



Appeal Decision

Site visit made on 3 July 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/D0121/W/23/3334852

Land east of Wood Lane, Wood Lane, Clapton-in-Gordano BS20 7RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
- The appeal is made by Mr D Withers against the decision of North Somerset Council.
- The application Ref is 23/P/1924/PIP.
- The development proposed is described on the application form as, "erection 5 no. dwellings".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Differing to the description of development in the banner heading above, the Council's decision notice accurately describes the development as shown on the submitted plan as, "Permission in Principle for the erection of up to 5 no. dwellings". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
3. The proposal is for permission in principle. The consent route for which has 2 stages: the first stage (permission in principle) 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. The scope for the consideration of a scheme for permission in principle is limited to location, land use, and the amount of development. I have determined the appeal accordingly.
4. As the appeal relates to the principle of the proposed development, I have treated the submitted plan¹ as being indicative only.
5. On 30 July 2024 the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on 30 July 2024. The main parties were provided with an opportunity to comment on these publications and I have taken their comments into account.

Main Issues

6. 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:

¹ Sketch Layout - Option 1 (Drawing No. SK01) (Rev. B)

- whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- the effect of the proposed development on the openness of the Green Belt;
- the locational strategy in the development plan and the accessibility of services and facilities;
- the effect of the proposed development on the character and appearance of the area; 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 proposed development.

Reasons

Whether Inappropriate Development

7. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate development. There are however a limited number of exceptions to this. The main parties have focussed on paragraph 154 e) of the Framework which relates to limited infilling in villages.
8. It was held in *Wood*² that while a village boundary as defined in a Local Plan would be a relevant consideration as to whether or not a proposed development constituted limited infilling in a village for the purposes of the Framework, it would not necessarily be determinative. It was also held that whether or not a proposed development constituted limited infilling in a village was a question of planning judgement for the Inspector, and that the Inspector's answer to that question would depend upon their assessment of the position on the ground.
9. The appeal site comprises a parcel of land located off Clevedon Lane and Wood Lane in Clapton-in-Gordano. It is common ground between the main parties that Clapton-in-Gordano is a village, and that Clapton-in-Gordano does not have a settlement boundary.
10. Paragraph 154 e) of the Framework merely requires a site to be in a village. It does not refer to the core / heart of a village. A site located at the edge of a village could potentially still be in a village for the purposes of paragraph 154 e).
11. In this regard, the appellant has submitted an historic map which indicates that the site was considered by the Ordnance Survey as being within Clapton-in-Gordano between 1921 and 1943. The site is shown on that map as being located near to key village facilities, including a public house, a post office, and a school. It is clear that this map identifies the site as being within the village within that time period.
12. Moreover, the site's close proximity to both residential development along Clevedon Lane and Wood Lane and key transport routes through the village, indicates that the site is part-and-parcel of the village. Whilst Clapton-in-Gordano has grown principally eastwards over the years and the site is located

² *Julian Wood v SSCLG, Gravesham BC* [2014] EWHC 683 (Admin), [2015] EWCA Civ 195

near to the beginnings of the open countryside, this does not change the fact that the site continues to be within the village of Clapton-in-Gordano. It follows that the site is in a village for the purposes of paragraph 154 e) of the Framework.

