
Appeal Decision

Site visit made on 7 August 2020

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/G1630/W/20/3246922

Land to the rear of the Hoot, Twigworth GL2 9NH

- 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 Ms Marcia Johncey against the decision of Tewkesbury Borough Council.
 - The application Ref 19/00977/PIP, dated 7 October 2019, was refused by notice dated 11 November 2019.
 - The development proposed is erection of 5no. infill dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal is for a Permission in Principle (PIP). The Planning Practice Guidance (PPG) explains that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail. The PIP consent route has 2 stages: the first stage establishes whether a site is suitable in principle, and the second stage, the technical details consent, is when the detailed development proposals are assessed. The scope of the first stage is limited to location, land use and amount of development. The appeal proposal is at the first stage.

Main Issue

3. The main issue is whether the principle of the proposed development is acceptable with specific regard to its location.

Reasons

4. The appeal site is outside of the settlement boundary of Twigworth as defined in the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011-2031 (NP), and is not within the Twigworth urban extension identified in Policy SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (CS). Twigworth is not listed as a Rural Service Centre (RSC) or Service Village (SV) in the CS and as such, part 6 of Policy SP2 advises that CS Policy SD10 applies.
5. Outside of allocated sites and the existing built up areas of towns, RSC and SV, Policy SD10 allows housing development on other sites only where it meets certain limited exceptions. The exception relevant to this proposal is 4.ii which allows for infilling within the existing built up areas of villages except where restricted by policies within District plans. The supporting text in paragraph 4.10.5 sets out that

for the purpose of 4.ii, infill development means 'the development of an under-developed plot well related to existing built development'. As there is no definition of the term 'underdeveloped' in the CS, it is reasonable to consider that it could include an undeveloped plot, such as the appeal site.

6. Although the Council considers that the built-up area of Twigworth is defined by its settlement boundary, I have not been directed to any text in the CS or NP that supports this. The emerging Tewkesbury Borough Plan (TBP) apparently makes this distinction in the reasoned justification for Policy RES. However, although the TBP has reached a fairly advanced stage, in the absence of any information on the extent of any objections to the relevant policy I can afford this limited weight. Therefore, as there is no clear definition of 'built up area' in adopted policy, it is necessary to consider the particular circumstances and context of the site.
7. Twigworth is a small, linear village along the A38, with the most densely developed part of the village, which is within the settlement boundary, located some distance to the south of the site. Between Twigworth and the next villages of Down Hatherley and Norton there are sporadic clusters of development either side of the A38, with each cluster separated by fields. The NP identifies the value of these open green spaces between the built component of dispersed settlement pattern as helping to give a sense of undeveloped and rural character and allowing appreciation of the Vale landscape and Twigworth's context in the Vale.
8. To the north of the appeal site is The Hoot, one of a small group of dwellings known as Twigworth Fields, which are accessed from a track which is also a public right of way (PROW). To the east of the site are the garden of Stonehaven and a large building and grounds of Golden Castle Caravans (GCC). To the west are open fields and Court Farm lies to the south. Although Court Farm appears to be operating as a caravan site and for caravan and motorhome storage, the Council advises that this use is unauthorised. In any event, there appears to be little built development on that site other than the farm buildings, which are separated from the appeal site by former fields, now used for caravans.
9. The dwellings and other buildings around the site are spread out with fields and areas of undeveloped land in between. From the A38, tree belts and hedges screen most buildings from view, such that only the dwellings close to the road and parts of the large building at GCC are visible. Travelling along the PROW, the dwellings of Twigworth Fields are seen in turn with open land beyond, however GCC and other dwellings are largely screened by vegetation. As such, this group of buildings is separated from the built-up areas of nearby villages.
10. Consequently, the open fields around this small group of buildings provide clear physical and visual separation from other clusters of development in the area. These gaps are evident when travelling along this part of the A38. Accordingly, the group does not appear as a built-up area but rather as part of the dispersed development between villages which is characteristic of this area. Therefore, the appeal site is not within the existing built up area of any village.
11. The site is mainly laid to grass, partly mown, and contains fruit trees. It is separated from the landscaped garden of The Hoot by a low fence, and a mature hedge along the eastern and southern boundaries largely screens the development beyond from view, although the building at GCC is visible due to its size. At the time of my visit, mature hedges screened the buildings and caravans at Court Farm from view from the appeal site, such that no built development was visible to the south. A low wire fence along the western boundary allows for extensive views out over open fields. Therefore, there is built development only along two sides of the appeal site with little of it visible from the site. Consequently, the appeal site

relates more closely to the surrounding countryside than to other built form. As a result, the proposed dwellings would not be well related to existing built development.

12. The appellant has referred me to a number of sites along the A38 which benefit from planning permission for housing. I saw that those at Norton Fruit Farm, Brookelands and Norton Garage¹ appeared to have built development either side of them, and that Twigworth Court² is within the NP settlement boundary. Those developments therefore each had a different context to the appeal site and I note that they were also considered against a different development plan. They are also some distance from the appeal site with open land inbetween. As such, they do not create a built-up area around the appeal site.
13. The sites at Vine House and Pt Parcel 2691³, were undeveloped at the time of my visit and, given the age of those outline permissions, I cannot be certain that they remain capable of implementation. In any event, I do not have any details of their layout or appearance, and therefore whether the dwellings would be close to the appeal site. Consequently, there is no substantive evidence before me that those permissions would result in a built-up area that the appeal site could reasonably be considered to fall within.
14. Accordingly, the proposal would not represent infilling in an existing built up area and would conflict with CS Policy SD10, and therefore with the strategy for distribution of new development in Policy SP2.
15. The NP proposes an organic, piece by piece approach to sustainable growth, and seeks to direct development to the best locations with some flexibility to meet changing circumstances. Its policies set out how this is to be achieved. NP Policy H2 allows for housing development where it meets specific criteria, including where it is within or adjacent to a settlement boundary.
16. The appeal site is some distance from the boundary for Twigworth and is not therefore within or adjacent to it. The proposal would enlarge a small group of buildings which I have already found is separate from the settlement. It would result in development behind the commercial site of GCC, which is itself set well back from the A38, and would not have a frontage to a road or track. As such, the proposal would not follow the established pattern of development in the area and, therefore, would not form a logical extension to the settlement form.
17. The detailed layout, scale and appearance of the development and landscaping, including the design of the dwellings, the relationship to neighbours, access and parking, would be resolved at technical details stage. However, given the length of the site it is highly likely that some form of built development would be visible from the PROW, from which viewpoint it would be seen with little development around it. As such, it would appear as a harmful encroachment of built form into the countryside.
18. The site is within walking distance of local facilities and services, including bus stops, with paved footway for the whole route and as such is in a relatively accessible location. More services and better public transport links are also proposed as part of the Twigworth urban extension. From the evidence before me, the proposal would not harm traffic safety. As such, it would comply with criteria iii. and v. of Policy H2. However, for the reasons above it would not comply with criterion i. and therefore would conflict with that part of the Policy.

¹ Council Refs: 17/00235/FUL, 17/00711/FUL and 15/00220/FUL

² Council Ref. 15/00656/FUL

³ Council Refs: 16/01209/OUT and 15/00898/OUT

19. The Council cites CS Policy SD7 in its refusal reason, however that Policy refers to development in or within the setting of the Cotswolds Area of Outstanding Natural Beauty (AONB). The appeal site is some way from the AONB boundary however, and the presence of GCC and the existing hedging would largely screen it in any long views from the AONB. As such, the proposal would not harm the setting of the AONB.
20. The Council refers instead in its appeal statement to CS Policy SD6 which seeks to protect landscape character, and which the appellant has also commented on. The area around the appeal site is characterised by open fields and wide views through to the Vale landscape beyond. The appeal site would not interrupt the public views of the Vale which the NP seeks to maintain and, although it would result in encroachment into the countryside, the visual impacts would be limited to the area around the site and from the PROW. As such, the proposal would not significantly affect the overall landscape character of the area and therefore I find no conflict with the aims of Policy SD6.
21. Although the site is not part of the built up area of any village, it is nonetheless relatively close to nearby settlements and as such, I do not consider that it is in an isolated location or physically remote from any settlement. As such, the proposal would not result in isolated homes in the countryside which paragraph 79 of the National Planning Policy Framework (the Framework) seeks to avoid. Future residents of the proposed dwellings are likely to use local facilities and services, however there is no substantive evidence before me that they are under threat. In addition, the additional population resulting from the urban extension would be likely to support those facilities to a much greater extent than the appeal proposal. Therefore, the 5 dwellings proposed would make a limited contribution to enhancing or maintaining the vitality of the rural community as advocated by Framework paragraph 78.
22. The proposal would therefore attract limited support from the Framework, however the same benefits could also be provided by housing development that complied with the development plan. As such, this does not outweigh the conflict that I have identified with the CS and NP. Accordingly, the principle of the proposed development is not acceptable with specific regard to its location.

Planning Balance

23. I have identified conflict with the settlement strategy in the development plan, which is an important part of the delivery of sustainable development in the area. While the proposal may be able to comply with other policies in relation to technical details, those matters are not before me. As such, the proposal would conflict with the development plan as a whole.
24. The main parties agree that the Council cannot currently demonstrate a 5 year supply of housing land, although they dispute the extent of the shortfall, offering figures of between 2.77yrs and 4.33yrs supply. As the NP does not appear to include housing allocations, Framework paragraph 14 does not apply. Therefore, Framework paragraph 11d) is engaged and the policies most important for determining the application are out of date. However, the approach to delivering sustainable growth set out in the CS and NP is consistent with the Framework and the NP was adopted after the most recent version of the Framework was published. Therefore, having regard to Framework paragraph 213, the conflict with the identified policies carries very substantial weight.
25. The proposal would contribute to housing supply and would result in some economic benefits through construction and occupation. However, it has not been

demonstrated that it would meet a particular housing need for the local area. As such, given the small scale of development proposed, even in the context of a shortfall in housing supply, the benefits of 5 additional dwellings would be commensurately limited.

26. While the appellant suggests that the site is used for domestic amenity purposes in connection with The Hoot, it is fenced off from the garden of that property and has a very different appearance, being mainly rough grass with some mown paths. There is no compelling evidence before me to demonstrate that it is part of the residential garden or the curtilage of The Hoot. Therefore, it has not been demonstrated that it meets the Framework definition of previously developed land and as such would not benefit from the support in local and national policy for re-use of such land.
27. The appellant has referred me to an appeal at Cleeve Hill⁴ for a new dwelling. That Inspector found that Cleeve Hill was 'an appreciable group of buildings that includes a public house and as such it can be reasonably considered to be a small village'. Given the small number and spread out nature of the buildings close to the appeal site, they do not appear as a settlement, and as such the context of the appeal site is markedly different to the Cleeve Hill scheme. I have also been referred to a recent Council decision granting PIP for 'Land at the Bungalow'⁵ however I have no plans or details of that scheme. I note however that the Council concluded that it would relate well to existing development and would be infilling complying with CS Policy SD10, and as such that scheme does not appear to be directly comparable to the proposal before me. These decisions do not therefore weigh in favour of the proposal.
28. There is no evidence before me to suggest that the amount of development proposed could not be accommodated within the site and the proposal has not raised archaeological concerns or attracted local objection. However, these are neutral impacts in the planning balance.
29. The proposal would make more efficient use of a small windfall site as supported by the Framework and would offer limited support to local services, however it would conflict with the Framework aim that the planning system should be genuinely plan-led.
30. Consequently, even if I were to conclude there is a shortfall in the 5 year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission in principle for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

Conclusion

31. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that permission in principle should be granted for the development, which conflicts with the development plan.

L McKay

INSPECTOR

⁴ APP/G1630/W/17/3184561

⁵ Council Ref: 20/00233/PIP