



Appeal Decision

Inquiry held on 1, 2 and 3 March 2011

Site visits made on 28 February and 3 March 2011

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 March 2011

Appeal Ref: APP/P0119/A/10/2138335

Land at Williams Close, Longwell Green, Bristol, BS30 9BS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by ATA Estates (Longwell Green) LLP against the decision of South Gloucestershire Council.
 - The application Ref.PK10/1220/O, dated 14/5/10, was refused by notice dated 5/10/10.
 - The development proposed is residential development for up to 83 dwellings and associated development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. With the exception of the means of access, all other matters of detail have been reserved for subsequent consideration. I have treated the proposed layout and cross-section drawings as being illustrative only.
3. In determining this appeal I have taken into account the Statement of Common Ground that has been agreed by the two main parties and the Further Statement of Common Ground.
4. The Council informed me that the planning obligation submitted by the appellant under the provisions of section 106 of the above Act overcame its concerns regarding affordable housing provision, educational infrastructure, leisure/recreation/community facilities and transport/highway infrastructure (reasons for refusal Nos. 4 – 7).
5. Both main parties agree that the proposal would represent inappropriate development within the Bristol and Bath Green Belt (GB).

Main Issue

6. Whether the harm by reason of inappropriate development within the GB and any other harm, including the effect upon the openness and visual amenities of the GB and any conflict with policies for protecting the countryside, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

7. Planning Policy Guidance 2 (PPG2) 'Green Belts' states that inappropriate development is, by definition, harmful to the GB. There is a presumption

- against inappropriate development and the Secretary of State will attach substantial weight to the harm to the GB when considering an appeal concerning such development.
8. With the exception of a strip of land that is leased to the Council for use as a 'kick about' area, this 2.95 ha site forms part of the agricultural land separating Hanham from Longwell Green. It lies on the lower, south-east facing slope of the Hanham Hills and the gradient of the site rises away from Williams Close.
 9. The site lies within the Bristol, Avon Valleys and Ridges National Character Area and the Avon Valley Character Area, as defined in the South Gloucestershire Landscape Character Assessment Supplementary Planning Document (SPD) 2005. Amongst other things, the SPD notes that the Hanham Hills are a local landmark and popular for informal recreation. They are an important open space and rural buffer to the urban edge. This distinctive and simple rural landscape is noted as being sensitive to change and any further significant physical or visual encroachment of the urban edge would erode its character.
 10. The appellant's landscape architect has argued that the appeal site lies within its own distinct landscape cell. During my site visit I noted the housing on two sides of the site and the boundary vegetation. However, from Williams Close there are attractive views of other parts of the Hanham Hills from across the appeal site. The gaps between some of the houses in Pearsall Road also provide glimpses of this local landmark. From these streets the site appears as part of the rising hillside that makes up the Hanham Hills and the open countryside that surrounds the urban edge.
 11. There are also attractive views towards the Cotswolds from the upper part of the public footpath that runs along the northern boundary of the site. This footpath is well used by residents and walkers. The unspoilt open qualities of the site provide a pleasing contrast to the adjacent built development and contribute positively to the character and appearance of the area.
 12. In more distant views from the public open space/nature reserve at Cock Road Ridge and the ridge of land above Cann Brake, the site appears as an integral part of the green swathe of countryside that makes up the Hanham Hills. It is set above and apart from the urban fabric and forms part of the attractive setting to this part of the Bristol conurbation.
 13. The illustrative layout shows the provision of some public open space within the site, the retention of the 'kick about' area and new landscape planting. The proposed dwellings could also be sited and designed to avoid breaking the skyline. Vistas of the upper parts of the Hanham Hills and the Cotswolds would be possible when looking across the site. However, the proposed buildings, access road and parking areas would significantly encroach into the countryside and markedly change the character of the site.
 14. The scale of the development and likely site coverage would seriously erode the open qualities of the appeal site. From Williams Close and Pearsall Road, the proposal would remove a wedge of countryside that penetrates the urban area and, in so doing, harmfully diminish the simple, undeveloped qualities of the site. This loss of openness weighs heavily against the case for granting permission. PPG2 notes that the most important attribute of Green Belts is their openness. Notwithstanding the remaining intervening fields, the proposal would also narrow the gap between Hanham and Longwell Green and encroach into the countryside. It would be at odds with GB purposes.

