


The Planning Inspectorate

Appeal Decision

Site visit made on 12 August 2024

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/B1605/W/24/3341981

Stansby House, The Reddings, Cheltenham, GL51 6RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Turners Regency Parks Ltd against the decision of Cheltenham Borough Council.
 - The application Ref is 23/01538/FUL.
 - The development proposed is the erection of 2no. detached dwellings following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether the development would be inappropriate development in the Green Belt
- the effect on the character and appearance of the area
- the effect on the living conditions of the occupiers of 'Lodge 1', with particular regard to outlook and overlooking
- 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

3. The proposal is for two detached, three/four-bedroom houses with parking to the front and gardens to the rear. Two-storey Stansby House and its garden are to the immediate north. Grovefield Way bounds the site to the east, separated by a long row of very high coniferous trees. The appeal site is otherwise surrounded by recently built, one-storey lodges.

Interpretation of policy

4. The site is in the Green Belt. The local development plan comprises the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (adopted 2017) (JCS) and the Cheltenham Plan (adopted 2020) (CP).

5. Policy SD5 of the JCS states that development in the Green Belt will be limited to those types of development deemed appropriate in the National Planning Policy Framework (NPPF).
6. The test in Policy GB1 of the CP also refers to the NPPF but provides 'a locally distinctive response' by stating that '*limited residential infilling of built frontages on roads within the Green Belt ... will be permitted only where there is no resulting harm to the openness*'. The supporting text defines 'infilling' as the construction of a new residential building or buildings between two existing residential buildings.
7. Two exceptions for building in the Green Belt have been considered by the parties:
 - The Council has relied on Policy GB1 of the CP.
 - The appellant has argued that the proposal is '*limited infilling or the partial or complete redevelopment of previously developed land*', which is listed in paragraph 154 of the NPPF (2023).
8. The appeal site immediately abuts residential properties and meets the definition of 'infill' set out in the supporting text of Policy GB1. However, the site would share an established private access from the main road with Reddings and Stansby Touring Park. The houses would therefore not present a frontage to nor have a functional relationship with Grovefield Way, or any other road. As such, I conclude that the 'locally distinctive' section of Policy GB1, which applies when a frontage is on a road, is not applicable.
9. I conclude that the relevant Green Belt policies are Policy SD5 of the JCS and Policy GB1 of the CP so far as it requires adherence to the NPPF.
10. The dwellings would be built following demolition of several existing outbuildings, including two sheds, two garages and a workshop. The remainder of the land is covered in gravel hardstanding. I am satisfied that the site meets the definition of Previously Development Land (PDL) in the NPPF.

Whether inappropriate development

11. Paragraph 154(g) of the NPPF states that limited infilling on PDL would not be inappropriate development in the Green Belt provided it does not have a 'greater impact' on openness than the existing development.
12. The volume of built form would increase from approximately 236 m³ to 884 m³. In addition, the new buildings would be two-storey rather than single storey. This is a significant increase in both volume and height, and for this reason, I conclude that the development would have a greater impact on the openness of the Green Belt than the existing development.
13. There would only be a small increase in building footprint. Hardstanding would be reduced by approximately 580 m² and landscaping increased by 680 m². Landscaping would undoubtedly make the area more attractive, but it does not automatically follow that openness would increase. Gardens are a form of development, and the associated paraphernalia and sense of

urbanisation can reduce openness. On balance, I conclude that the introduction of landscaping would be a neutral change.

14. The visibility of the houses from the public domain, including from Grovefield Way, would be very low. They would be glimpsed through the trees when travelling along the highway in the context of the residential buildings on either side. I am satisfied that the visual effects on the openness of the Green Belt would be negligible. However, openness has both a spatial and visual aspect, and the fact that the houses would not be easily visible does not negate the harm from the significant increase in built volume.
15. The appellant has also suggested that given unsightly buildings would be replaced with two well designed modern dwellings, the volume should not be taken into consideration. This does not form part of an assessment for the impact on openness.
16. The development would constitute re-development of PDL. However, it would have a greater impact on openness and, for this reason, I conclude that it would conflict with NPPF paragraph 154(g). As such, it would be inappropriate development. The development would therefore also conflict with Policies SD5 of the JCS and GB1 of the CP.

Effect on the character and appearance of the area

17. The proposal would not open a new frontage on Grovefield Way. The rear of the properties would be barely visible through the screen of mature, coniferous trees and glimpses from the highway would be of two houses in a row of residential properties. For this reason, I do not find that it would be visually prominent or discordant in the street scene.
18. The appellant has provided maps that demonstrate an irregular pattern and grain of development in the area. Based on these and my observations on site, I am satisfied that the proposal does not go against the pattern or grain of surrounding development.
19. The proposed buildings would be slightly set back in comparison to Stansby House but this would not be to the extent that they would appear incongruent. They would also be within the roughly curved building line running from Stansby House through the line of lodges on the other side of the appeal site. For these reasons, I do not find that there would be harm to the character and appearance of the area from disruption to the building line.
20. Removal of the existing buildings and replacement of hardstanding with green landscaping would improve the appearance of the area. However, it is not necessary to build two detached houses to achieve this, and this therefore attracts only minor beneficial weight.
21. The Council has referenced conflict with the Supplementary Planning Document 'Development on garden land and infill sites' in its reason for refusal. However, it does not explain in detail how this is relevant to character and appearance. Notwithstanding, the appellant has analysed the document and not identified any conflict. Having considered the provisions of the SPD and its applicability to the proposal, I see no reason to come to a different conclusion.