13. In these respects, the appeal site is differentiated from the site considered by the Inspector in appeal decision Ref APP/D0121/W/20/3265659, where no such village facilities were present nearby, with that site being located in an area where more piecemeal development is common.
14. To the north-east, the site adjoins what appears to be a large area of garden land associated with a dwelling on Swancombe. The nearest structure shown on the submitted map to the south-west of the site is clearly set away from the boundary of the site. Given the absence of built development immediately adjoining these sides of the site, it is debatable whether the site could be considered to represent 'infilling'.
15. Paragraph 154 e) requires that any infilling in a village must be limited. Although no definition of 'limited' is given in the Framework, it implies that the infilling must not be extensive in its context. So, even if I were to consider the site as constituting infilling, taking account of the total size of the site (which is not insubstantial in the context of Clapton-in-Gordano as a whole), the site's wide width span adjacent to the highway which it adjoins, and that the site encompasses a substantial area of the transitional space between the nearby built-up area of the village and the open countryside, the site could not reasonably be described as comprising 'limited' infilling in the village. Consequently, the proposed development would not benefit from the exception to inappropriate development found at paragraph 154 e).
16. The Inspector in appeal decision Ref APP/D0121/W/18/3195216 referred to 'infilling' as the filling of a small gap in an otherwise built-up frontage. That definition is not found in the development plan policies involved in this appeal, nor in the Framework, and for this reason cannot be considered to be determinative, but merely as an aid to the interpretation of paragraph 154 e). Nevertheless, with this caveat in mind, it is apparent from my reasoning above, including the site's wide width span, that the proposed development of up to 5 dwellings, would not in reality involve the filling of a small gap. Appeal decision Ref APP/D0121/W/18/3195216 serves to reinforce my findings on this main issue.
17. Appeal decision Ref APP/D0121/W/20/3253758 involved quite a substantially sized village, with the Inspector finding that the size of the appeal site and the amount of development would be limited in extent and scale to the village. Due to the size of the appeal site relative to Clapton-in-Gordano, this would not be the case with the appeal site. It is clear from the aerial photograph provided in relation to the sites referred to in Tickenham that each of these sites involved relatively small gaps, whereas the appeal site does not. As these decisions are not directly comparable with the proposed development, they do not change my findings on this main issue.
18. As no plans have been provided in relation to appeal decision Ref APP/D0121/W/19/3233568 nor planning permissions Refs 23/P/0066/PIP and 21/P/1726/OUT, the extent to which those sites are comparable with the appeal site in relation to the matters under consideration in this main issue is unclear. Thus, none of those decisions alter my findings above.

19. I therefore find that the proposed development would constitute inappropriate development in the Green Belt. As set out in the Framework and Policy DM12 of the Development Management Policies: Sites and Policies Plan Part 1 (adopted 2016) (DMP), inappropriate development is, by definition, harmful to the Green Belt. Furthermore, whilst the site is located within the village, and only forms a small part of the wider area of countryside which it adjoins, as a form of inappropriate development in the Green Belt, the proposed development would undermine the Green Belt's purpose in relation to its assistance in safeguarding the countryside from encroachment.
20. Policy CS6 of the North Somerset Core Strategy (adopted 2017) (Core Strategy) has been referred to by the Council. However, as this policy relates to Green Belt boundaries, it is not directly relevant to this main issue. Nevertheless, the above-mentioned policies are more than sufficient for me to come to a view on this main issue.

Openness

21. The Planning Practice Guidance (PPG) advises that openness is capable of having both spatial and visual aspects³. As this appeal relates to the principle of residential development on site, matters such as height, scale, and massing are to be considered at technical details consent stage.
22. The site is largely enclosed by trees and hedgerows when seen from Wood Lane and Clevedon Lane, which could potentially be enhanced by a buffer of soft landscaping as shown on the submitted plan. Although any access to the proposed development would likely involve a noticeable incursion into any greenery surrounding the site, given the modest maximum amount of development proposed and the screening around the site, the presence of dwelling(s) on site would in all likelihood not have a significant impact on the openness of the Green Belt in visual terms.
23. The proposed development would introduce up to 5 dwellings on site. However, even at the lower end of the proposed amount, i.e. 1 or 2 dwellings, the development of this undeveloped site would introduce built form and associated domestic paraphernalia into an area where none currently exists. The openness of the Green Belt in spatial terms would thereby be reduced.
24. Taking all of the above into account in the context of the overall size of the site, the potential reduction in the openness of the Green Belt in both visual and spatial terms would likely be limited and localised. This would nevertheless still equate to harm to the openness of the Green Belt.

Location

25. As mentioned above, Clapton-in-Gordano does not have a settlement boundary. In planning policy terms, the site is located within the countryside. Policy CS14 of the Core Strategy provides that, amongst other things, development outside the settlement boundaries will only be acceptable where a site is allocated in a Local Plan or where it comprises sustainable development which accords with the criteria set out in the relevant settlement policies.

