
Appeal Decision

Site visit made on 14 July 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 8 September 2020

Appeal Ref: APP/G1630/W/20/3244978

Part Parcel 2363, Land East of Butts Lane, Woodmancote, Cheltenham GL52 9QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Cape Homes Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 19/00333/FUL is dated 26 March 2019
 - The development proposed is erection of 5 dwellings with associated access .
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Decision

1. The appeal is dismissed and planning permission for erection of 5 dwellings with associated access is refused.

Preliminary and Procedural Matter

2. This appeal relates to the failure of the Council to determine the planning application. However, the Council has confirmed that had it retained jurisdiction to determine the application it would have refused planning permission.
3. The Council in their statement has made reference to the Emerging Tewkesbury Borough Plan, which is awaiting examination. In accordance with paragraph 48 of the National Planning Policy Framework (The Framework), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan, the extent of unresolved objections and the degree of consistency of relevant policies to the Framework. I have not been provided with any substantive details of the status of this emerging plan, and therefore I attribute them limited weight.

Main Issues

4. Based on the submitted policies, my site visit and representations from the appellant, Council, consultees and interested parties; the main issues in this appeal are:
 - Whether the site is a suitable location for housing, having regard to the local policies for housing in the countryside; and
 - The effect of the proposal on the character and appearance of the area, including the Cotswolds Area of Outstanding Natural Beauty.

Reasons

Location of development

5. Policy SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) provides the spatial strategy for how development will be distributed and delivered. Table SP2c identifies Woodmancote as a service village. The policy states that service villages will accommodate lower levels of development, to be allocated through the Borough Plan and Neighbourhood Development plans. Policy HOU1 of the Tewkesbury Borough Plan 2006 has been saved, and this does not allocate the appeal site for housing. The proposal therefore conflicts with policy SP2 of the JCS.
6. For sites which are not allocated in the development plan, Policy SD10 of the JSC applies. Criterion 3 of this policy states that for sites that are not allocated, housing development and conversion to dwellings will be permitted on previously-developed land in the existing built-up areas of Gloucester City, the Principal Urban area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District Plans. In this instance, the appeal site is an open field and thus does not constitute previously-developed land.
7. Criterion 4 states that housing development on other sites will only be permitted where one of four criteria is met. This includes, amongst other things, infilling within the existing built up area of Tewkesbury Borough's towns and villages, except where otherwise restricted by policies within District plans. The appeal site is located to the east of Butts Lane, and is on the edge of the village. Whilst it was apparent from my site visit that there is development on the opposite side of Butts Lane, the appeal site itself forms an open field. The site is bounded to the south by Buschombe Lane, and combined with Butts Lane the layout of these roads gives a very definitive edge to the built form of the village. Given the absence of development around the appeal site I do not consider that the proposals can be considered infilling, and the proposal would be more akin to an extension to the built form of the village. Consequently, I find that the proposal does not meet any of the exceptions in policy SD10 for housing on sites which have not been allocated.
8. Consequently, I find that the site is not a suitable location for housing, having regard to the development strategy for the area. The development would conflict with policies SP2 and SD10 of the JSC which seeks, amongst other things, that development is directed towards appropriate locations.

Character and appearance

9. The appeal site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way Act 2000 requires that I have regard to the purpose of conserving and enhancing the natural beauty of AONB's. Furthermore, Paragraph 172 of the Framework specifies that great weight must be given to conserving and enhancing landscape and scenic beauty of these areas.
10. The Cotswolds AONB Management plan 2018-2023 (CAMP) identifies special qualities of the AONB which includes, amongst other things, broadleaved woodlands, escarpment, tranquillity and dark skies. One of the key issues identified is the erosion of the natural beauty and special qualities of the AONB.

The appeal site is located within the landscape character type 2: Escarpment. The Cotswold AONB Landscape Strategy and Guidelines (LSG) defines this as an escarpment stretching some 52 miles in an almost unbroken line. It comprises of an exposed west-facing slope with a distinct sense of elevation and dramatic views to the west. The combination of its elevation, and the steep slopes rising from the lowland makes it a highly visible feature, and is very sensitive to change. This is particularly relevant where this would introduce built elements within the otherwise agricultural landscapes. One of the potential landscape implications identified within the LSG is development, including residential, on or towards the lower slopes of the escarpment. The encroachment onto escarpment slopes can intrude into the landscape.

11. The appeal proposal is for the construction of 5 detached bungalows, which would be set out in a linear arrangement oriented broadly along Butts Lane. Access to the development would be taken directly from the existing field access on Butts Lane. The appeal site is slightly elevated from the highway, and the boundary with Butts Lane currently comprises mature tall vegetation, and thus is relatively well screened when viewed directly from the highway. The site gently rises away from Butts Lane, before it rises sharply towards the escarpment. There are several public footpaths located in close proximity to the appeal site which I walked during my site visit, including one located approximately 180 metres north of the appeal site. It was evident that the site is highly visible from the raised slopes when looking down towards Woodmancote.
12. Butts Lane in this location provides a very clear and stark definition between the built up area and the rural area, which is particularly evident from higher ground. The appeal proposal would be located in an area where the village transitions from a semi-urban environment into one of a rural nature. As such, the proposal would be introducing built form into a location where currently there is none. This urbanising effect of the proposal would not be in keeping with the character and appearance of the area. Whilst it would be relatively well screened from Butts Lane, it would still be glimpsed through the widened access, and the proposal would be highly visible from a number of viewpoints. This includes the public footpaths which surround the appeal site.
13. The appellant submitted a Landscape and Visual Impact Assessment Summary and Addendum¹ (LVIA), which forms an addendum to an earlier LVIA completed in 2017-2018. This concludes that given the scale and location of the development, views would be confined to the lower and least visible part of the escarpment. It further states that with a landscape led scheme, the proposal would not form an urbanising visual intrusion. However, I find that this LVIA downplays the importance of the site and the characteristics that it shares with the AONB. The LSG clearly identifies that this landscape is sensitive to change, and identifies residential development on the lower slopes of the escarpment encroaching into the landscape.
14. I am aware that there have been several applications for development in this location, most recently a refusal for 5 2-storey dwellings². Whilst I appreciate that the reduction in height of the buildings will go some way to reduce their visual impact, it does not alter that the appeal site would be highly visible from several locations within the AONB, including a number of public footpaths.

¹ Illmanyoun landscape design dated March 2019

² LPA reference 18/00133/FUL

Whilst relatively well screened from Bush Lane, the introduction of a new access in this location would provide clear views of the proposed development. The proposal would be introducing built form into an open field which is characteristic of the Cotswolds AONB escarpment, and would clearly extend the settlement into the countryside.

15. Consequently, I find that the proposal would harm the character and appearance of the area, and would fail to conserve or enhance the scenic beauty of the AONB. It therefore conflicts with policies SD4 and SD6 of the JCS. These policies seek, amongst other things, that development is of a high quality design that reflects the character of the area, and protects landscape character. There would also be conflict with policy SD7 of the JCS, which seeks, amongst other things that development conserves and where appropriate enhances the landscape and scenic beauty of AONB's. There would be conflict with policy CE1 of the CAMP, which seeks, amongst other things that development within AONB's are compatible with and reinforce the landscape character of the location. The proposal would be contrary to paragraph 172 of the framework which seeks, amongst other things that great weight is given to conserving and enhancing the scenic beauty of AONB's.

Planning Balance

16. The Council acknowledges that it is unable to identify a five year supply of housing. Paragraph 11 and Footnote 7 of the Framework states that relevant policies for the supply of housing should not be considered up to date where a five year housing land supply cannot be demonstrated. Where relevant policies are out of date, 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 taken as a whole.
17. The appellant contends that the relevant development plan policies should be considered out of date, and therefore a presumption in favour of sustainable development applies. However, paragraph 11 d)i of the Framework states that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusal. Footnote 6 of this paragraph includes land designated as an AONB. I have found significant harm to the character and appearance of the area, and have identified that the harm to the AONB provides a clear reason for refusal. Consequently, the presumption in favour of sustainable development is not triggered in this instance.
18. The appellant contends that the site is located in a sustainable location. The site is located approximately 180 metres from the nearest bus stop, which would provide residents with an opportunity to travel via sustainable modes. Woodmancote is identified as a service village and these are defined as villages having two or more primary services, two or more secondary services and benefiting from bus service and/or road access to a major employment area. Furthermore, 5 new dwellings in this location would provide a minor boost to the housing stock, which is a minor benefit of the proposal.
19. The proposal would provide economic benefits through the short term creation of construction jobs, and future residents would provide minor economic benefits by supporting local services and facilities. It has been put to me that the proposal would provide benefits to biodiversity through the landscaping scheme. However, I have been presented with no evidence to indicate that the

proposals would achieve this, which limits the weight I can attribute to this. These identified benefits of the proposal do not out weigh the conflict with the development plan that I have identified above.

Other Matters

20. The appeal site is located within the setting of the Grade II listed building known as Brook Cottage. As such I have had regard to my statutory duties under S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The current setting of the listed building comprises a relatively narrow roadside plot, with open countryside to the north. Whilst views of the development would be visible from the listed building when looking towards the west, I am satisfied that the distance is such that it would not encroach on the feeling of openness behind this listed building. Consequently, it would have a neutral effect on the significance of this designated heritage assets. I note that the Council raised no concerns in this regard, subject to a condition ensuring there was adequate landscaping for the development proposal.
21. I note that interested parties have raised concerns that Butts Lane and its junction with Bushcombe Lane are substandard, and any intensification of this junction would harm highway safety. It was apparent during my site visit that Butts Lane is narrow and rural in its nature, and the visibility at the junction of Bushcombe Lane was somewhat constrained. However, from my observations vehicle speeds in the area were low as would be expected for narrow rural lanes, and it was clear that the roads surrounding the appeal site were not overly heavily trafficked. Furthermore, the creation of 5 dwellings is unlikely to generate significant levels of traffic which would harm highway safety. I note that the highway authority also did not object to the proposals.
22. It has been brought to my attention that due to the nature of the elevations of the fields on Butts Lane that considerable water discharges from these fields onto the highway. Evidence in the form of photographs have been submitted which demonstrates considerable amount of runoff both down Bushcombe Lane, and heavy pooling of water on Butts Lane itself. Whilst I appreciate the concerns of interested parties, the photographs as submitted are a snap shot in time and I cannot confirm beyond doubt that there is an inherent flooding issue in this location. It is not beholden on the appellant to solve any existing flooding issues, and I have been presented with no cogent evidence that the provision of 5 dwellings in this location would exacerbate any existing localised flooding. A drainage strategy has been designed by the appellant which would include a drainage ditch to capture field runoff. Furthermore, the Council have confirmed in their statement that they are content a viable drainage scheme could be delivered via planning conditions. Based on the evidence before me I am satisfied that an adequate drainage solution could be delivered via planning conditions.
23. It has been put to me that should this appeal be allowed, it would encourage further development in the locality. I have not been provided with any examples of specific sites which could be developed in the vicinity of the appeal site. Furthermore, each appeal and application must be judged on its own merits, and I have not been provided with any compelling evidence to indicate that should the appeal be allowed this would encourage similar development in the area.

Conclusions

24. For the reasons given appeal the appeal is dismissed and planning permission is not granted.

S Shapland

INSPECTOR