22. There would be an improvement to the appearance of the area and no harm to the character. The proposal is therefore consistent with Policies D1 of the CP and SD4 of the JCS, which together require that development should respond positively to the character of the area.

Living conditions of the occupants of Lodge 1

23. Although not a reason for refusal, the Council's report suggests that there could be harm to the living conditions of residents of adjacent 'Caravan 1' (also referred to as 'Lodge 1'). The appellant has responded to the Council's concerns on this matter and I am satisfied is not disadvantaged by my addressing this matter as a main issue.

24. The Council calculated that the distance between the properties would be approximately 6 m. Based on the plans provided, the distance between the flank wall of the two-storey house on Plot 2 and the garden boundary fence of Lodge 1 would be notably less than this. I observed that the garden associated with Lodge 1 is small and narrow. The construction of a building in proximity to the boundary along much of one side would result in significant loss of outlook and be overbearing.

25. The only window overlooking Lodge 1 would be a narrow stairway window, which can be made opaque through use of a condition. I do not find that this would contribute to a perceived sense of overlooking for the residents of Lodge 1.

26. The appellant states that because the lodges are controlled by separate legislation, they are not required to meet residential requirements in terms of overlooking. I have not identified an issue with overlooking, but rather harm from the loss of outlook caused by a two-storey house in proximity to the garden boundary of a lodge.

27. There would be harm to the living conditions of the occupants of Lodge 1 through loss of outlook and I conclude that the proposal is not consistent with policies SD14 of the JCS and SL1 of the CP, which state that new development must not cause harm to the amenity of neighbouring occupants.

Other considerations

28. The appellant has drawn my attention to the proximity of Cheltenham, the numerous facilities and services nearby, excellent transport links and the site's location within the 'Principle Urban Area'. The Council agrees that the proposal meets the requirements of Policy SD10 because it is in a sustainable location and, in principle, suitable for residential development. I see no reason to disagree, and the location attracts beneficial weight in the planning balance.

29. The Council states that it cannot demonstrate a five-year housing land supply. The appellant suggests that following the changes to the NPPF in 2023 and housing delivery figures this is, in fact, no longer a consideration.

30. If there was a housing shortfall, paragraph 11 of the NPPF states that development should be granted unless the application of policies in the NPPF that protect areas of particular importance provide a clear reason for refusing the development proposed. The detrimental effect on the openness of the

Green Belt provides a clear reason to refuse the development. It is therefore not necessary to investigate matters of housing supply in more detail because it would make no difference to the outcome of the decision.

31. No substantive information has been provided by either party as to the scale of the shortfall. Although the provision of two new homes would be beneficial, I cannot be certain that this would have a significant effect in addressing the shortfall. As such, I attribute minor beneficial weight to their provision.
32. The proposal for two houses would also contribute positively to the local economy during construction and occupation. This is matter to which I attach minor beneficial weight given the small scale of the development.

Other matters

33. The site lies within a 'zone of influence' as set out in the Cotswold Beechwoods Special Area of Conservation (SAC) Recreation Mitigation Strategy (May 2022). This means that, without appropriate mitigation, the proposed development is likely to have a significant effect on the Cotswold Beechwoods SAC (either alone or in combination with other development) through increased recreational pressure. Policy BG1 of the CP states that such development will not be permitted unless the effects can be mitigated.
34. In this case there are no reasonable opportunities for on-site mitigation and a financial contribution would be necessary. I understand that the appellant has agreed to this in principle, but I have no signed agreement to this effect before me. However, as I have found the scheme unacceptable for other reasons, there is no need for me to undertake an Appropriate Assessment or pursue the legal agreement.
35. An interested party has suggested that there are exceptional reasons for departing from the Green Belt policy in this case but does not explain in detail what these are. The same submission also suggests that approving such an application would help to resist proposals where the impact on the Green Belt is clear. This does not form part of a policy test and I am therefore unable to give this argument weight.

Green Belt balancing exercise

36. The proposal represents inappropriate development in the Green Belt because it is development of PDL where there would be greater impact on openness. In accordance with paragraph 153 of the NPPF this is a matter of substantial weight. There would also be harm to the living conditions of the occupants of Lodge 1 through loss of outlook from the garden.
37. On the other hand, I have found that the effect on the appearance of the area would be positive, the site is in a sustainable location with regard to facilities and transport, and the development would contribute to the local housing supply and economy. Given the small scale of the development, these are matters of minor beneficial weight.
38. The minor benefits from the development would not clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and other harm. Consequently, the very special circumstances necessary to justify development in the Green Belt do not exist.

Conclusion

39. For the reasons above the appeal should be dismissed.

B Davies

INSPECTOR