
Appeal Decision

Site visit made on 22 February 2021

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/G1630/W/20/3264572

Land to the east of Broadway Road (Part Parcel 9070), Toddington, Gloucestershire GL54 5DT

- 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 Mr and Mrs S & C Thomas against the decision of Tewkesbury Borough Council.
 - The application Ref 20/00580/PIP, dated 28 June 2020, was refused by notice dated 29 September 2020.
 - The development proposed is for the permission in principle for the erection of up to 8 dwellings and associated vehicular accesses.
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Decision

1. The appeal is dismissed and permission in principle is refused.

Main Issues

2. The main issues are whether the principle of the proposed development is acceptable with specific regard to (1) the location for the housing in the context of current housing planning policies, and (2) the effect on the character and appearance of the area, which is part of the Cotswold Area of Outstanding Natural Beauty (AONB).

Reasons

3. The appeal proposal is for a permission in principle. This consent route has two stages, the first stage establishes whether a site is suitable in principle and the second stage, the technical details consent, is where the detailed development proposals are assessed. The appeal proposal is at the first stage and therefore I have considered the principle of the scheme which is limited in scope to location, land use and amount of development.

Location of proposed development

4. The proposed development of up to 8 dwellings would line the eastern side of Broadway Road to the north of the area of Toddington (also known as New Town) and the crossroad junction of the B4077 and the B4632. The site is a section of a large field in what is a predominantly rural area. As confirmed by the Council the site is not on an allocated site for development in the JCS.
5. In terms of the policy context, Toddington is identified as a Service Village in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031

- (December 2017) (JCS). Policy SD2 sets out that service villages should accommodate 880 dwellings over the plan period. However, the site is not allocated for development in the JCS.
6. Policy SD10 relates to housing development of sites that are not allocated and includes an exception criteria. In this regard, the site is not on previously developed land, being that it is an agricultural field. Neither is the site a form of infill development as it does not fill an existing gap. Furthermore, the proposal would project into the open countryside to the north of the settlement. I would regard this site as being within the rural setting of the village rather than being in its built up area. To my mind, the proposal does not meet any of the exception criteria in Policy SD10.
 7. There has been planning permission for other housing developments approved by the Council within the Toddington area, some yet to be implemented. However, I note that these sites vary in their size and types of location, which differs from that currently proposed. Furthermore, there was an identified need for housing in Toddington/New Town (Housing Background Paper 2019), which these planning permissions for new dwellings could have contributed towards. Whilst I accept that the figure of 37 dwellings needed for Toddington is not a 'maximum' figure, it does provide some indication of need for this settlement. As I understand it, this identified need has been met, although this does not mean that further housing for this village could not be considered acceptable, particularly where the proposal generally accords with planning policy. In this case, I do not regard that the site does meet with planning policy for the reasons set out above.
 8. The appellant has brought to my attention an appeal in the village of Norton (ref: APP/G1630/W/20/3257279). The Inspector for this case considered that the site was in the built up area of this village, being that it was among its ribbon development, with other developments to both the north and south. This is not the case with this appeal at Toddington and so there are clear differences between the two appeals. In this appeal, the site is not infill with no development to the north of the site. It is also outside of the main built up area of the settlement. I therefore give this other appeal little weight in my considerations of this proposal before me.
 9. As such, the principle of this location for the proposed development of up to eight dwellings would not accord with the Council's plan-led strategy for housing and growth. The principle of the proposal would therefore be contrary to policies SP2 and SD10 of the JCS, which seek to provide a sustainable strategy for new housing development in the District, amongst other things.
 10. The Council has also stated that the proposal is contrary to policy RES3 of the emerging Tewkesbury Borough Local Plan 2019 (eLP). However, from the information before me, although it appears that this emerging Local Plan is progressing, I am not fully informed as to the extent to which there are unresolved objections for individual policies, such as RES3. As such I would give this policy limited weight at this time.
 11. It is acknowledged that the Council cannot demonstrate a sufficient housing land supply. This matter will be addressed in the later planning balance section.

Effect on the AONB landscape

12. The site is within the Cotswold AONB, on a plot of undeveloped land. The development of eight dwellings will therefore change the character of the site from agricultural/rural to residential. However, the total size of the plot is not large within the landscape. The site for the proposed dwellings is also adjacent to and opposite existing houses. The development would be seen against the backdrop of this small enclave of houses and other buildings around the main B-road junction. I also note that the Council's Landscape and Visual Sensitivity Study (2014) found the site to have medium landscape sensitivity, with the emerging Landscape and Visual Sensitivity Study (LVSS) concluding that the sensitivity is lower immediately adjacent to the 'settlement boundary'. However, the development would extend north from the edge of the existing settlement edge to the eastern side of Broadway Road. I would regard the site overall as having a medium sensitivity in what is an important AONB landscape.
13. The development as proposed would encroach into the countryside, projecting to the north away from the settlement core, developing a field where there are currently no significant buildings, in what is a prominent position adjacent to a B-road and seen on the approach to the village. It would also obscure some views from this section of Broadway Road to the Cotswold Hills to the east. The openness of the field enhances the landscape qualities of the area and allows these open vistas. There are existing houses opposite, though the fact that the eastern side of this section of Broadway Road is largely undeveloped enhances the rural setting and openness of this northern side of the settlement. The proposed houses would urbanise a section of a field and reduce this openness, which currently provides an attractive rural landscape setting to this small settlement. The erosion of this positive rural setting would therefore be harmful to the AONB and its scenic beauty.
14. The fact that there has been appeal decisions and planning permissions granted for housing elsewhere in the village and in the wider area, on areas of AONB land or similar valued landscapes, does not set a precedent for any erosion of this special landscape if considered harmful. The other cases raised all have a different level of visual impact, including those within the AONB or adjacent Special Landscape Area. I have considered the effects of the landscape impact of this proposal primarily on its own merits and concluded that there would be harm.
15. I acknowledge that this is an application for permission in principle and the design and scale of the proposal is not before me. However, if allowed the development could be up to eight houses. In my view, even with additional landscaping and having spacious plots to mitigate some of this harm, this would not be sufficient as there would still be up to eight new houses on what is currently undeveloped agricultural land forming the positive 'soft edge' setting to the village within the AONB.
16. The National Planning Policy Framework (the Framework) considers that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues (Paragraph 172). I note that this is not a 'major development' in terms of scale and this Framework policy does not require 'a blanket ban' on dwellings in AONB areas, but their potential impact

to the AONB is of great importance, even when considering a smaller scale scheme of housing.

17. Whilst a proposal for up to eight dwellings is modest in scale, from my observations and the evidence before me I cannot conclude that the proposed dwellings on this site would conserve the AONB scenic beauty. As such, the proposed development of up to eight houses would be contrary to policies SD4, SD6 and SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017). These policies seek to require development to respect the character of the site and its surroundings; protect landscape character for its own intrinsic beauty; and conserve the landscape and scenic beauty of the Cotswolds AONB.
18. The Council also include policy RES5 of the Pre-Submission Tewkesbury Borough Plan 2011-2031 (2019) in the relevant reason for refusal to this main issue, but as explained above I can only give this limited weight.

Planning Balance

19. In assessing this planning balance, I am aware of the recently determined allowed appeal for up to 50 dwellings ref: APP/G1630/W/20/3256319 – Land off Ashmead Drive, Gotherington, Tewkesbury. With the initial statements both parties agree that the Council is unable to demonstrate a five year housing land supply. The Council set the figure at 4.35 years land supply. However, it was the conclusion of the Inspector with the Gotherington appeal that the Council could only demonstrate a 1.82 housing land supply. This is clearly a much reduced figure from that put forward by the Council, though I note that the Council considers that there are robust grounds for a successful challenge of this appeal decision.
20. In any case, it is clear that the Council cannot demonstrate a sufficient five year land supply. In this regard, paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. In respect of paragraph 11 d) of the Framework with regard to decision-making, this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including applications involving housing where the Council cannot demonstrate a five year housing land supply), permission should be granted unless one of two criteria apply.
21. The first criterion is whether the policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. Footnote 6 clarifies what these protected areas or assets are and includes AONBs. As set out above, the Framework states that great weight should be given to the conservation of AONBs, though I have concluded that the proposed development would fail to conserve the landscape and scenic beauty of this area of the Cotswolds AONB. As such, the harm to the AONB would be a clear reason for refusing the development and therefore the 'tilted balance' under paragraph 11 of the Framework does not apply.
22. Whilst there may be no 'tilted balance' I do recognise that the proposal would introduce eight new dwellings into the district which would go towards housing land supply, of which there is a significant need. The number of units is not especially high but would make a notable contribution to housing numbers, adding choice to the local housing market with what could be family sized

- properties in an accessible location. The proposal would also make a modest contribution to the local economy during its construction phase and thereafter through the use of services and facilities in the area by its future occupants. The benefits overall I would consider as modest.
23. If the housing land supply figure was as low as 1.82 years, resulting in a large shortfall of what is required, then this increases the need for new housing significantly. However, the proposal in this case is only for up to eight dwellings, which whilst positive would not make a significant contribution to the overall housing land supply number. Furthermore, as set out by the Framework great weight should be given to conserving the qualities of the AONB.
24. In conclusion, whilst the proposed residential development would be contrary to the Council housing policies, the lack of a sufficient housing land supply would make the delivery of the houses proposed a benefit in their contribution towards local housing supply. However, even if the housing land supply figure was as low as 1.82 years, the harm to the AONB landscape would significantly and demonstrably outweigh the modest benefits the proposals would provide overall.
25. I am aware the Inspector came to a different decision with the Gotherington appeal. However, that appeal was for 50 dwellings and so this was a much larger benefit to housing land supply than the eight proposed in this appeal. Furthermore, the site at Gotherington was outside of the AONB, although in its setting. It is clear from my reading of the case that the Inspector did not find that the harm to the AONB was a clear reason to refuse the development at Gotherington. However, in this appeal I have concluded there would be a harm which would amount to a clear reason to refuse the development due to the adverse impacts to the scenic beauty of the AONB, which the site is set within. As such, although I note that there are similarities between the cases there are also significant differences which lead to different outcomes with the planning balance exercise.

Conclusion

26. For the above reasons and considering all matters raised, I conclude that the appeal should be dismissed.

Steven Rennie

INSPECTOR