15. When seen from the more distant public vantage points that I have noted above, the proposed development would appear as a prominent and sizeable urban extension and a harmful intrusion into the countryside that comprises the Hanham Hills. Landscape planting would take many years to establish and would be largely ineffective in screening or softening the impact of the development, especially during the winter months. The proposal would cause considerable harm to the visual amenities of the GB and erode the attractiveness of this local landmark. PPG2 states that the visual amenities of the GB should not be injured by proposals for development within the GB.
16. From the representations made to me and the numerous letters that were sent to the Council when it considered the application, the Hanham Hills are clearly cherished by many people, including a large number of neighbouring residents. During one of my site visits, which I undertook at about mid day on a Monday, I saw a number of people walking the network of footpaths that cross the Hanham Hills. This included the public right of way along the northern boundary of the site. It is not unreasonable to assume that these paths would be even more popular at the weekends. I note the remarks made by some interested parties that the site, in effect, functions as a 'green lung'.
17. The likely impact of the proposed buildings, road and associated activity, would spoil the appreciation of this local landscape for the numerous residents who currently make use of the Hanham Hills for informal recreation. The scheme would harm the distinctive qualities of the Avon Valley Character Area and conflict with the provisions of policy L1 of the South Gloucestershire Local Plan (LP). This also weighs heavily against the argument for granting permission.
18. In extending housing beyond the existing urban limits the proposal would be contrary to the provisions of LP policy H3. It would also be at odds with the provisions of Planning Policy Statement (PPS) 7 'Sustainable Development in Rural Areas', which requires the protection and, where possible, the enhancement of the quality and character of the countryside. This policy conflict adds further weight to the case for withholding permission.
19. I note the other concerns of some interested parties, including those of the local MP. However, there is no technical information to refute the detailed evidence submitted in support of the scheme by the appellant's highways consultant. The planning obligation would include necessary financial contributions (£45,000) towards the cost of traffic management and road safety measures in the vicinity of the site, as well as contributions towards public transport infrastructure. This would ensure that highway safety interests were not compromised. As I have noted above, the Council has not pursued its highway related reason for refusal.
20. The planning obligation also includes necessary financial contributions to avoid harmfully increasing the pressure on other infrastructure, including the local primary school and community services/facilities. Those with responsibility for managing healthcare services, including local GP surgeries, have not objected. There is no convincing evidence to show that healthcare services would be unable to cope with the needs of incoming residents.
21. There is also no cogent evidence to show that heritage assets would be harmed. The scheme could be designed to avoid harmful disturbance to nature conservation interests and significant harm to the living conditions of neighbouring residents. The effect upon property values and the disruption to private views would not be a sound basis for preventing development. There is

also nothing of substance to demonstrate that incoming residents would behave in an anti-social way. My findings in respect of these other concerns neither add weight to the case for withholding permission nor diminish the harm to the GB that I have identified above.

22. In essence, the appellant's case is that the Council does not have a five year supply of housing land and the shortfall in provision clearly outweighs the harm by reason of inappropriateness and any other harm so as to amount to very special circumstances. Planning Policy Statement 3 (PPS3) requires there to be a continuous five year supply of deliverable sites available for housing. Where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites, paragraph 71 of PPS3 states that they should consider favourably planning applications for housing, having regard, amongst other things, to the suitability of a site for housing.
23. The Council's arguments in respect of housing land supply are based on the provisions of the LP, adopted in 2004, and the Regional Planning Guidance for the South West (RPG10), published in 2001. (Neither main party relies on the provisions of the pre-submission South Gloucestershire Core Strategy [CS], the examination of which is due to commence in mid 2011.) The LP and RPG10 form part of the development plan. The LP sets out planning policies for the area up to 2011 and RPG10 sets out a broad development strategy to 2016.
24. Policy HO1 of RPG10, from which the Council derives its housing provision, is based on housing assessments that were undertaken sometime before 1999. These assessments are now rather dated. The Secretary of State for Communities and Local Government has also made it clear that it is the Government's intention to revoke regional strategies (including RPG10) through the provisions of the Localism Bill which is currently before Parliament. Nevertheless, at this stage in the Parliamentary process, I find that little weight can be given to the intention to revoke regional strategies.
25. The appellant has argued that the housing requirements of the 2008 draft revised Regional Spatial Strategy (draft RS) for the South West; Secretary of State Proposed Changes Stages version, should be used instead of those derived from the development plan. There is some merit to this argument as the housing requirements of the draft RS are more up to date. Paragraph 53 of PPS3 also requires consideration to be given to emerging Regional Spatial Strategies.
26. However, progress on the draft RS has stalled, the appeal site does not fall within any of the areas of search to which the previous Secretary of State's Proposed Changes relate and unlike RPG10, the draft RS does not form part of the development plan. The Council has also pointed out that the housing figures in the draft RS were 'uplifted' at a time when the economy was more buoyant and were not subject to a revised sustainability appraisal. In addition, the current Secretary of State has made it clear that in future, decisions on housing supply are to rest with Local Planning Authorities. The draft RS is very unlikely therefore to ever become part of the development plan. It carries limited weight in this appeal.
27. My findings in respect of the draft RS differs from the Inspector who determined an appeal at Frampton Cotterell (APP/P0119/A/09/2105293). However, that appeal related to a site that was within an area where no further sustainability appraisal was required. The decision also pre-dates the Secretary of State's intentions/Localism Bill which I have noted above.

28. Using the figures from the development plan (assuming the plan period is extended to 2026) and spreading/annualising the historical undersupply (in excess of 2,500 units) the Council has calculated that there is a five year housing requirement for 6,875 dwellings and a deliverable supply of 6,851 dwellings. It has argued that a 5 year supply of housing land exists when rounding up to the nearest decimal point. On the other hand, the appellant, using the draft RS figures and arguing that all of the undersupply should be 'front loaded' and provided within the next 5 years, has calculated that there is about a 2 years supply of deliverable housing land.
29. Even if the Council is correct in its arguments on the 'rounding up' matter (under cross-examination its witness accepted that the evidence it had supplied from the Audit Commission to support this related to a different exercise) and is being pragmatic by annualising the historical undersupply (I note that Government office for the South West appeared content with such an approach in the Council's Annual Monitoring Reports), there is very little margin for error in the Council's estimates of housing delivery (52 units, after which 'rounding up' would result in a less than 5 year supply).
30. Moreover, the Council is only able to show a 5 year supply of deliverable sites with the inclusion of a small sites allowance of 1,075 dwellings. Since 2006, on average, 232 dwellings/year have been provided within South Gloucestershire via small sites. However, one of the Council's witnesses informed me that, on a strict interpretation, it was possible that the appellant could be correct in asserting that the 1,075 units was a windfall allowance.
31. PPS3 is clear in stating that allowances for windfalls (sites which have not been specifically identified as available in the local plan process) should not be included in the first 10 years of land supply unless Local Planning Authorities can provide robust evidence of genuine local circumstances that prevent specific sites from being identified. The Council's inclusion of a small sites allowance appears at odds with the provisions of PPS3.
32. Notwithstanding the above, in closing, the Council accepted that the starting figure for total small sites commitments was 746 units. With both main parties agreeing on a 10% non delivery rate, 671 units rather than 1,075 units would reduce the Council's housing supply figure to 6,447 units. This in turn would produce a 4.67 years supply of deliverable sites.
33. The appellant is also critical of the delivery rates from some of the other sites in the Council's housing trajectory. These include sites with planning permission, sites allocated in the LP and CS, as well as specific unallocated sites identified in the Council's Strategic Housing Land Availability Assessment (SHLAA). However, in many instances the Council has obtained details from the respective developers or their agents to verify its assessment. Its Major Sites Team is also working closely with others to renegotiate planning obligations and bring forward sites to secure housing delivery. Mindful of the historical problems with undersupply, the Council is now very alert to the need to provide an adequate supply of housing land.
34. I note the appellant's argument that this is a recent change in stance by the Council in dealing with developers. I also appreciate that some developers or their agents could be providing rather optimistic delivery rates to ensure that their sites are considered favourably by the Council. Nevertheless, the Council's actions in seeking to work more closely with the house building

- industry is to be commended and there is nothing of substance to demonstrate that the figures supplied to/by the Council are too wide of the mark.
35. However, there are many variables that could affect the delivery of housing on those sites which are relied upon by the Council. In some instances, this includes the need to obtain planning permission, although I note that in most, if not all, cases negotiations are at an advanced stage. Nevertheless, it is by no means certain that all of the sites identified by the Council would come forward for development in the next 5 years. It would be surprising if the delivery met or exceeded the figures in the Council's housing trajectory.
36. Given the above, there is a greater weight of evidence to show that the Council does not have a 5 year supply of deliverable sites. Paragraph 71 of PPS3 is therefore engaged irrespective of the quantum of undersupply. Whilst it is not necessary for me to conclude on the precise number of deliverable homes in the five year period (or appropriate in the context of a section 78 appeal with an impending examination into a CS) the shortfall in supply is not as deficient as argued by the appellant. In particular, the Council is not prohibited from annualising its historical shortfall, the draft RS carries only limited weight and in view of the plan-led approach to development, there are insufficient grounds for setting aside the housing provisions of the development plan. Notwithstanding this, the lack of a 5 year supply is an important material consideration that carries much weight in this appeal.
37. The appeal site lies in a sustainable location and is well related to services and facilities, including public transport. The development would entail the efficient use of land and the scheme could be designed to achieve high quality housing. There would be a good mix of housing, including some social rented and intermediate units. The proposal would contribute towards addressing the shortfall in deliverable sites within South Gloucestershire and would also assist in meeting the community's affordable housing needs. This lends further weight to the case for granting permission.
38. In closing submissions the appellant argued that an 'in principle' objection on the basis of GB designation would be a "*misappreciation*" of the effect of paragraphs 71 and 69 of PPS3. Be that as it may, it would only be appropriate to conclude in respect of the suitability of the site for housing after undertaking the necessary planning balance. In this regard, all parties were in agreement with the balancing exercise set out in the above main issue which I identified at the beginning of the Inquiry.
39. I have already noted that the harm by reason of inappropriate development within the GB must be given substantial weight. Added to this is the harm that I have found in respect of the openness and visual amenities of the GB, the conflict with GB purposes and the harm arising from the conflict with established policies aimed at protecting the character and appearance of this area of countryside. The totality of this harm is very great.
40. When this harm is weighed with the lack of a 5 year supply of deliverable housing land and the contribution the scheme would make towards meeting the housing needs and demand of the community, the balance tips in favour of the Council's decision to withhold permission. As a consequence, this is not a suitable site for housing and the very special circumstances necessary to justify the development within the GB do not exist.

41. My attention has been drawn to the findings of some other Inspectors and the Secretary of State in considering housing schemes elsewhere. However, not all of these cases relate to sites within the GB. Those that do involve the provision of important infrastructure and land that was allocated for housing in the development plan (Ref. APP/P0119/A/07/2035178), whilst in Cheltenham, permission was granted on a site that was originally allocated for housing and for a scheme that included new public sports facilities (Refs. APP/G1630/A/05/1183971, 07/1201923 and 07/1201924). In another case, in East Tilbury, it was found that there would be no material harm to the landscape and no SHLAA was available (Ref. APP/M9565/A/09/2114804).
42. The circumstances of these other cases are materially different to the one before me. Each case must also be determined on its own merits. These other decisions do not set a precedent that I must follow.
43. Given all of the above, I conclude that the harm by reason of inappropriate development within the GB and other harm, namely the effect upon the openness and visual amenities of the GB and the conflict with policies for protecting the countryside, is not clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. The proposal conflicts with PPG2 and the appeal should not therefore succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss S Ornsby of Counsel Instructed by Miss J Gill, Solicitor to the Council
*(assisted by Miss J Gill on the
matter of the s106 planning
obligation)*

She called

Ms R Fry BA(Hons), MPhil, MLI Landscape Architect, Major Sites Team

Mr P J Conroy BA(Hons), MSc, Spatial Planning Team Manager
MRTPI

Ms D Whinham BSc(Hons), MA, Manager, Major Sites Team
Cert Mgt, MRTPI

FOR THE APPELLANT:

Mr C Boyle of Counsel Instructed by Mr I Jewson, Ian Jewson Planning

He called

Ms J Jarvis BSc(Hons), DipLA, Technical Coordinator, Cooper Partnership Ltd
MA, MLI

Mr I Jewson (BA(Hons), Dip TP, Director, Ian Jewson Planning
MRTPI

INTERESTED PERSONS:

Cllr J Goddard Hanham Abbots Parish Council *(also a Member of
South Gloucestershire Council)*

Mr D J Reade Hanham District Green Belt Conservation Society

Mr M Camm Hanham District Green Belt Conservation Society

Mr G Scrivens Local Resident

Mr P Staight Local Resident

Mr A Gregory Local Resident

Mr N Lethaby Local Resident

Revd Cook Local Resident

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	Section 106 planning obligation, including summary, submitted by the appellant.
Document 2	The Council's opening submissions.
Document 3	Letters from Chris Skidmore MP, Cllr J Calway (Leader of South Gloucestershire Council and Ward Member) and Mr D J Reade.
Document 4	Summary of Ms Fry's proof.
Document 5	Extract from LP Inspector's Report, supplied by Ms Fry.
Document 6	Copy of plan showing area 'GB2' referred to by the LP Inspector and supplied by Ms Fry.
Document 7	Summary of Mr Conroy's proof.
Document 8	Revised 5 yr housing requirement and extract from NI 159 'Supply of ready to develop housing sites' Audit Commission, supplied by Mr Conroy.
Document 9	List of corrections to Ms Whinham's proof.
Document 10	Summary of Ms Whinham's proof.
Document 11	Missing emails from Appendix 40 of Ms Whinham's proof.
Document 12	Copy of Planning Statement submitted in support of the scheme.
Document 13	Copy of appeal decision Ref. APP/L1765/A/10/2133702, supplied by Mr Jewson.
Document 14	Extract from West of England Strategic Housing Market Assessment dated June 2009, supplied by Mr Jewson.
Document 15	South Gloucestershire Strategic Housing Land Availability Assessment (Draft) dated June 2010, supplied by Mr Jewson.
Document 16	South Gloucestershire Submission Core Strategy Strategic Housing Land Availability Assessment dated December 2010, submitted by Mr Jewson.
Document 17	Correction to the Council's housing land supply calculation, submitted by the appellant.
Document 18	List of suggested planning conditions agreed by both main parties.
Document 19	The Council's closing submissions.
Document 20	The appellant's closing submissions.
Document 21	Copy of revised illustrative site layout (drawing No. 813-PL102A)