
Appeal Decision

Site visit made on 22 October 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Appeal Ref: APP/G1630/W/20/3257392

Racecourse Cars, Evesham Road, Bishops Cleeve, Cheltenham GL52 8LZ

- 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 Marcus Hawtin Builders Ltd against Tewkesbury Borough Council.
 - The application Ref 20/00301/FUL, is dated 23 March 2020.
 - The development proposed is construction of 7no. dwellings and associated parking and landscaping.
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Decision

1. The appeal is dismissed and planning permission for construction of 7no. dwellings and associated parking and landscaping 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. Before the appellant submitted the appeal, revised plans were submitted which amended the design of the windows of plots 1 – 3. The Council have confirmed that these plans were not subject to any consultation. As such, I cannot be certain that any interested parties views on the amendments have been sought. If I were to determine the appeal on the basis of the revised plans it is possible that the interests of parties could be prejudice. For the avoidance of doubt, I have therefore determined the appeal on the basis of the original plans submitted to the Council.
4. 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

5. Based on the submitted policies, my site visit and representations from the appellant, Council, consultees and interested parties; the mains issues in this appeal are the effect of the proposal on:

- The character and appearance of the area; and
- Living conditions of future occupiers in respect of outlook.

Reasons

Character and appearance

6. The appeal site comprises a prominent position adjacent to the roundabout of the A435 and Cheltenham Road. The site has historically been used for car sales, but during my site visit it was evident that the site was currently not in use. The appeal site is bounded to the west by a housing development known as Cantors Court. This includes a cul-de-sac with a mixture of terraced, semi-detached and detached dwellings.
7. To the east of the appeal site is a recreation ground including a car park. There are expansive views from here towards the open countryside. As such, this part of Cheltenham road provides an important transition point between the built up area of Bishops Cleeve and more open countryside. Further along Cheltenham Road there is additional housing development, which is in a linear fashion adjacent to the highway. These dwellings are much more traditional in their appearance, and are large detached dwellings set back from the edge of the highway.
8. The appeal site benefits from outline planning permission¹ for 6No. dwellings. From the indicative plans this scheme would be of a linear design, with the dwellings all fronting Cheltenham Road. As such the principle of residential dwelling in this location is considered acceptable.
9. The proposal would have a somewhat contemporary modern design style, using materials such as facing brick, stained timber cladding with a slate roof. Furthermore, the proposed dwellings would include design features such as large corner windows. The four detached dwellings which would face Cheltenham Road itself would have a distinctive roof profile with a ridge line orientated through the diagonal.
10. Whilst the proposed dwellings would be of a high quality design, it is my view that such contemporary buildings would not be in keeping with the existing character and appearance of the area. Such modern looking dwellings, in such a prominent location would appear jarring against the existing more traditionally styled dwellings which sit adjacent to the appeal site. This would be to the detriment to the street scene and create a development which is incongruous with its surroundings which harms the character and appearance of the area.
11. Furthermore, the proposed layout of the development with a combination of dwellings which both front Cheltenham Road and extend into the site with a parking courtyard would result in development which looks overly cramped, with small gardens and small separations distances between the dwellings. This would be even more noticeable given the prominence of the site and the linear layout of development further along Cheltenham Road towards the North.
12. I have carefully considered the appellants comments that the architectural style of the area is mixed, with no specific defined character. However, it is my

¹ LPA reference 18/00549/OUT

view that such a stark modern design of housing would not be in keeping with either the development on Cantor Close or the more expansive development further on Cheltenham Road. Clearly matters of design form a planning judgement, and in this instance the design would introduce features which are not common in any development within the vicinity of the appeal site and would therefore appear as discordant.

13. The appeal proposal differs quite substantially from the outline permission which exists for the site. In that case the development was indicated to be front Cheltenham Road which would be much more in keeping with the character of the area. Furthermore, it was for fewer dwellings than the scheme before me now.
14. Consequently, I find that the proposal would harm the character and appearance of the area. It therefore conflicts with policies SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS). This policy seeks, amongst other things, that development is of a high quality design that reflects the character of the area.

Living conditions

15. The rear elevations of the three terraced houses would face the side elevation of plot 4. This is a function of the layout of the site and the different orientation between the detached and terraced dwellings. There would be a relatively small separation distance between the rear elevation of these dwellings and the side elevation of the detached dwelling.
16. Of particular concern is plot 2, which on the ground floor would have two windows which would face the side elevation of plot 4. Given the somewhat small separation distance between the two, it is my view that the flank wall of plot 4 would feel overly dominant and oppressive to the occupiers of plot 2. The outlook of the two windows at the rear elevation on the ground floor which serves the kitchen and dining room would be one of a relatively compact garden and then the flank wall.
17. I appreciate the appellants comments that there would be an additional window which serves the kitchen on the eastern wall of this dwelling. Whilst this would allow additional light into the kitchen area, this in itself would be facing a blank wall with a very small separation distance. The outlook from this window would be poor and would further add to the oppressive nature of having development in such close proximity to this living space.
18. Whilst I have been presented with no cogent evidence as to the likely light levels which could be achieved, it is my view that the outlook from the terrace houses would be poor and would lead to a sense of enclosure and oppression from the larger detached dwellings. This would harm their living conditions.
19. Accordingly, I find that the proposal would harm the living conditions of future occupiers in respect of their outlook. There is conflict with policies SD4 and SD14 of the JCS. Together these policies seek, amongst other things, that new development is of a high quality design that does not harm local amenity including amenity of neighbouring occupants.

Other matters

20. I note that the appellant contends that the proposal would provide betterment in terms of highway access compared to the extant outline scheme on the site. The indicative plans for the outline scheme indicated an 'in-out' arrangement which they consider to be unsatisfactory. However, I note that at the time of the outline application the highway authority did not object to the access and thus I have very little evidence before me which indicates the proposed access would indeed be betterment. This limits the weight I can afford this.

Planning Balance and Conclusions

21. 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.
22. In the context of the development plan, I have found that the proposed development would be contrary to policies SD4 and SD14 of the JCS. For this appeal in the absence of a five year supply of housing the policies most relevant to the determination of this appeal should be considered out of date.
23. The appellant contends that the proposal would deliver a number of benefits. The provision of 7 new dwellings would make a small contribution towards the Council's 5 year housing supply. However, as the site already benefits from outline permission for 6 dwellings the net increase to housing stock would only be a single dwelling which limits the weight which can be attributed to this. The proposal would also provide minor economic benefits. The construction of the site would likely provide short term employment benefits and new residents would provide limited support to the existing facilities in the area. The proposal would reuse brownfield land which is a minor benefit.
24. However, I have found that the proposals would result in significant harm to the character and appearance of the area. Furthermore, the proposal would harm the living conditions of future occupiers in respect of outlook. Collectively, these are matters to which I afford significant weight in decision making terms. As such it is not considered to be sustainable development and would be contrary to the aims of the Framework to achieve well designed places, supportive of health and social well-being by providing a good standard of amenity for all.
25. The appellant has drawn my attention to a recent appeal decision² in which the Inspector concluded that the current 5 year housing land supply was as low as 1.82 years. This is disputed by the Council. Even if I were to conclude there is a shortfall in the five year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
26. For the reasons given above, I conclude that the appeal should be dismissed and planning permission is not granted.

² APP/G1630/W/20/3256319

S Shapland

INSPECTOR