



Appeal Decisions

Site visit made on 19 November 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal A Ref: APP/U1620/W/20/3255958

Yucca Cottage, 32 Curtis Hayward Drive, Quedgeley, Gloucester, GL2 4WL

- 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 outline planning permission.
 - The appeal is made by Mrs A May against the decision of Gloucester City Council.
 - The application Ref 19/01007/OUT is dated 19 September 2019.
 - The development proposed is for the erection of a single dwelling on land adjoining an existing residential property. (*PLOT 1*)
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Appeal B Ref: APP/U1620/W/20/3255959

Yucca Cottage, 32 Curtis Hayward Drive, Quedgeley, Gloucester, GL2 4WL

- 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 outline planning permission.
 - The appeal is made by A May against the decision of Gloucester City Council.
 - The application Ref 19/01008/OUT is dated 19 September 2019.
 - The development proposed is for the erection of a single dwelling on land adjoining an existing residential property. (*PLOT 2*)
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Decisions

Appeal A Ref: APP/U1620/W/20/3255958

1. The appeal is dismissed

Appeal B Ref: APP/U1620/W/20/3255959

2. The appeal is dismissed.

Procedural matters

3. The sites adjoin to the extent that they are on the same parcel of land, would share access and they have the same appellant. I have therefore considered it appropriate to deal with them in one document.
4. I have omitted the word 'outline' from the description on the application forms as this is not a description of development. I have added the reference to respective plot numbers for clarity.
5. The applications were submitted in outline form with all matters reserved except for access. This means that appearance, landscaping, layout and scale of the development are all reserved matters.

6. There is no dispute between the parties that the local planning authority is unable to demonstrate a five-year supply of deliverable housing sites. Consequently, paragraph 11d of the National Planning Policy Framework (the Framework) is engaged.

Application for costs

7. An application for costs was made by Mrs A May against Gloucester City Council in respect of both appeal A and B. This application is the subject of a separate Decision.

Main issues

8. The Council has provided the reasons on which it would have based its refusal had it determined the applications in the statutory period. Based on these and the evidence before me, I consider that the main issues in both appeals are the effect of the development on:

- biodiversity, including the Local Nature Reserve,
- the living conditions of neighbours, with particular regard to privacy, light and outlook;
- highway safety.

Additionally, in regard to Appeal A, the effect of the proposal on:

- the living conditions of the future occupants of Plot 1 with regard to private amenity space.

Reasons

Biodiversity

9. Plot 1 is adjacent to Quedgeley Local Nature Reserve and plot 2 is in close proximity. The Council states that the nature reserve 'boasts an impressive list of birds, mammals, reptiles and invertebrates', and the information board at the site indicates that there is a badger sett. In addition, local interested parties have identified bats and newts on the reserve. Natural England's standing advice¹ suggests that woodland, scrub, hedgerows and large gardens are likely habitats for protected species, all of which are found on or near the site.
10. I therefore consider there is a reasonable likelihood that legally protected and priority species are present nearby. Taking into account the proximity of the site to the nature reserve, I consider it possible that these could be affected by the development.
11. Natural England's standing advice requires that either an ecological survey or appraisal needs to be provided in these circumstances, undertaken by a suitably qualified and licensed ecologist. Evidence submitted should contain at least a desk study and basic walkover survey of the site.

¹ Protected species and development: advice for local planning authorities (October 2014, updated November 2020).

12. Circular 06/2005² states that the presence of protected species is a material consideration, and that the presence or otherwise of protected species and the extent that they may be affected by the proposed development must be established before the planning permission is granted.
13. The appellant states that the boundary with the nature reserve is about 15 metres from the closest proposed building and that it is separated by a mature hedgerow. Layout is a reserved matter, so the position of the houses could potentially move closer. Notwithstanding this, in the absence of an ecological survey it is not possible to assess an appropriate distance for built development, nor the importance of the hedgerow itself for protected species.
14. For the above reasons, the absence of an ecological survey means that the proposal does not meet the requirements of Circular 06/2005. Given the uncertainty regarding the effect of the proposals on biodiversity, I cannot conclude that in this respect the proposal would be acceptable in principle. Neither can I conclude that the proposal would accord with the requirements of Policy SD9 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 ('JCS') which requires that biodiversity on locally designated sites should be conserved and enhanced, and that any unavoidable harm is mitigated. In addition, I cannot conclude that the proposals would accord with the biodiversity requirements of paragraph 170 of the Framework.

Living conditions of neighbours

15. Both plots face the rear elevations and gardens of several houses on the surrounding streets in addition to the host house. Taking into account the separation distances, I consider that in principle it would be possible to erect dwellings on the sites without causing any significant overlooking if windows were appropriately sited. Given the size of the plots, and options for orientation and scale of the new buildings, I do not consider that loss of privacy would, in principle, be inevitable. This is a matter that could be suitably controlled at the reserved matters stage.
16. Given the orientation of both plots and the short distance to houses on the surrounding streets, I consider that introduction of tall structures could cause loss of outlook and overshadow the gardens. However, based on the size and orientation of the plots in relation to surrounding housing, I am satisfied that in principle a dwelling could be sited on both plots of appropriate scale to avoid harmful loss of outlook and light.
17. I therefore consider that in principle residential units could be built on the sites that would meet the amenity requirements of Policies SD4 and SD14 of the JCS, and paragraph 127(f) of the Framework.

Highway safety

18. The local highways authority has not raised any objection to the proposal, subject to a condition requiring details to be submitted regarding parking and turning facilities within the site. From my observations at the site visit and a consideration of the illustrative plans, I am persuaded that it would be possible to site appropriate parking and turning facilities. Furthermore, I would add that no substantial evidence has been presented to the contrary.

² ODPM Circular 06/2005, 16 August 2005: Biodiversity and geological Conservation – statutory obligations and their impact within the planning system

19. The local highways authority also required the provision of a passing bay outside the applicant's boundary, although I note that this requirement is not reflected in the recommended conditions. From my observations at the site visit, the short access track has open grass on either side and the vehicular sightline between the site and the main road is acceptable. For these reasons, I do not consider that provision of a passing bay is necessary.
20. I do not find that the proposals conflict with Policies SD4 and INF1 of the JCS or paragraph 109 of the Framework which seek to avoid unacceptable impacts on highway safety. Neither have I identified inconsistency with Policy A1 of the pre-submission Gloucester City Plan, which given the stage of preparation can be given some weight, which requires provision of adequate off-street parking and access.

Living conditions of future occupants of plot 1

21. No minimum outdoor space is specified in local policy and no other relevant guidance has been brought to my attention. In the absence of this, based on the submitted plans and my observations at the site visit, I consider that there is ample space on plot 1 to accommodate both a house and a garden that would be of similar scale to the prevailing pattern of development in the area.
22. Plot 1 would potentially be passed by traffic from the occupiers of 2 households. However, I do not consider that the noise or disturbance associated with only 2 residential units would be so significant as to justify refusal of planning permission.
23. The proposal for plot 1 would therefore be consistent with the requirements of Policy SD4 of the JCS and paragraph 127(f) of the Framework, which collectively require that development provides external space and avoids harm to amenity. It would also meet the requirements of the pre-submission Policy A1 of the Gloucester City Plan, which requires provision of outdoor space reflecting the character of the area and scale of the development.

Other matters

24. I note that the appellant is in the process of buying the access track from the Council, who have not disputed this. This is a private matter and I have therefore not considered this further. There is no suggestion from any interested party that the appellant does not have existing rights of access, or that the correct ownership certificates were not completed as part of the submitted planning application.
25. I have had regard to all third-party comments. In addition to the main issues above, these relate to loss of trees and hedging, disturbance during construction, stability of the ground and the effect on the character and appearance of the area. I consider that these could all be dealt with at the reserved matters stage or controlled via the imposition of planning conditions. Matters relating to parking and access to the nature reserve, and those relating to property value, are either not a material planning consideration or do not directly relate to the development proposals.

Planning balance and conclusions

26. The Council cannot demonstrate a deliverable 5-year supply of housing, so the provision of two houses in an accessible location attracts positive weight in the

overall planning balance, although the contribution from only two dwellings would not be very significant. There would be some employment benefits from construction of the dwellings although this would be short lived. Whilst the occupiers of the dwellings would no doubt support existing services and facilities in the area, this benefit would be tempered to an extent as a consequence of only two dwellings being erected.

27. On balance, I conclude that the lack of an ecological survey adjacent to a site which potentially hosts protected species significantly and demonstrably outweighs the benefits of the proposals when assessed against the policies in the Framework taken as a whole. I therefore conclude that the appeals should be dismissed.

B Davies

INSPECTOR