housing on the site. As set out in the PPG ensuring that any planning obligation is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.

22. Having regard to the PPG and the evidence before me no exceptional circumstances exist to justify use of a negatively worded condition rather than a completed planning obligation.
23. Therefore, as there is no mechanism to ensure homes would be affordable, I give this aspect of the appellant's argument no weight in coming to my decision.

Other Considerations and Planning Balance

24. I have been made aware of the planning history for the site which includes Prior Approval for the conversion of some of the agricultural buildings on site to residential dwellings under Class Q of the General Permitted Development Order. It represents a legitimate fallback position and a consideration I must have regard to.
25. The Prior Approval establishes the principle of residential development on the site. That said, it involves the reuse of existing structures to provide three dwellings whereas the proposed development would result in more dwellings spread over a greater area of the site compared to the Prior Approval. In this respect, I do not consider this scheme to be directly comparable to the appeal scheme. As such, I afford it moderate weight in the overall balance.
26. The provision of nine dwellings would make a modest contribution towards the areas housing supply. I acknowledge that the housing land supply figure is not an upper limit and the proposed development would contribute to supply locally. However, given the local planning authority are meeting its responsibilities in terms of overall housing supply I afford this moderate weight in the overall balance.
27. Whilst the appearance is indicative, there would be scope for flexibility in the precise appearance of the dwellings, at reserved matters stage, to reflect the surrounding context. I have paid regard to the visual improvement resulting from the replacement of disused and derelict buildings with a modern housing development. Despite the above, given good design is a key aspect of sustainable development and the planning and development process should achieve high quality, beautiful and sustainable buildings and places as standard this attracts moderate weight.
28. Whilst located on the edge of Winterbourne the proposed development would be located within close proximity to nearby day to day services and facilities, therefore, future occupiers would not be overly reliant on private vehicles and would be able to access services and facilities on foot. Furthermore, bus stops connecting the site to Bristol and other nearby settlements are also located close to the site thereby providing a further transport option for future occupiers. This weighs in the scheme's favour.
29. The construction of nine dwellings would provide jobs albeit this would be largely short term limited to the construction phase. Future occupiers would help to maintain or enhance the vitality of services and facilities in Winterbourne. I afford this moderate weight in the overall balance.
30. A biodiversity net gain of 10% for general habitat and 836% for hedgerow habitat would be achieved. This is possible because the appeal site largely comprises disused buildings and hardstanding and it offers relatively low

existing biodiversity value. This biodiversity net gain would be a benefit of the scheme to which I attach moderate positive weight.

31. The proposed development would not unduly affect highway safety; it would not pose an increased flood risk and would not adversely affect the living conditions of nearby occupiers. However, the absence of harm weighs neither for nor against the proposal in the overall planning balance.
32. The proposal would contribute towards supporting or improving local facilities and infrastructure through the Community Infrastructure Levy. However, this would largely mitigate the impact of the proposed development in planning terms. As such, this is a matter of neutral consequence.
33. The appellant has referred to three appeal decisions which they consider are relevant to the appeal. The examples provided do not lead me to reach a different conclusion. In any event every appeal must be considered on its own merits, which is what I have done.

Planning Balance

34. The construction of nine dwellings on the appeal site would be inappropriate development. The Framework makes clear that, inappropriate development by definition is harmful to the Green Belt and substantial weight should be given to any harm to the Green Belt. The proposal would also cause moderate harm to the spatial and visual openness of the Green Belt.
35. 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.
36. There are other considerations that weigh in favour of the proposal. However, these only carry moderate weight when considered in the round. In this case they do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

37. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR