



Appeal Decision

Site visit made on 10 November 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2020

Appeal Ref: APP/B1605/W/20/3256835

Land at Kyle Lodge, Greenway Lane, Charlton Kings GL52 6PN

- 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 Mr & Dr R. Gleeson against the decision of Cheltenham Borough Council.
 - The application Ref 19/02449/FUL, dated 11 December 2019, was refused by notice dated 8 April 2020.
 - The development proposed is construction of a single 5-bedroom self and custom build dwelling with associated buildings, landscaping, works and infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. There is uncertainty about the meaning of 'open' insofar as it has been used under the appeal by the Council. On my reading of the evidence, I have taken 'open' to mean the extent of being undeveloped. Consequently, for the purposes of my assessment of the proposal this is the meaning I have applied when determining the appeal. The Council has confirmed that since this application was determined it has formally adopted the Cheltenham Plan 2020 and refers to it in its statement of case. The appellants will have had the opportunity to respond in their final comments and I have considered the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, including Cotswolds Area of Outstanding Natural Beauty (AONB) and a Public Right of Way (PRoW).

Reasons

4. The site is located within the AONB and, in accordance with Paragraph 172 of the National Planning Policy Framework (the Framework), great weight should be given to conserving and enhancing the landscape and scenic beauty within such areas. This is in essence reflected within Policy SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) and the associated narrative within the Cheltenham Plan 2020 (CP), which forms part of the development plan in conjunction with the JCS. It states in clear terms that the AONB is sensitive to development pressures and that a restrictive approach is necessary in order to achieve objectives relating to the preservation and enhancement of its character and appearance.

5. The Cotswolds AONB Management Plan 2018 (MP) defines the character and appearance of the AONB as comprising tranquillity, away from major sources of inappropriate noise, development, visual clutter and pollution; and an accessible landscape for quiet recreation for both rural and urban users, with numerous walking and riding routes. In this context, the site is located off of Greenway Lane, within the garden area of Kyle Lodge, which comprises a large detached dwelling on a spacious plot of land with mature natural boundary features.
6. Within the immediate vicinity of the site are a number of other large detached dwellings and agricultural complexes on spacious plots of land, and all sit in amongst a patchwork of undeveloped field parcels, also with mature natural boundary features. Consequently, the undeveloped character and appearance of the location generates a feeling of quiet rural tranquillity.
7. There is a PRoW located directly adjacent to the south western boundary of the site. When walking the PRoW, the existing dwelling at Kyle Lodge is set back at a substantial distance and away to the north east. It is therefore unobtrusive to the experience of rural surroundings, gleaned from undeveloped fields to the south and south west and agricultural complex to the north west. Beyond the immediate vicinity of the site and in general terms, to the west is the developed and urban landscape of Cheltenham and to the east is the undeveloped rural landscape of the wider countryside and the AONB.
8. It was clear to me during my site visit that the location of the proposal has more in common with the latter environment, which is reflective of its location outside the Principal Urban Area of Cheltenham in accordance with Policy SD10 of the JCS, and its embodiment of the character and appearance of the AONB as defined within the MP.
9. The proposal would introduce a new dwelling of significant scale that would occupy a substantial proportion of the existing plot of land, intensifying the use and eroding its spacious character and appearance. This is despite a reduction in height of ancillary development, wherein the mass and visual effects generated by the principal dwelling would still remain largely intact. Consequently, the site would appear more urbanised compared to other spacious plots of land in the immediate vicinity. It would therefore erode the rural character and appearance of the AONB with urbanising development, in a harmful piecemeal fashion.
10. The proposal would also be located in close proximity to the PRoW. Despite the mature natural boundary features and potential for further landscaping, the height and proximity of the dwelling would overbear users of the PRoW and the introduction of such development and urban visual clutter within an otherwise rural landscape would harm their tranquil enjoyment of the AONB.
11. Due to the nature of topography and landscape features throughout the area, effects would be limited to the immediate vicinity, with change being less perceptible from more distant viewpoints. In a similar context, a single additional dwelling is unlikely to generate comings and goings that change how the site is used to any great extent. However, altogether, even if the scale of the impact of the proposal was deemed to be minor in this context, there is a clear statutory duty is to conserve or enhance the AONB, whatever the spatial dimension might be.

12. Consequently, even minor adverse impacts with a limited spatial dimension i.e. limited to the immediate vicinity of the site, would still need to comply with the statutory duty to conserve or enhance the AONB. Failure to do so carries great weight in accordance with Paragraph 172 of the Framework. Similarly, even though the proposal is not major development, which should be refused as a matter of principle, it is still required to be limited in scale and extent pursuant to the aforementioned provisions.
13. Overall, the proposal would harm the character and appearance of the area, including that of the AONB and be to the detriment of public experience along the PRoW. Consequently, it conflicts with Policy SD7 of the JCS and Paragraph 172 of the Framework, which require proposals to conserve or enhance the scenic beauty of the AONB. In coming to this conclusion, special attention has also been given to Section 85 of the Countryside and Rights of Way Act 2000 and the statutory duty to conserve or enhance the natural beauty of the AONB.

Other Matters

14. The Council has accepted that it cannot demonstrate sufficient housing land supply and therefore Paragraph 11 d) of the Framework is engaged. The AONB is a protected area of particular importance under Footnote 6. I have found that the proposal would harm the character and appearance of the AONB and there is a clear reason for refusing development in accordance with Paragraph 11 d) i of the Framework. Consequently, there is no presumption in favour of sustainable development and a finding on Paragraph 11 d) ii is not therefore required in this case. Such a finding would only be necessary if the proposal conserved or enhanced the AONB and therefore passed the test under Paragraph 11 d) i.
15. The appellants have not provided verifiable empirical evidence (such as copies of the register and relevant housing monitoring reports or similar) demonstrating that there is a shortfall of self-build housing land, and therefore I am unable to definitively assess how much weight should be ascribed to the issue in making my decision. However, even if there was a significant undersupply of self-build housing land, it is not clear how the construction of one dwelling would make more than a limited contribution to it, or whether piecemeal development in a rural location would align with the development strategy for the area. For example, SD11 of the JCS encourages self-build housing to come forward as part of an appropriate mix of wider housing development and not necessarily in isolation.
16. In a similar context, other examples of self-build housing proposals that were subsequently allowed at appeal appear to comprise a larger number of dwellings, making more substantial contributions to the supply of self-build housing and are not therefore directly comparable to the proposal in this case. Furthermore, they are in other regions of the country and it is not clear whether these appeals were supported by robust empirical evidence that would inform the weight attributed to the issue in each case.
17. Landscaping pursuant to biodiversity net gain could potentially generate a benefit to weigh against the harm identified under the main issue. However, the magnitude of the net gain has not been robustly quantified (through recognised metric analysis or otherwise) so that it can be precisely measured in order to determine the weight it should be given in the planning balance.

18. It is acknowledged that measures to better secure the integrity of protected trees are of benefit to the area, but this would not alter the conclusion that the proposal's urbanisation effects otherwise fail to conserve the AONB.
19. The use of brownfield land over greenfield land is a positive approach to delivering development and could be advanced in support of the principle of development, insofar as it relates to land use and development strategy for the area pursuant to the Principal Urban Area. However, it would not mitigate the harm to the AONB or change the conclusion on the main issue.
20. The case of Cromwell Court is not directly comparable due to the scale of development and its location directly abutting substantial residential development along Harp Hill, which forms a logical extension to the pattern of development therein.
21. Notwithstanding the Council's pre-application advice or the proposal's design evolution, the administration of the application or how the scheme of delegation was facilitated, the appeal has been determined based on the relevant evidence submitted, in accordance with the development plan and other material considerations.

Conclusion

22. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR