



Appeal Decision

Site visit made on 16 July 2024

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/F0114/W/23/3332732

Jat Environmental Reclamation, Pensford Hill, Pensford, Bath and North East Somerset BS39 4JF

- 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 John Albert Tyler against the decision of Bath and North East Somerset Council.
 - The application Ref is 23/02417/PIP.
 - The development proposed is the Erection of up to 6 New Build Dwellinghouses (Use Class C3) and Associated Infrastructure at JAT Reclamation.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was also made by Mr John Albert Tyler against Bath and North East Somerset Council. This application is the subject of a separate decision.

Preliminary Matters

3. 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 ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. The scope of the considerations for permission in principle is limited to location, land use, and the amount of development¹. All other matters are considered as part of a subsequent Technical Details Consent (TDC) application if permission in principle is granted. I have determined the appeal accordingly.
5. Within the description of development, the application form details a proposed minimum of four dwellings and a maximum of six, and I have dealt with the appeal on this basis. An indicative site plan showing a layout of six dwellings was submitted as part of the application, which I have treated as being for illustrative purposes only.
6. The Council's development plan includes its Core Strategy (2014), Placemaking Plan (2017) and Local Plan Partial Update (2023) (LPPU). I have been provided

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

with copies of the relevant policies within a 'composite plan' containing the policies from each of these documents, referred to as the Bath and North East Somerset Local Plan: Volume 1 District-wide Strategy and Policies (2023) (the Local Plan). For consistency with the evidence, I have referred to the Local Plan throughout this decision. The policy content and references remain the same whichever version of the documents are used.

7. On 30 July 2024, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system, with an accompanying Written Ministerial Statement. I invited the main parties to consider the relevance of these proposals to the appeal, and have taken account of the parties' comments in my decision.
8. The Council has withdrawn its third reason for refusal following the submission of plans illustrating a pedestrian crossing of the A37, subject to the crossing being secured as part of any TDC stage. As this information contains additional technical detail and does not fundamentally alter the appeal scheme, I am satisfied that there would be no procedural unfairness in my acceptance of it. It has not therefore been necessary for me to consider highway safety in any further detail.

Main Issues

9. In so far as they relate to the permission in principle matters, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - whether the site is suitable for residential development, having regard to the development strategy for the area;
 - the effect of the proposal 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 proposal.

Reasons

Whether the proposal would be inappropriate development

10. Policy CP8 of the Local Plan aims to protect the openness of the Green Belt from inappropriate development in accordance with national planning policy. Paragraph 154 of the Framework states that construction of new buildings in the Green Belt should be regarded as inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This is subject to exceptions outlined in paragraphs 154 and 155, including: paragraph 154e) - limited infilling in villages; and paragraph 154g) - limited infilling or the partial or complete redevelopment of previously developed land (PDL), which would not have a greater impact on the openness of the Green Belt than the existing development.

i) Limited infilling in villages

11. Policy GB2 of the Local Plan sets out the approach in relation to limited infilling in Green Belt villages, and provides a list of settlements which are defined as villages with defined infill boundaries shown on the adopted policies map. The appeal site does not fall within any of the defined infill boundaries set out in Policy GB2 including that of Pensford, which is situated some 300m to the south.
12. Paragraph 154e) of the Framework does not specify that a site must be located within a defined village boundary in order to constitute limited infill within a village. While Policy GB2 has recently been through a public examination and found to be sound, the defined infill boundaries are only a starting point as established case law² has determined that a village need not be the same as a settlement boundary for the purposes of the Framework. It will depend on the situation 'on the ground'.
13. The appeal site is located within a cluster of dwellings on elevated ground on the A37. This is above the village centre which is well-defined around an historic road network that nestles within a valley landform. Between the site and the defined village edge, development is very low density, including several detached dwellings, the Traveller's Rest pub, and open fields. In combination with significant topographical changes, this creates a clear visual separation between the site and Pensford. When travelling towards Pensford from the site, there are also visual indicators of the approaching village edge some distance from the site location, including a reduction in speed limit, and 'welcome to' signage.
14. Despite extensions over time to the village, it has maintained a tight-knit pattern of built form, emphasised by the enclosing topography. Together with associated village signage, facilities, and other infrastructure, this clearly characterises its village location. Conversely, the spacious and elevated character of the area around the appeal site is physically and geographically distinct from the village.
15. There is a continuous footpath linking the appeal site with the village centre, but this continues a considerable distance further north to the isolated dwellings and farms in the surrounding countryside. That there are bus stops close to the appeal site which would provide links into the village and the presence of the footpath passing the site do not therefore alter its physical and visual separation, or provide a clear indication that the site is in the village of Pensford.
16. The appeal site is more closely associated with the small hamlet at Belluton, which comprises a loose collection of dwellings and farms to either side of the A37 on the southern flank of Settle Hill. Belluton does not have a clear centre or focal point that would assist in defining it as a village. In addition, while several bus stops are present nearby, other commonly found features of a village to meet needs of residents are very limited, with no evidence of facilities that would support day-to-day living.
17. In view of the above, when assessing the 'on the ground' situation, the appeal site is physically and visually separated from the village of Pensford, and is not

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWVA Civ 195

within a village at Belluton. It is not therefore located in a village for the purposes of the Framework.

18. 'Limited infilling' is not defined by the Framework. Policy GB2 defines this as the building of one or two houses on a small vacant plot in an otherwise extensively built-up frontage, where the plot is generally surrounded on at least three sides by developed sites or roads.
19. In the appeal decision³ at Whitchurch, the Inspector took this definition as an illustration to be interpreted with some discretion, taking into account the specific site circumstances to hand. While this decision was made prior to the adoption of the LPPU, the wording of Policy GB2 is more prescriptive than the Framework and therefore not entirely consistent with it. Context also plays a role in deciding whether a development is 'limited'. I am therefore satisfied that, while having regard to the definition of limited infilling in Policy GB2, this is also a matter of some planning judgement.
20. In this case, there is a predominantly built frontage onto the A37 formed by the terrace of dwellings at Belluton Villas to one side of the site entrance, and a detached chalet bungalow to the other. Although the site entrance lies comfortably within the built frontage and gardens of the adjoining residential properties, a significant proportion of the appeal site extends further to the east and is surrounded by agricultural fields. The eastern extent of the site therefore goes considerably beyond what could reasonably be interpreted as infilling a gap in the built frontage. While residential development also lies to the south and east on Parsonage Lane, it does not surround or enclose the eastern aspect of the appeal site, which maintains an agricultural context.
21. As such, while the use of a small part of the site may be considered infilling, the full extent of the site would not. Although layout is not considered within a Permission in Principle application, the amount of development proposed and the space available within the site firmly indicate that the proposal would go beyond infilling.
22. With regard to whether the scheme would be 'limited', although more than the one or two houses accepted by Policy GB2 are proposed, there is an evident residential built context close to the site. This includes a terrace of six dwellings at Belluton Villas, and a number of properties in Belluton. In this context, it is reasonable to conclude that the principle of between four and six dwellings may be 'limited'. However, even if I were to accept that up to six dwellings would be limited, this does not alter my conclusion in respect of infill development or the location of the proposal outside a village. The exception set out in paragraph 154e) of the Framework would therefore not be complied with.
ii) Limited infilling or redevelopment of previously developed land
23. The Framework defines PDL as land which is or was occupied by a permanent structure, subject to a number of exceptions. Although the Council has identified that some of the structures on the site have a temporary character, the main parties have proceeded on the basis that the site is PDL. Based on my observations, I have no reason to disagree with this approach.
24. I have found that the proposal would not be limited infilling, however, it would comprise the redevelopment of PDL. As such, in accordance with paragraph

³ Appeal Decision APP/F0114/W/21/3287000

- 154g) of the Framework, whether it would be inappropriate development will depend on if it would have a greater impact on the openness of the Green Belt than the existing development.
25. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The existing site contains a series of low-level outbuildings and offices towards the boundaries, hardstanding and temporary outdoor storage areas towards the centre, and a blockwork perimeter wall. Seen from the site entrance and the local landscape, the existing structures do have a visual and spatial impact on the openness of the Green Belt. However, the impact is limited because of their modest scale and height, and focus towards the edges of the site.
26. The proposal would introduce between four and six dwellings. Even if they were all to be modest single-storey dwellings, the residential form of development would inevitably result in an increase in the volume of built form at the site when compared to the existing functional outbuildings and other built features present. While details including layout would be determined at TDC stage, in order to accommodate private amenity spaces along with suitable access and parking to each plot, there would also need to be a greater spread of development across the site. Residential paraphernalia, including features such as individual rear garden boundary treatments would further increase the physical presence of development. This change would affect both spatial and visual aspects of openness. As such, I find that in principle, the impact of the proposal on openness would be greater than the existing development.
27. Therefore, the proposal would fail to accord with any of the exceptions set out in paragraphs 154 or 155 of the Framework. Consequently, the location, land use, and the amount of development proposed would represent inappropriate development in the Green Belt. This would also conflict with Policies CP8 and GB2 of the Local Plan in so far as they seek to protect the openness of the Green Belt and direct residential development in Green Belts to locations within villages.

Whether a suitable location

28. Policy DW1 of the Local Plan sets out the district-wide spatial strategy, focussing new housing towards Bath, Keynsham, and the towns and principal villages in the Somer Valley. Development in rural areas is directed to settlements with a good range of local facilities and with good access to public transport. Pensford is identified as one such settlement. However, I have already found conflict with Policy GB2, and the location of the site beyond its housing development boundary within the Green Belt would also not gain support from Policy RA1 of the Local Plan.
29. The appeal site represents PDL. While Policy DW1 generally seeks to prioritise brownfield opportunities, it does not expressly permit the development of brownfield sites that otherwise conflict with the spatial strategy. The site would not be protected from development by other policies of the Local Plan such as Policy ED2B, which seeks to protect industrial and warehousing uses. However, it has not been put to me that residential development in this location would be supported by any other policies of the development plan, or that there would otherwise be an exception to the strategy detailed by Policies DW1 and GB2. As such, the proposed development would be contrary to the development strategy for the area.

30. I acknowledge that future occupants would have good accessibility to the nearby public house. There would also be moderate accessibility to local facilities in the village, including the village shop and post office, village hall, and the primary school. However, while a surfaced and lit footpath is present for the length of this route, there is a very significant incline for much of the journey, which would make the route unattractive for walking or cycling. Regular bus services would provide an alternative means of accessing the village, along with providing access to a wider range of services and facilities in local towns and cities including Bristol and Bath. Nevertheless, despite the reasonable levels of accessibility, due to its location outside the Infill Boundary of Pensford, the appeal site remains in conflict with the adopted development strategy.
31. In view of the above, I conclude that the site is not suitable for residential development, having regard to the development strategy for the area. In particular, its location and proposed land use would not accord with Policies DW1, RA1, or GB2 of the Local Plan, which set out the district-wide spatial strategy and the approach to residential development within villages.

Character and appearance

32. Although the appeal site is not designated in its own right or as part of a wider landscape designation, the local character and appearance of the area is afforded protection by the development plan. The site at present has a moderately detrimental but localised effect on landscape character and local visual amenity, representing an industrial use within and extending from a small cluster of residential development. At the site entrance, signage along with some storage and an uncharacteristic office building conflict with the otherwise residential character. There are also wider views towards the site from the higher ground on Settle Hill and the landscape east of Pensford, in which a horizontal pattern of built features are visible, enclosed by a solid blockwork wall. Such views also take in roof lines of nearby residential development set amongst significant tree cover.
33. The indicative site plan illustrates six large-footprint dwellings in a configuration that fails to reflect the scale, layout, and plot size of nearby development. However, this is purely for illustrative purposes, and I consider it would be possible to introduce between four and six dwellings at the site which could reflect local building patterns. The site is also of sufficient size to accommodate access, parking, and gardens, as well as landscaping to reflect the locally distinctive presence of trees in woodland blocks and hedgerows.
34. While the redevelopment of the appeal site would result in a noticeable change in character and appearance, subject to appropriate scale, design, layout, and landscaping this would not appear uncharacteristic or out of keeping with its surroundings. Moreover, given the current condition of the site, I also consider that a broad change to a residential use would provide opportunities to secure some enhancements to the local landscape character and local distinctiveness.
35. Accordingly, at this stage, the principle of the location, land use and the amount of development proposed would not result in harm to character and appearance. This would accord with Housing and Development Policy 1 of the Publow with Pensford Neighbourhood Development Plan (2016-2035), and Policies CP6, D2, NE2, and GB1 of the Local Plan. Taken together, amongst other matters, these policies seek proposals that conserve or enhance local

landscape character and local distinctiveness; positively respond to the site context; are in keeping with the character, materials and design of existing buildings; and enhance the visual amenities of the Green Belt.

36. Although the Council has also found conflict with Policy D4 of the Local Plan in relation to this main issue, this policy primarily relates to connectivity, the design of highway features, and other detailed design matters that would fall to be determined under TDC stage. As such this policy is not determinative to my consideration of this main issue.