³ Paragraph 64-001-20190722

26. Of relevance is Policy CS33 of the Core Strategy which provides that, amongst other things, development outside the areas covered by the approaches set out in Policies CS28, CS30, CS31 and CS32 will be strictly controlled in order to protect the character of the rural area and prevent unsustainable development. The proposed development does not fall within any of the areas covered by the above-mentioned policies, nor does it comprise a type of development which Policy CS33 defines as permissible in the countryside. The proposed development would therefore conflict with Policy CS33. The proposed development would thereby serve to undermine the locational strategy as set out in the development plan.
27. Although the village public house lies opposite the site, Clapton-in-Gordano has a very limited range of services and facilities. Portishead could potentially be accessible to the future occupiers of the proposed dwelling(s), via the Avon Cycleway. However, few details have been provided to illustrate the quality of this route, including in terms of its gradient and whether any parts benefit from dedicated cycle lanes segregated from fast-moving traffic. It has accordingly not been demonstrated that this route would be feasible for use by children to access nearby schools, nor for regular access by adults to employment and leisure facilities.
28. It is common ground between the main parties that the future occupiers of the proposed dwelling(s) would be likely to use a private motor vehicle for weekly shopping. The Council's assertions that the roads to Portishead are not conducive to cycling or walking have not been disputed by the appellant. Few details have been provided to illustrate the frequency of any bus services available throughout the day, in relation to the community transport service (which is said to offer services to Portishead on Mondays, Wednesdays, and Fridays) nor with respect to the bookable bus service referred to by the appellant. Hence, it has not been demonstrated that these bus services would meet the reasonable transport needs of the future occupiers of the proposed development.
29. The PPG advises that it is not possible for conditions to be attached to a grant of permission in principle⁴. Even if a condition were to be imposed at technical details consent stage requiring the installation of electric car and bicycle charging, their usage currently depends on personal choice and cannot be mandated.
30. The Framework makes it clear that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this case, however, the site suffers from very poor accessibility to the services and facilities required for day-to-day living. The proposed development would not limit the need to travel, or offer a genuine choice of transport modes, as required by the Framework. Rather, private motor vehicles would likely be used for the vast majority of journeys undertaken. The proposed development would not promote sustainable transport.
31. The Inspector in appeal decision Ref APP/D0121/W/18/3195216, relating to a site in Clapton-in-Gordano, mentioned that the future occupiers of the proposed dwellings would largely be dependent upon the use of private cars for accessing services and facilities. The Inspector's observations in this

⁴ Paragraph 58-020-20180615

respect are consistent with my findings above. The potential for relevant policies to be out-of-date is a matter to which I return to below.

32. Appeal decision Ref APP/D0121/W/19/3233568 involved a location with a greater range of services and facilities nearby when compared to the appeal site. The Inspector also mentioned that a fairly regular bus service to local centres was available, but information regarding the frequency of that service is not before me. As it has not been shown that this appeal decision is directly comparable with the circumstances involved in this appeal, it does not change my findings on this main issue.
33. Reference has been made to a proposed Clapton-in-Gordano settlement boundary, proposed as part of the North Somerset Local Plan 2039: Pre-submission Plan, which, if implemented, would directly adjoin the site. From the limited information before me, it appears that the draft plan has not reached examination stage. If it were to ever reach examination stage, examination hearings could potentially result in modifications to the emerging policies referred to. These emerging policies therefore attract very little weight. In any event, this appeal must be determined on the basis of the currently prevailing circumstances. The potential adoption of a settlement boundary at an as-yet unknown future date does not alter the proposed development's conflict with the currently-adopted development plan. For these reasons, this matter does not change my findings on this main issue.
34. I therefore find that the site would not be a suitable location for residential development, having regard to the locational strategy in the development plan and the accessibility of services and facilities. The proposed development would conflict with Policies CS1, CS14, CS32 and CS33 of the Core Strategy, which collectively set out the locational strategy for the area, and with the first paragraph of Policy SA2 of the Sites and Policies Plan, Part 2: Site Allocations Plan (2006-2026) (adopted 2018), which provides that, amongst other things, residential development within the settlement boundaries will be acceptable in principle subject to the detailed policies of the Core Strategy.
35. Policy CS13 of the Core Strategy has been referred to by the Council. However, as this policy relates to the supply of deliverable and developable land, it is not directly relevant to this main issue. Nevertheless, the above-mentioned policies are more than sufficient for me to come to a view on this main issue.

