
Appeal Decision

Site visit made on 7 November 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 24 November 2017

Appeal Ref: APP/F1610/W/17/3180059

Land to the rear of 76 Granbrook Lane, Mickleton, Chipping Campden, Gloucestershire GL55 6TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by C E Gilbert & Son Developments Limited against the decision of Cotswold District Council.
 - The application Ref 17/01918/FUL, dated 8 May 2017, was refused by notice dated 27 June 2017.
 - The development proposed is the erection of a dwelling in part of the garden.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling in part of the garden on land to the rear of 76 Granbrook Lane, Mickleton, Chipping Campden, Gloucestershire GL55 6TE in accordance with the terms of the application, Ref 17/01918/FUL, dated 8 May 2017 subject to the conditions in the schedule at the end of this decision.

Main Issues

2. The main issues in this appeal are;
 - whether the location of the proposed development would comply with the development plan;
 - the effect of the proposed development on the character and appearance of the area; and,
 - the effect of the proposal on living conditions with particular regard to overlooking and outlook.

Reasons

Location of development

3. The appeal site is located outside a Development Boundary as designated in the Cotswold District Local Plan ('Local Plan'). As a result, it is contrary to policy 19 of the Local Plan which contains a presumption against new open market housing such as the proposed dwelling in such locations. However, the view of the Council is that in light of recent appeal decisions policy 19 is out of date. This is because it conforms to a superseded strategy, conflicts with the emerging strategy and fails to reflect the advice within the National Planning Policy Framework ('the Framework') to significantly boost the supply of housing. I agree with the position of the Council and for the reasons it has given I attach only limited weight to this policy.

Character and appearance

4. Mickleton is a compact village characterised by residential development in depth along the roads that pass through the settlement. 76 Granbrook Lane is located at the western end of a row of similar semi-detached dwellings with long rear gardens. Immediately to the east of No 76 is a residential cul-de-sac of newly built houses that directly face the long side boundary of No 76's rear garden.
5. The appeal site forms the rear half of the back garden to No 76. The Framework advises at paragraph 53 that local planning authorities should consider setting out policies to resist inappropriate development of garden land. No reference however has been made to any specific policies of this type.
6. With open rear gardens to the west and residential development along the cul-de-sac facing it to the east the back garden to No 76 is at a point of transition between two different types of residential layout. As a result, retention of the appeal site as garden land or its development with a suitably designed new house would equally complement the pattern of development that characterises the area.
7. Having viewed the site from the cul-de-sac, at street level the long monotonous side boundary fence to the rear garden contributes little of worth in public views to the character and appearance of the area. In my judgement, the introduction of a detached house onto the appeal site facing the cul-de-sac, midway between the rear of the houses on either side, would enhance the character and appearance of the area.
8. It is common ground that in terms of size, scale, proportion and materials the proposed dwelling would reflect traditional Cotswolds building forms and the houses opposite along the cul-de-sac. I agree with that position.
9. The appeal site is located outside the Cotswolds Area of Outstanding Natural Beauty (AONB), the boundary to which is located approximately 10m to the south east of the appeal site. Given that the house would be outside the AONB and would be well-designed it would not cause visual harm to it. Concerns have been expressed that noise, activity and light pollution generated by future occupation of the proposed house would undermine the AONB Management Plan which seeks to conserve the special qualities of the AONB including tranquillity. Given the residential character of the area, occupation of a single additional dwelling would not result in such harm.
10. Concern has been expressed that granting permission for the proposal would set a precedent for similar development. However, as the appeal site is the only long rear garden that abuts the cul-de-sac large enough to accommodate a house this would not occur.
11. For the reasons that I have given, I therefore conclude that the proposed development would enhance the character and appearance of the area and represents good design. It would therefore comply with policy 42 of the Local Plan which requires that new development respects the character, appearance and local distinctiveness of Cotswold District. For the same reason it would also comply with paragraphs 56 and 64 of the Framework which seek good design.

Living conditions

Overlooking

12. The rear elevation of the proposed dwelling would be located 5m away from the side boundary to the rear half of the back garden serving No 74. Whilst the front half of the back garden to No 74 with its patio, table and benches is of high amenity value, the rear half of the garden is of relatively low value as it is not well tended and appears to be little used. In addition, the first floor windows that would overlook the rear half of the back garden would serve bedrooms which during waking hours are unlikely to be heavily used. For these reasons, I therefore find the proposed development would not result in a level of overlooking of gardens to the rear of dwellings along Granbrook Lane that would have a significant adverse effect on the living conditions of the occupiers of No 74 or the occupiers of neighbouring houses further to the west.
13. In relation to the houses along Cedar Road, these dwellings and their rear gardens would be sufficiently set back from the rear elevation of the proposed dwelling for privacy also not to be harmed.
14. In terms of overlooking of the future occupiers of the proposed house, Notes for Guidance 3 that accompanies policy 46 of the Local Plan advises that '*as a rule of thumb, it should be possible to identify an area within the garden as a sitting out area that is private and reasonably screened from view from neighbouring properties or passers-by*'. In my judgement, the back garden between the flanks of the proposed house would be sufficiently far away from the rear elevations of the houses facing it along Granbrook Lane and Cedar Road to provide such a private area. If future occupiers of the proposed dwelling wished to increase the sense of privacy within this area this could be achieved with some planting along the side boundaries to the plot to break up views and provide some screening.

Outlook

15. The flank walls of the proposed house would be located approximately 15m from the main rear elevations of 76 Granbrook Lane and 61 Cedar Road. Due to the forward position of the proposed dwelling within its plot it would only slightly extend across the rear elevations of these two houses. The combination of this separation distance and the offset position of the proposed house would be sufficient to prevent the scheme harmfully enclosing the outlook from the rear of either house and being overbearing. Given that the proposed house would be set still further away from 74 Granbrook Lane the outlook from this property would also not be harmed.

Noise and natural light

16. The garage and parking area serving the proposed dwelling would be close to the rear boundary to 61 Cedar Road. However, the level of activity generated by the house proposed would not result in noise and disturbance that would be out of keeping with a residential area.
17. As the proposed house would be located to the north of No 61 it would not reduce levels of sunlight experienced within this property or its garden. Furthermore, with the separation that would exist and limited width of the proposed house daylight levels would also not be adversely affected.

Overall conclusion on living conditions

18. Taking all these matters into account, I therefore conclude that the proposed development would not harm the living conditions of neighbours and would provide a good standard of amenity for future residents of the proposed development. It would therefore comply with policy 46 of the Local Plan which

seeks to provide reasonable living conditions and paragraphs 56 and 64 of the Framework which seek good design.

Other matters

19. A representation was made by a resident of 61 Cedar Road to the effect that rights of the occupants of this property under the Human Rights Act 1998, Articles 1 and 8 of the First Protocol would be violated if the appeal was allowed. This was because the countryside would be harmed and the new house would be so close to the rear garden that it would greatly encroach on any peaceful enjoyment of the house and garden. For the reasons given above in relation to the main issues, I do not consider these concerns to be well-founded. As a result, a violation of rights under Articles 1 and 8 of the First Protocol would not occur.
20. In terms of ecology, the proposed development would reduce the amount of undeveloped garden land to the rear of 76 Granbrook Lane. However, there is no substantive evidence that the garden has notable ecological value. As a result, material harm to biodiversity would not occur.

Overall conclusions: the planning balance

21. The proposal would be contrary to policy 19 of the Local Plan. However, for the reasons given earlier this policy is out of date. In circumstances where relevant policies are out of date, the tilted balance in paragraph 14 of the Framework applies. It states that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
22. The Framework contains a presumption in favour of sustainable development and the policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social.
23. Environmentally, the proposed development would complement the character and appearance of the area. A sufficiently wide range of services and facilities are also accessible within the village to cater for most day to day reducing the need to travel. Economically, the development would generate construction employment and the additional household would increase by a small amount the spending power of the local community to the benefit of businesses and services in the area. Socially, a three bedroom family house would be provided helping to widen the choice of high quality homes in the area.
24. My overall conclusion in this case, having considered all the matters raised, is that whilst the proposal would be contrary to policy 19 of the Local Plan with the limited weight I attach to this out of date policy, and with the proposal having no material adverse impacts and some benefits, the tilted balance in favour of development is comfortably passed. Consequently, the proposal would represent sustainable development as defined in the Framework, and material considerations indicate that planning permission should be granted for development that is not in accordance with the development plan. The appeal should therefore be allowed.

Conditions

25. In the interests of certainty, I have imposed a condition specifying the relevant plans that the development is to be carried out in accordance with. In order to

ensure that the development complements its surroundings further details on materials and detailing are required. To protect the living conditions of neighbours permitted development rights in relation to extensions to the property and the erection of outbuildings need to be removed.

26. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.

Ian Radcliffe

Inspector

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out fully in accordance with the following plans received by the Council on the 9th May 2017 titled Site Plan, Ground + 1st Floor Plans, Proposed Elevations - West + South, Proposed Elevations - East + North, Location Plan.
- 3) Prior to the construction of any external wall of the development hereby approved, samples of the proposed walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out using the approved materials.
- 4) Prior to the construction of any external wall of the development hereby approved, a sample panel of walling of at least one metre square in size showing the proposed stone colour, coursing, bonding, treatment of corners, method of pointing and mix and colour of mortar shall be erected on the site and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved sample panel and the panel shall be retained on site until the development is completed.
- 5) All door and window frames shall be recessed a minimum of 75mm into the external walls of the building and shall be permanently retained as such thereafter.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no extensions shall be added to the dwelling hereby approved or outbuildings erected within the application site.

-----End of Conditions Schedule-----