Other considerations

37. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. A number of other considerations in support of the proposal have been put forward by the appellant as well as interested parties.
38. There would be social and environmental benefits associated with the provision of up to six dwellings in a location well-served by public transport and with reasonable access to a range of local facilities. The appeal site is brownfield land, the redevelopment of which is broadly supported by aspects of both national and local policy. The dwellings would also make a modest contribution towards the Government's objective to significantly boost the supply of homes, despite the Council's ability to demonstrate a five-year housing land supply. I note particularly that housing targets are not an upper limit, and the site would represent a small windfall site that could be built out relatively quickly, contributing to maintaining the Council's land supply. There would also be economic benefits in employment during the construction phase and support for local businesses, infrastructure, and services. I afford these benefits considerable weight.
39. The redevelopment of the site would also remove disturbance including noise and odours associated with the current use of the site, of benefit to the living conditions of neighbouring occupiers. As an environmental benefit in the immediate surroundings of the site, I afford this moderate weight.
40. At this permission in principle stage, there is little evidence to demonstrate the detailed character or appearance of the proposal, but I have found there to be no harm in principle. Moreover, given the somewhat dilapidated appearance of the site in proximity to residential development, its redevelopment would bring about some general improvements to visual amenity and local character. This would however be localised in effect, and therefore of only limited weight. Similarly, very little information has been provided on other TDC stage considerations including the type or size of dwellings proposed, what contribution they may make to the choice of housing available locally, as well as any enhancements to the landscaping or biodiversity of the site. As such, I afford any benefits in these matters very limited weight at this stage.
41. I have had regard to the appellant's personal circumstances, including that he would use the funds from the sale of the land to provide for his retirement, having been part of the community for many years. While I am sympathetic to

this situation, as planning is primarily concerned with land use in the public interest, this matter also carries very limited weight in favour of the appeal.

42. The site is at a low risk of flooding, and no heritage assets would be affected by the development. Matters including parking, ecology, and neighbouring living conditions would also be addressed at TDC stage, and there is no indication that a detailed proposal that is policy-compliant in these issues may not be found. However, an absence of harm in respect of each of these matters at this stage is a neutral consideration. In addition, in the absence of any detailed measures secured through the Community Infrastructure Levy at this stage, these would also be a neutral consideration, necessary to make the development acceptable in planning terms, rather than a benefit.

Other Matters

43. Reference has been made by both parties to paragraph 84 of the Framework in respect of isolated homes in the countryside. While I have found that the appeal site would not be within a village for the purposes of the development plan or the Framework, it is located within a cluster of built form, between other dwellings, and is not therefore 'isolated' in the context of paragraph 84. The provisions of this paragraph are therefore not determinative to my consideration of the appeal against the main issues.
44. The Government's proposed changes to national policy indicate a direction of travel towards supporting increased housing delivery. Proposed revisions to Section 13 of the Framework (Protecting Green Belt land) include amendments to paragraph 154g) as well as the introduction of a new type of development that should not be regarded as inappropriate in the Green Belt with reference to a new definition of 'grey belt' land. An addition to proposed paragraph 122 also emphasises the importance of brownfield land.
45. However, the proposed changes to the Framework are draft and in an early stage of consultation, and therefore may be subject to change before any revised Framework is published. Furthermore, even if the proposed changes were made unaltered, there is little to demonstrate that the particular requirements of the revised Framework would be met by this scheme. For example, even if I were to find that the appeal site would meet the proposed definition of 'grey belt' land, as the Council can currently demonstrate a five-year supply of deliverable housing sites, the proposal would not clearly meet the requirements of proposed paragraph 152. Consequently, I only afford these changes limited weight at this stage, and they do not alter my overall conclusions on the main issues.

Green Belt Balance

46. The proposal would be inappropriate development in the Green Belt. By virtue of paragraph 153 of the Framework, this harm attracts substantial weight. The Framework is clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations for planning permission to be granted. In this instance, alongside the Green Belt harm, I have found the proposal to conflict with the development strategy for the area.
47. Against these harms, the other considerations that I have identified above carry weight in favour of the proposal. However, these other considerations

would not, even in their totality, clearly outweigh the substantial weight given to the harm to the Green Belt. Therefore, the 'very special circumstances' necessary to justify inappropriate development in the Green Belt do not exist. The proposal would thus conflict with Policy CP8 of the Local Plan, and the Green Belt protection aims of the Framework.

Conclusion

48. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

K Jones

INSPECTOR