



Appeal Decision

Site visit made on 19 June 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/P0119/W/23/3316108

13 Engine Common Lane, Engine Common, Yate, BS37 7PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mrs Roden against the decision of South Gloucestershire Council.
 - The application Ref P22/01125/PIP, dated 22 February 2022, was refused by notice dated 30 November 2022.
 - The proposal is for development of up to 2 self-built dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 1 and a maximum of 2 dwellings at 13 Engine Common Lane, Engine Common, Yate, BS37 7PX, in accordance with the terms of the application, P22/01125/PIP, dated 22 February 2022.

Preliminary Matters

2. 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 two stages. The first stage (permission in principle) establishes whether a site is suitable in principle. The second stage (technical details consent) is when detailed proposals are assessed. This appeal relates to the first stage.
3. 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. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for up to two dwellings on the appeal site. I have determined the appeal accordingly.

Main Issue

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

5. 13 Engine Common Lane is a detached dwelling. The appeal site is part of its garden and directly adjoins a corner on Engine Common Lane with the road running along two sides. There are dwellings on three sides of the site with a

- collection of partially derelict buildings to the other side. The surrounding area is rural in character with detached dwellings set in generous plots.
6. The strategy to guide the location of new housing is set out in Policies CS5 and CS34 of the South Gloucestershire Local Plan Core Strategy (Adopted December 2013) (CS) and PSP40 of the South Gloucestershire Local Plan Policies, Sites and Places Plan (Adopted November 2017) (PSPP). These seek to direct new housing towards sustainable locations in existing urban areas, market towns, and defined rural settlements, to protect the distinctive character of rural areas. They resist residential development outside of defined settlements and in the open countryside, other than for specified exceptions.
 7. The appeal site is outside of any defined settlement boundary, roughly halfway between the boundaries for Engine Common and Yate, so is classed as being within the open countryside. I have been presented with no evidence that would lead me to conclude that the proposal can meet any of the exceptions set out in Policy PSP40 which would allow for new dwellings in the countryside. Consequently, the location would be in conflict with Policies CS5 and CS34 of the CS and PSP40 of the PSPP.
 8. The proposal is for up to two dwellings located between existing dwellings and the road. They would form part of a cluster of dwellings and would not extend build form out into the open countryside. Given that the site is part of a garden which contains a number of domestic outbuildings, its character and appearance is already residential. In addition, as the site is part of a garden outside of a built-up area, it is considered to be previously developed land, the use of which is encouraged by the National Planning Policy Framework (the Framework), where appropriate¹. These factors mean that although the site is outside of any settlement boundary, due to its location and context, the proposal would not result in any significant harm to the distinctive character of the countryside in this rural area.
 9. The site is relatively close to the settlement boundary for Engine Common which has a range of basic services, but the road links are not direct. The site is also relatively close to the settlement boundary for Yate. Although the roads connecting the site to settlements do not have walkways, there are routes along quiet stretches of road and road designated as part of the Avon Cycleway, most of which are lit. Consequently, future occupants of the dwellings could reasonably choose to walk or cycle to nearby settlements to access services and facilities and public transport to the wider area. In addition, outline permission has been granted for 89 dwellings at a location a few hundred metres to the southwest of the appeal site². Once fully built out, this will include additional access from Engine Common Lane onto North Road within the Engine Common settlement, improving site accessibility.
 10. As a result of the above factors, future occupants of the proposed dwellings would not necessarily be reliant on private motor vehicles which are the least sustainable form of transport. The proposal would be small scale and would not generate significant additional demand for travel. I therefore find that the proposed location for up to 2 dwellings would not result in conflict with policies CS8 of the CS or PSP11 of the PSPP. Furthermore, the Framework acknowledges that opportunities to maximise sustainable transport solutions

¹ Framework paragraph 119 and Annex 2 Glossary.

² Application reference P20/24044/O - Land East of North Road – Outline permission for 89 Houses.

will vary between urban and rural areas, and this should be taken into account in decision-making³.

11. The site is already in residential use, albeit as a large garden, and is located at a road junction, and would fill an existing gap between dwellings in a small collection of dwellings. The site is big enough to accommodate 2 dwellings of a size commensurate with those around it. Therefore, I find both the proposed use and amount acceptable.
12. I conclude that due to the site being outside of any development boundary, without meeting a specified exception, the location of the proposal would be contrary to Policies CS5 and CS34 of the CS and PSP40 of the PSPP. However, due to the modest scale of the proposal on previously developed land in close proximity to other dwellings, and with reasonably sustainable access to services and facilities, any material harm resulting from the proposal would be minimal, subject to suitable technical details consent.

Planning Balance

13. Policies in the CS and PSPP are over 9 and 5 years old respectively so predate the latest version of the Framework. The South Gloucestershire New Local Plan is at a very early pre-submission stage so I can afford it no weight. While policies should not be regarded as out-of-date simply because they were adopted before the Framework⁴, weight should be given according to their degree of consistency with the Framework. Weight is a matter for the decision maker to judge in the circumstances of the case.
14. The appellant has drawn my attention to 2 recent appeals elsewhere in the Council area. The first⁵ relates to 35 dwellings at Land South of Badminton Road and was allowed on 6 January 2023. The second⁶ relates to 595 dwellings at Land to the West of Park Farm and was allowed on 13 February 2023. In these appeals, following consideration of evidence at inquiry, both of the inspectors set out that the settlement boundaries were not capable of meeting housing requirements, and must be considered out-of-date. Consequently, the inspectors concluded that CS5 and CS34 of the CS and PSP40 of the PSPP, which rely on the settlement boundaries, are not consistent with the Framework and must be deemed to be out-of-date. I have been presented with no evidence which would lead me to a different conclusion.
15. The Council state that they are able to demonstrate a 5 year housing land supply. The appellant contests this. In allowing the Park Farm appeal for 595 dwellings, the inspector concluded that the Council had a 4.77 year housing land supply. That position may have changed as of the date of this decision, but I have been presented with no substantive information to allow me to reach a definitive conclusion on the housing land supply position. Notwithstanding the lack of certainty regarding the housing land supply, as set out above, the most important policies for determining the application are out of date, so Paragraph 11d)ii) of the Framework needs to be considered.

³ Framework Paragraph 105.

⁴ Framework paragraph 219.

⁵ Appeal reference APP/P0119/W/22/3303905 - Land south of Badminton Road, Old Sodbury, South Gloucestershire – Erection of 35 dwellings. Allowed on 6 January 2023.

⁶ Appeal reference APP/P0119/W/21/3288019 - Land to the West of Park Farm, Thornbury, South Gloucestershire – Erection of 595 dwellings. Allowed 13 February 2023.

16. In terms of benefits, the proposal would provide additional housing in a rural area which in turn would help support local shops and services. There would also be temporary economic benefits during the construction phase. However, as only up to 2 dwellings would be created, these benefits would be limited.
17. The material harm from the proposal would be minimal but I have found that it conflicts with Policies CS5 and CS34 of the CS and PSP40 of the PSP. These policies are considered to be out of date and while that does not affect the statutory nature of the policies, it does mean that the conflict is a matter of reduced importance. Therefore, the fact that the proposed development would be outside of any settlement boundary is a matter to which I ascribe only limited weight.
18. Taking all of the above factors into account, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits. Consequently, the Paragraph 11d presumption in favour of sustainable development applies and advises that planning permission should be granted.
19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be in accordance with the development plan unless material considerations indicate otherwise. In this case, the presumption in favour of sustainable development is a material consideration of sufficient weight to indicate that permission in principle should be granted notwithstanding the minor conflict with the development plan.

Other Matters

20. The appellant stated that the dwellings would be self-build, which is supported by local and national policy. They indicated that the Council has a significant shortfall of self-build permissions compared to registrations. However, mechanism to secure the dwellings as self-build has been provided. Consequently, I can give this no weight in my assessment.
21. Details of matters including drainage, landscaping, land stability and contamination would all need to be considered and approved at technical details consent stage. However, I have been presented with no evidence which would lead me to conclude that acceptable arrangements could not be implemented.

Conclusion

22. For the reasons set out above having regard to all other relevant material considerations, I conclude that the appeal should be allowed. As stated in the PPG, it is not possible for conditions to be attached to a grant of permission in principle.

Helen Davies

INSPECTOR