Character and appearance

36. The site is located in a predominantly residential area in an historic part of the village, near to several buildings of architectural and historic interest, 2 of which are Grade II listed. Although more modern dwellings exist in the vicinity and vehicles are commonly parked near the site, the presence of narrow lanes, stone boundary walls, and the abundance of greenery in the locality all contribute to the rural character and appearance of the area.
37. The site, which is an undeveloped field, shares a strong visual and physical connection with the wider area of countryside which it adjoins. Development on the site's side of Wood Lane is minimal, and the site serves to highlight the termination of the built-up area of the village. In this way, it contributes to the highly rural and peaceful ambience of the area, as described in the Landscape

Character Assessment (Supplementary Planning Guidance) (adopted 2018) (SPG).

38. This appeal relates to the principle of residential development on site. As such, it is not appropriate to consider detailed matters at this stage, such as those relating to the scale and design of the proposed dwelling(s), for example. Even so, it is feasible that a buffer of soft landscaping could be provided between the proposed dwelling(s) and the highway, as shown on the submitted plan. Although this would reduce the visual impact of the proposed development, I am mindful that the character of an area not only comprises visual aspects, but also the identity of a place, which includes the way it functions and how it is experienced.
39. In relation to this, even the introduction of 1 or 2 dwellings on this undeveloped site would involve an encroachment of built form into the beginnings of the open countryside in this edge-of-village location. Their presence would be apparent from the comings and goings to the site (including by delivery vehicles), and, depending on the layout of the proposed dwelling(s) within the site (to be considered at technical details consent stage), activities on site associated with its residential use would potentially be perceptible by users of the Public Right of Way which runs to the south of the site.
40. The vehicular access to the 8 dwellings on Swancombe, referred to by the appellant, is a continuation of an access which serves several other properties near the junction between Swancombe and Clapton Lane. In contrast, if any new access to the proposed development to connect with either Wood Lane or Clevedon Lane were to be created, this would likely involve an incursion into part of the long stretches of informal hedgerow and trees which exist along much of the site's boundaries, which would undermine the rural appearance of the area. This urbanising effect would be compounded by the comings and goings of vehicles using any such access. The site's contribution to the rural and peaceful ambience of the area, referred to in the SPG, would then be undermined. Harm to the character and appearance of the area would thereby result.
41. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with the first paragraph of Policy CS5 of the Core Strategy which provides that, amongst other things, the character, distinctiveness, diversity and quality of North Somerset's landscape and townscape will be protected and enhanced by the careful, sensitive management and design of development, and with the second paragraph of Policy CS12 of the Core Strategy which provides that, amongst other things, proposals of all scales will be required to demonstrate sensitivity to the existing local character already established in an area.
42. The proposed development would conflict with the second bullet point of Policy DM10 of the DMP which provides that, amongst other things, all development proposals should be carefully integrated into the natural, built and historic environment, aiming to establish a strong sense of place, respond to local character, and reflect the identity of local surroundings, whilst minimising landscape impact, and with the second paragraph of Policy DM32 of the DMP which provides that, amongst other things, the design and planning of

development proposals should demonstrate sensitivity to the local character, and the setting, and enhance the area taking into consideration the existing context.

43. The proposed development would also conflict with the first paragraph of Policy DM37 of the DMP which provides that, amongst other things, any proposal for new dwellings within predominantly residential areas will only be permitted if it does not adversely affect the character of the area.

Other Considerations

44. The Framework makes it clear at paragraph 153 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 proposed development, is clearly outweighed by other considerations.
45. For the reasons given in the third main issue above, the emerging policies in the North Somerset Local Plan 2039: Pre-submission Plan relating to a proposed settlement boundary for Clapton-in-Gordano have been given very little weight.
46. The appellant has asserted that the proposed development would meet the definition of grey belt land, in the terms of draft Framework referred to above. However, even if this were the case, as the draft text of the Framework is subject to consultation, its draft text could change. As such, this matter has been given very little weight in favour of the proposed development.
47. The proposed development would provide a contribution towards the Government's objective of significantly boosting the supply of homes. This is in the context of the Council currently being unable to demonstrate the supply of housing sites as required by the Framework. Moreover, the Written Ministerial Statement entitled "Building the homes we need", referred to above, stresses that we are in the middle of the most acute housing crisis in living memory. Housing targets are to be restored and raised, with an uplift based on how out of step house prices are with local incomes. In this regard, I note the appellant's evidence that the median house price to wages ratio in North Somerset was 10x for 2023, compared with a figure of 8.14x for England and Wales.
48. Of further relevance is paragraph 70 of the Framework, which provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
49. Figures have not been provided to demonstrate that the extent of the shortfall in housing land supply in North Somerset is of a significant magnitude, and I note that the maximum quantum of development proposed, of 5 dwellings, is limited. Considering all these matters together, including the Written Ministerial Statement referred to above, little weight has been given to the proposed development's contribution towards housing supply.
50. The future occupiers of the proposed dwelling(s) would likely contribute towards the economic and community life of the local area. Work would also be provided for construction professionals during the construction phase of the proposed development, which would provide economic benefits to the local

area. Given the limited quantum of development proposed, these matters have collectively been given little weight in support of the proposed development.

