



Appeal Decision

Site visit made on 5 February 2025

by **Rachael Pipkin BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Appeal Ref: APP/P0119/W/24/3342415

Bay Tree Cottage, Ruffet Road, Winterbourne, South Gloucestershire BS36 1AN

- 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 Mr & Mrs Devine against the decision of South Gloucestershire Council.
 - The application Ref is P23/02246/O.
 - The development proposed is outline application for the construction of 1no. residential dwelling with all matters reserved except access
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with only access to be determined at this stage. All other matters are reserved for future determination. I have had regard to the indicative layout shown on the submitted drawings in reaching my decision but treated these as illustrative other than where they relate to access.
3. As part of its appeal submissions to address the Council's third reason for refusal, the appellants submitted a revised drawing relating to access to the site and the provision of visibility splays. As set out in guidance¹, the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. It is important that what is considered at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
4. The amended proposals involve a material change to the original scheme as it is proposed to remove a section of boundary wall and hedge and create an enlarged driveway. Such changes should be subject to re-consultation, without which procedural unfairness would arise. I have therefore not taken these amendments into account and am determining the appeal on the scheme as originally submitted.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;

¹ Procedural Guide: Planning appeals – England (updated 17 September 2024)

- the effect of the proposal on the openness of the Green Belt;
- the effect on the character and appearance of the area;
- the effect of the proposal on highway safety; and
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

6. The appeal site is located in the Green Belt. Policy CS5 of the South Gloucestershire Local Plan: Core Strategy (2013) (the CS) sets out that in the Green Belt, small scale infill development may be permitted within the settlement boundaries of villages shown on the policies map. Policy CS34 seeks to protect the Green Belt from inappropriate development. Policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) (the PSPP) sets out that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances can be demonstrated. It explains how the Framework will be applied within the Council's area in relation to certain Framework criteria but those are not relevant to this appeal.
7. The Framework sets out at paragraph 154e) that development in the Green Belt is inappropriate but allows for limited infilling in villages. A recent appeal decision² at Thornbury determined that these policies are deemed to be out-of-date due to the shortfall in housing land supply. Nevertheless, I find the policies to be broadly consistent with the Framework apart from Policy CS5 in limiting infill to those villages with a defined settlement boundary which is more restrictive, and I give little weight to this aspect of the policy.
8. In any event, caselaw³ has established that whilst a village boundary as defined in a local plan would be a relevant consideration, it would not necessarily be determinative. This would be a question of planning judgement based on an assessment of the position on the ground and determined by the particular characteristics of the proposal, the site and its environment as confirmed in the Tate judgment⁴.
9. The appeal site is located in Kendleshire. This is not a defined settlement and comprises a modest number of houses and a care home located to the east of Badminton Road, part of the A432. As development is clustered before transitioning into more open countryside, it has the appearance of a small settlement. Whilst the absence of services and facilities does not preclude it from being a village, Kendleshire is very limited in its extent and from what I observed on the ground, more akin to a hamlet than a village.

² APP/P0119/W/21/3288019 – Land to the west of Park Farm, Thornbury, South Gloucestershire

³ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195 and

⁴ R (Tate) v Northumberland County Council [2018] EWCA Civ 1519

10. There is additional development, including a public house and commercial development on Down Road to the west. Recent appeal decisions⁵ concluded that this did form part of a village, but that related to being part of the settlement of Winterbourne Down to the west and not Kendleshire. From my observations, Badminton Road clearly separates development along Down Road from Kendleshire and they do not read as forming part of the same settlement. Consequently, I find that the appeal site does not lie within a village.
11. The Framework does not define 'infilling'. The glossary to the CS defines infill development as the development of a relatively small gap between existing buildings, normally within a built-up area. The appeal site occupies a portion of an agricultural field, which is undeveloped grassland set behind a hedge. The remaining part of the field would be unchanged by the proposal.
12. Plot sizes are not uniform, neither is the pattern of development. Due to the irregular shapes and large size of plots and the position of development within these, the only built development directly adjacent to the site are Bay Tree Cottage and Rose Cottage, which lie to the south where they are set back from the road frontage. With the remainder of the field retained in agricultural use and no frontage development on this side of Ruffet Road, the proposal would not infill a small gap between existing buildings and it would not meet the CS description. Even if I were to apply that definition more broadly, the proposal would not infill a space between existing buildings in the absence of built development either side of the site or opposite.
13. Due to a significant bend in the road and the sloping topography of the area, travelling in either direction along the road, the proposed dwelling would appear between the houses to the north-east of the site on the opposite side of Ruffet Road and Bay Tree Cottage. This does not alter the fact that when viewed from the road outside the site, it would not appear between buildings and would not therefore appear as infill development.
14. I have been referred to various appeal decisions where the exception under paragraph 154e) of the Framework has been considered. In the case of the appeals at Cumming Road⁶ the proposal was found to infill a gap within the local streetscene. In this case, with development set back from Ruffet Road, there is no apparent gap in the streetscene. In the Oaklands Lane⁷ appeal, the proposal replaced an existing dwelling, was frontage development between two existing properties and was found to lie squarely within the village confines. This does not compare to the scheme before me.
15. The appeal⁸ at Nethins and The Stables related to a proposal which did not infill a gap within frontage development but rather a gap between built development both behind and opposite but on the same side of the road. I do not have all the information before me that led the Inspector on that appeal to the conclusions they reached but from what I have seen the layout and context would have been different to the appeal before me. I am therefore not led to any different conclusions in respect of the appeal before me.

