



Appeal Decision

Site visit made on 18 March 2025

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 April 2025

Appeal Ref: APP/F0114/W/24/3350596

JAT Environmental Reclamation, Pensford Hill, Pensford 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 23/04223/PIP.
 - The development proposed is erection of up to 4 New Build Dwellinghouses (Use Class C3) and Associated Infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form, except where I have deleted reference to the application being for permission in principle and the address of the appeal site as these do not relate to an act of development.
3. The appeal is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. Planning Practice Guidance advises that permission in principle 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 two stages.
4. 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.
5. Within the description of development, the application form details a proposed maximum of four dwellings, and I have dealt with the appeal on this basis. Indicative site plans showing layouts of two and four dwellings were submitted as part of the application, which I have treated as being for illustrative purposes only.
6. Since the appeal was made, an appeal for permission in principle for up to six dwellings on the appeal site was dismissed¹. I shall have regard to that appeal decision where it is relevant to the appeal before me.

¹ Appeal reference APP/F0114/W/23/3332732

7. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issue

8. The main issue is whether the appeal site is a suitable location for new residential development having regard to relevant provisions of the development plan.

Reasons

9. Policy DW1 of the Bath and North East Somerset Local Plan: Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update (adopted January 2023) (LP) sets out that the overarching spatial strategy for Bath and North East Somerset is to promote sustainable development by focussing new housing, jobs and community facilities in Bath, Keynsham and 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 of those rural settlements.
10. Policy RE4 of the LP is also of relevance. Whilst the proposal is not for essential dwellings for rural workers, it is explicit in its restriction on new dwellings outside a Housing Development Boundary (HDB) in the open countryside being limited to where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
11. The appeal site is located to the north of the HDB of Pensford and is on the A37, which is one of the arterial routes into the city of Bristol. There is no dispute between the parties that the site is outside the HDB. However, the appellant has pointed to the *Wood* judgement², where it was common ground between the parties that the boundary of a village defined in a local plan would be a relevant consideration in determining whether or not a proposed development constitutes limited infilling in a village, but it would not necessarily be determinative. As such, consideration should also be given to the situation 'on the ground' as well as relevant policies. An allowed appeal for permission to erect two to five dwellings at a former building's yard at Long Ashton³ utilised this same approach and I have taken account of that decision where it is relevant to the appeal before me.
12. There is a stone settlement marker on the opposite side of the A37 to the appeal site. This does give a sense of entering the village at that point, but it is only one element of establishing the edge of a settlement. I also saw that there is a significant gap in development on the eastern side of the road between the HDB and the residential development nearest the site. The development on the western side of the road is sporadic and does not have the same level of density as development within the HDB. This can clearly be seen and understood when 'on the ground'. Furthermore, the 30mph speed limit that one would expect through a village does not start until further south on the A37 and this visually separates the development north of that speed limit change from the development within the 30mph speed limit zone. I agree with the appellant that it is part of the visual transition into the village, but it is not visually part of the village itself and the

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

³ Appeal reference APP/D0121/W/20/3253758

appeal site is experienced as outlier development together with the built form that adjoins it. I am therefore satisfied that the 'on the ground' view of the site is of a site in the countryside.

13. Given that the site is outside the HDB and is in the countryside, and taking into account that it has not been demonstrated that the proposal would meet any of the exceptions for new housing outside the HDB that are set out in Policies DW1 or RE4, the proposal would conflict with those policies.
14. The site is currently used as a building materials and stone reclamation yard and includes an office and a group of workshop/commercial buildings. It therefore meets the Framework's definition of previously developed land (PDL). There is a pavement that runs from the site into the centre of Pensford. There is a public house, the Travellers Rest, a short distance from the site. Pensford has a primary school, shop and post office, coffee shop, village hall and two public houses.
15. A bus stop is located near to the site on the same side of the road. The bus stop serving the bus service to Bristol is, however, on the opposite side of the road and would involve crossing a wide section of road that carries a 40mph speed limit and is not far from a change in speed limit to 60mph. The proposal includes the creation of a pedestrian crossing near to the Travellers Rest, which is further to the south along the A37 than the appeal site. However, it is noted that this would involve someone walking a circuitous route to cross the road at a safe point and then use the pavement leading to the bus stop on the other side of the road.
16. The pavement leading into Pensford has street lighting and the 30mph speed limit in the village would help to make crossing the road easier and safer than the section of road outside the appeal site. There would therefore be moderate accessibility to the services and facilities in Pensford. However, the road is on a steep incline, and this would present an unattractive journey on foot or bicycle when travelling back to the site from the centre of the village. I note the appellant's assertion that the bus service is regular and runs on a frequent daily basis. However, I have not been provided with details on the frequency of that service. Furthermore, I have already identified potential issues that would make accessing the bus stop on the opposite side of the road an unattractive option compared to using a private motor vehicle.
17. It is likely that future residents of the proposal would need to travel to a broader range of services, facilities and employment opportunities at settlements like Bristol and Bath, further away from the site. For instance, there is no secondary school and limited employment opportunities in Pensford. As such, it is unlikely the location of the proposal would sufficiently promote the use of sustainable modes of travel as advocated in the Framework. Instead, it is highly probable that occupants and visitors associated with the proposed development would be reliant upon private motorised transport to get to and from the appeal site. Whilst there would be reasonable levels of accessibility to the services and facilities in Pensford, due to its location outside the HDB of the village, the appeal site remains in conflict with the overarching spatial strategy for sustainable development in Bath and North East Somerset.
18. I have been referred to an allowed appeal for permission in principle to erect three dwellings at The Magpies, Mill Road, Radstock⁴. In that case the site was outside

⁴ Appeal reference APP/F0114/W/22/3313796

the HDB, but it was approximately 250 metres from the centre of Radstock and there was a pavement leading from the site in to the town. I note that the Inspector concluded that the proposal would conflict with the relevant development plan policies, but it would not undermine the purposes of those policies. There are similarities between that appeal and the appeal before me, but the details of that appeal are limited to what is written in the decision and it is difficult to therefore make a meaningful comparison. Furthermore, an appeal being allowed in a different area of the district does not necessarily justify the appeal before me and I am determining the appeal on its own individual merits based on the available evidence.

19. The appellant has also drawn my attention to two planning applications that were approved by the Council. There does appear to be similarities between those permissions and the appeal, such as the site being outside the HDB. However, the 2014 planning application for the conversion of existing industrial buildings to seven dwellings at the Old Colliery Yard, Wick Lane, Pensford⁵ did not find that the proposal would conflict with Policy DW1 of the LP, which is the key planning policy that I have identified conflict with, in respect of the appeal. It is therefore not comparable with the appeal. The other permission was for the demolition of a former scout hut at Stanton Drew and the erection of one detached dwelling⁶ and involved the re-use of PDL, similar to the appeal. However, that site adjoined the HDB and therefore differs from the appeal that involves the redevelopment of a site further from the edge of the HDB and I have found to be unattractive to walk or cycle back to from the centre of the village. As such, that permission does not alter my judgement on the appeal.
20. For these reasons, I conclude that the proposed development is not a suitable location for new residential development having regard to relevant provisions of the development plan. Consequently, the proposal would conflict with Policies DW1 and RE4 of the LP, for the reasons set out above.

Planning Balance

21. As previously established, the site is PDL and the efficient use of such land is encouraged by the development plan and the Framework. Moreover, the Council has concluded that the development would not have a greater impact on the openness of the Green Belt than currently exists. Four additional housing units on PDL, with reasonable access to surrounding facilities and services, would be created and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. However, even though small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and the appellant asserts they can be delivered relatively quickly, four additional units would not make a noticeable difference to the housing supply situation across the Council's area. It is thus a benefit that attracts moderate weight. The proposal would also create jobs during the construction phase, provide support to the local economy and the vitality of the local community once occupied and result in the paying of financial contributions towards infrastructure. These benefits attract minor weight in lieu of the scale of development being considered.

⁵ Bath and North East Somerset Council application reference 14/02858FUL

⁶ Bath and North East Somerset Council application reference 19/04833/FUL

22. Furthermore, the cessation of the existing industrial use of the site and its replacement with residential development would stop any potentially ongoing disturbance arising from noise and odours associated with industrial processes. This would benefit the occupiers of the neighbouring properties by improving their living conditions, and this is afforded moderate weight as well. As mentioned earlier, the proposal includes a new pedestrian crossing on the A37 and this would provide a safe crossing for existing local residents and the future occupiers of the proposed development. Given that the road has significant levels of traffic and there is no existing safe means to cross this section of the main road, the pedestrian crossing would attract moderate as a benefit to the local community. I also acknowledge that there would be landscape improvement and potential biological gain as a result of removing an industrial premises and replacing it with residential development. The Framework supports the enhancing of the countryside and the inclusion of measures to improve biodiversity. As such, I also afford these benefits moderate weight.
23. Weighing against the benefits is the proposal conflicting with Policies DW1 and RE4 of the LP, with the associated conflict reflecting the unsuitability of the location for new residential development having regard to relevant provisions of the development plan. The proposal may comply with certain policies contained in the development plan, but given the harm that I have identified, the proposal would conflict with the development plan when taken as a whole. The Framework seeks to deliver suitable locations for housing development where this can help to meet identified needs in a sustainable way, promote sustainable development in rural areas through the location of housing where it will enhance or maintain the vitality of rural communities and identify and pursue opportunities to promote walking, cycling and public transport use. The development plan policies that I have identified conflict with are consistent with these aims of the Framework and significant weight is therefore attributed to the policy conflict and associated harm identified above.
24. Overall, I find that the adverse impact of the unsuitable location of the site for residential development would outweigh the collectively moderate weight that can be attributed to the scheme's benefits.

Conclusion

25. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

K Reeves

INSPECTOR