Other Matters

51. The evidence indicates that the site is a designated local wildlife site. Interested parties have referred to the site being frequented by adders, badgers, bats, deer, foxes, hedgehogs, and owls, amongst other species, some of which are protected species. Mention has also been made of the site's function in providing nesting sites for migrating birds.
52. The PPG advises that statutory requirements such as those relating to protected species apply at technical details consent stage⁵. If the proposed development were acceptable in all other respects at permission in principle stage, planning permission would not be granted at technical details consent stage unless the impact of the proposed development on protected species were to be adequately resolved. Considering this, and as the appeal is being dismissed for other substantive reasons in any event, this is not a matter which is required to be considered further at this stage.
53. Reference has been made in the fourth reason for refusal in the Council's decision notice to the North Somerset and Mendip Horseshoe Bats Special Area of Conservation. However, as the appeal is being dismissed for other reasons, there is no need to consider the potential implications of the proposed development in these respects. I therefore make no further comments on this matter.
54. The site lies opposite 2 Grade II listed buildings, the Black Horse public house, and Myrtle Cottage. Their significance predominantly lies in their architectural and historic interest as originally 17th century buildings with whitewashed / painted rubble and tiled roofs.
55. Considering the size of the site which provides a number of options with respect to the potential siting of the proposed dwelling(s), and that soft landscaping could likely shield much of the development from the public realm (as shown on the submitted plan), at this permission in principle stage I consider that the proposed development could conceivably be designed so that the experience of the architectural and historic features of the listed buildings in their settings would not be undermined. In principle, the proposed development would thereby preserve the significance of the listed buildings, as required by s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Balancing of Considerations

56. As mentioned above, the Council is currently unable to demonstrate the supply of housing sites as required by the Framework. Whilst noting the Inspector's observations in appeal decision Ref APP/D0121/W/18/3195216 issued in 2018, the correct interpretation of the current Framework based on the relevant case law is that, although in these circumstances paragraph 11 d) of the Framework is triggered, it does not automatically follow that the policies which are most important for determining the appeal are out-of-date in substance.

⁵ Paragraph 58-003-20190615

57. In this case, the policies referred to under each main issue, including those relating to the locational strategy as set out in the development plan, are not inconsistent with the relevant policies in the Framework. The weight attached to the proposed development's conflict with these development plan policies is not reduced.
58. The proposed development would be inappropriate development in the Green Belt and would result in a reduction in its openness. These matters carry substantial weight. In addition, the site would not be a suitable location for residential development, and the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. Considering that the Framework provides that the planning system should be genuinely plan-led, and that the creation of high quality places is fundamental to what the planning and development process should achieve, great weight has been given to these non-Green Belt harms.
59. As a matter of planning judgement, I find that the other considerations advanced in this case, when considered collectively, would result in limited positive impacts in economic, social, and environmental terms. No more than moderate weight has been given to these, as a result. The other considerations in this case do not clearly outweigh the totality of the harms identified. The very special circumstances required to justify the proposed development do not exist. The proposed development would not comply with the Green Belt aims of Policy DM12 of the DMP, nor the Framework, and consequently would be unacceptable.
60. Paragraph 11 d) i. of the Framework provides that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including the Green Belt, provide a clear reason for refusing the development proposed. As mentioned above, there would be harms to the Green Belt which would not be clearly outweighed. This provides a clear reason for refusing the proposed development. It follows that the proposed development would not benefit from the presumption in favour of sustainable development, found at paragraph 11 of the Framework.
61. Overall, the proposed development would conflict with the development plan when considered as a whole. None of the other considerations in this case, including the Framework, the proposed reforms to the Framework and other changes to the planning system, and the proposed development's contribution towards mitigating the housing crisis referred to by the Secretary of State in their recent Written Ministerial Statement, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

62. 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