⁵ APP/P0119/C/21/3280851, 52 and 53 and APP/P0119/W/20/3264388 - The Oaks, Down Road, Winterbourne Down, Bristol BS36 1AU

⁶ APP/W1525/W/23/3316812 & APP/W1525/W/23/3316813 – Land opposite Leedanton Farm, Cumming Road, Downham, Billericay CM11 1LW

⁷ APP/B1930/W/22/3300239 – 82 Oaklands Lane, Smallford, St. Albans AL4 0HS

⁸ APP/R0550/W/21/3288419 – Land adjacent to Nethins and The Stables, Welsh Row, Nether Alderley, Cheshire SK10 4TY

16. Thus, the proposal, whilst certainly limited due to being a single dwelling, would neither amount to infilling nor would it be in a village. It would therefore be inappropriate development in the Green Belt.

Openness

17. The proposed dwelling, whilst only indicative at this stage, would nevertheless introduce a large built footprint and built volume onto land that is currently open. This would inevitably impact on the spatial openness of the site. Furthermore, it would be visually prominent due to the topography of the site which is elevated from the road. It would be a permanent building with associated activity. Harm to openness would arise from this although this would be tempered by the proposal lying within an area of existing development.
18. Consequently, I find that the scheme would cause a modest loss of openness to the Green Belt.

Character and appearance

19. The appeal site is an open and undeveloped field with a rural character. It lies on the fringe of the limited built development forming Kendleshire. It lies between open land associated with residential development and the remaining area of open field. It forms part of the transition into the open countryside heading out of the settlement to the west.
20. Whilst the design and appearance of the proposed house are matters that would be determined at the reserved matters stage, the introduction of a substantial detached dwellinghouse on this prominent and elevated site, with associated domestic paraphernalia and car parking would permanently alter the character of this area, to the detriment of its rural character and appearance. It would be viewed in the context of other development and moderate harm would arise from the urbanising effect of the proposal.
21. Consequently, I conclude that the proposal would cause moderate harm to the character and appearance of the area. It would therefore conflict with Policies CS1 and CS34 of the CS and Policy PSP1 of the PSPP which together seek development that respects and enhances the character, distinctiveness and amenity of both the site and its context and protects, conserves and enhances the rural areas' distinctive character, beauty and landscape.

Highway safety

22. Ruffet Road is subject to a 30 mile per hour (mph) speed limit. At the time of my site visit, there was little traffic along the road due to road closures to both Ruffet Road and Coalsack Lane. A 30mph road would usually require visibility splays of 2.4m back and 43m in both directions. No information on actual traffic speeds has been provided. With a narrow verge along Ruffet Road, the Council acknowledges that a shorter measurement of 2m back from the carriageway could be appropriate.
23. The proposed dwelling would utilise the existing access serving Bay Tree Cottage. It is proposed to improve the existing access from Ruffet Road including realignment of the existing boundary wall to facilitate an improved visibility splay. However, this is only showed as visibility splay improvements to the east. To the

west, which would run along the frontage of the neighbouring property and where there is a tree, it is not clear how the visibility could be achieved.

24. The scheme would increase vehicle movements with parking indicated for up to four cars on the site. Overall, this would not be a significant number but could be double the number of vehicles using the access currently. However, if the access does not provide sufficient visibility this modest increase in traffic could give rise to an increased risk of conflict between road users.
25. Consequently, I find that the proposal would likely lead to an increased risk to users of the highway. I must therefore conclude that the proposal would be harmful to highway safety. It would therefore conflict with which policy CS1 of the CS and PSP11 of the PSPP which together require development to provide safe access and not unacceptably affect highway and road safety.

Other considerations

26. It has been established through the Thornbury appeal decision that the Council's settlement policies are deemed to be out of date. Notwithstanding this, the presumption in favour of sustainable development does not apply as paragraph 11d)i. applies because this is Green Belt. Nevertheless, the proposal would contribute to the Council's supply of housing which falls short of the required 5 year housing land supply. However, as a single dwelling, its contribution would be limited. This carries modest weight in favour of the scheme.
27. The site has pedestrian access linking it to the A432 where there are bus services linking to the wider area. It is reasonably located in terms of access and future occupants would have a choice of means of transport other than the private car. It is also close to employment opportunities at Emersons Green and beyond. There would be economic benefits arising both during construction and subsequent occupation of the dwelling with future residents using local services and facilities. Together these modest benefits attract positive weight.
28. The indicative drawings indicate that the proposed dwelling would meet amenity and space standards. Concerns about potential loss of privacy for neighbouring occupiers due to the elevated position of the site could be addressed at reserved matters. These neither weigh in favour or against the proposal.
29. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
30. The appeal site lies around 60 metres to the north of Kendleshire Court, a Grade II listed mid-18th century farmhouse. The significance of the listed building relates to the part of the building facing south-west and south-east, away from the appeal site. With existing development, Rose Cottage and Bay Tree Cottage, between the site and the listed building, and matters relating to the overall height and scale of the building being reserved to a later stage, the appeal proposal would have a neutral impact on the significance of the listed building.

The Green Belt Balance

31. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause moderate harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 153 of the Framework.
32. Cumulatively, the other considerations put forward in favour of the proposed development have modest weight. They do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, while limited weight can be afforded to Policies CS5 and CS34 of the CS and Policy PSP7 of the PSPP, it is still evident that the proposed development would not accord with the policies which seek to restrict and manage development in the Green Belt. The proposed development would not comply with the policies of the Framework, specifically Section 13 on protecting Green Belt land.

Conclusion

33. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR