



Appeal Decision

Site Visit made on 6 July 2021

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2021

Appeal Ref: APP/G1630/W/21/3267323

Land at the rear of The Lodge, The Leigh, Gloucester GL19 4AG

- 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 Mr Richard Benham against Tewkesbury Borough Council.
 - The application Ref 20/00539/OUT, is dated 12 August 2020.
 - The development proposed is detached house, associated access, garaging and car parking.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved except for access. I have had regard to the details provided on the plans in relation to this and have regarded all other elements as illustrative.
3. The National Planning Policy Framework (Framework) refers to the weight that should be given to relevant policies in emerging plans. The Pre-Submission Tewkesbury Borough Plan 2011-2031 (the Emerging Plan) has been through examination and the relevant policies are broadly consistent with the Framework. Consequently, it carries moderate weight.
4. The appellant lodged an appeal against non-determination after the expiry of the statutory period without the Council having issued a decision. The Council in their submissions stated that had they determined the application they would have refused it for reasons relating to the local housing strategy, reliance on private vehicles and effects on the character and appearance of the area.
5. The appellant has had the opportunity to respond to these matters in their final comments. Therefore, they would not be prejudiced by my taking these into account and forming the main issues.
6. Following the refusal of the application the new Framework has been published. Comments were sought from the main parties on this, and where received have been taken into account in my decision. I consider that there have been no fundamental changes relevant to the main issues in this appeal and therefore no injustice has been caused to any of the appeal parties by my taking account of the revised Framework.

Main Issues

7. The main issues of the appeal are:

- whether the proposal would be in a suitable location for housing, having regard to the local development strategy for the area, accessibility to services and reliance on private motor vehicle; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Local Housing Strategy

8. Policy SP2 of the JCS¹ sets out the distribution strategy and housing targets for the area. The appeal site and The Leigh do not fall within a housing allocation, urban area, rural service centre or service village. Outside of these areas Policy SD10 states that housing development is limited to certain exceptions, including infilling within existing built-up areas. Infill development is defined in the supporting text as development of an under-developed plot well related to existing built development. No definition of 'under-developed plot' has been put before me to indicate that it excludes greenfield land.
9. There is no settlement boundary for The Leigh in the Emerging Plan. Policy RES3 of the Emerging Plan states residential development will be considered acceptable outside defined settlement boundaries where it is in accordance with Policy RES4 and for very small-scale development at rural settlements.
10. Policy RES4 states that such schemes will be acceptable in principle within and adjacent to the built-up area of other rural settlements. The supporting text states this could include minor infilling. For the purposes of this policy and SD10 it states that the built-up area of the settlement is its continuous built form and excludes individual buildings or groups of dispersed buildings which are clearly detached from the continuous built-up area of the settlement.
11. Further criteria include maintaining sustainable patterns of development and the amenity value and contribution to the character and setting of the settlement in its undeveloped state.
12. Policy RES5 of the Emerging Plan applies to all housing and requires edge of settlement development to not appear as an unacceptable intrusion into the countryside and retain a sense of transition between it and the settlement.
13. Policy TRAC1 of the Emerging Plan and Policy INF1 of the JCS seek to promote pedestrian accessibility and encourage connections to sustainable modes of transport.
14. The Leigh is a dispersed settlement with occasional pockets, clusters or rows of generally linear development separated by often large areas of undeveloped land and open fields.
15. The appeal site is part of land associated with an existing property. It is largely screened from the road by mature vegetation and the winding path of the narrow country lane. This is different to the often more open areas with lower level front boundaries and wide verges at the nearby dwellings, that while sometimes set back from the road, are seen from it and with other properties.

¹ Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031

16. From the road, the site appears beyond any nearby built form. The site has open fields to the rear and there is no nearby residential development on this side of the road beyond The Lodge. The orientation of The Lodge means there is a relatively generous garden between it and the site.
17. The enclosing effect created by the narrow lane and tall vegetation results in the site appearing as part of the countryside, visually separate from any other dwellings and the settlement. While not physically distant from other properties, the site is visually separate and is not viewed as adjacent or well related to the built-up area of the settlement.
18. Even if I were to agree that the site formed part of the curtilage of The Lodge and was previously developed land, the site is not within or adjacent to the built-up area of the settlement and The Leigh is not a service village or rural service centre.
19. I recognise that there is generally a greater reliance on private cars in more rural areas and the Highways Authority did not oppose the scheme. Furthermore, additional residents in one settlement can help support services and facilities in another.
20. Nevertheless, the roads near the site comprise unlit rural lanes, with no pedestrian footway, in some instances where the shape and narrowness of the road limits forward visibility and parts with no natural surveillance. Although such lanes may be lightly trafficked, these circumstances do not lend themselves to safe use by pedestrians and would be unlikely to encourage cycling to services and facilities, in particular at times of darkness or adverse weather conditions.
21. There are bus stops along the A38 which would provide services to other settlements with a range of services and facilities. Notwithstanding this, occupiers would need to travel along the often narrow lanes to reach them. This would not make buses an attractive or probable option.
22. It may be technically possible to access services and facilities by foot, bus or bicycle. Nonetheless, it would be unrealistic and unlikely due to the characteristics of the surrounding road network. Therefore, there would be a lack of sustainable transport choices available and occupiers of the dwelling would be heavily reliant on the use of motor vehicles. In addition, being for a single dwelling, there would be minimal contribution to the vitality or viability of any local services.
23. Therefore, the proposed development would not be in a suitable location for housing, having regard to the local development strategy for the area, accessibility to services and reliance on private motor vehicle. It would fail to accord with the location strategy and accessibility elements of Policies INF1, SD10 and SP2 of the JCS and Policies TRAC1, RES3, RES4 and RES5 of the Emerging Plan.

Character and Appearance

24. The appeal site is largely screened from the road at present. The detailed design of the property is not known at this stage. However, the removal of the roadside hedgerow for access and visibility would open up views of the site and erode the existing secluded country lane appearance at the site. While I saw

there was already some domestic paraphernalia on the site, there is currently no built form on it and this is largely screened from the road.

25. The scheme would undoubtedly and fundamentally alter the appearance of the site from what is currently an undeveloped piece of land enclosed by roadside vegetation. There would be some encroachment into the rural landscape. Any new planting would take time to mature and effectively screen the proposal and the access and sight lines would require some areas to be removed or set back.
26. Notwithstanding this, planting, the retention of many existing features, orientation of nearby properties and curve of the road, would limit the extent to which the site would be visible from views from public and private vantage points other than immediately to the front of the site. While not adjacent to them, there are other dwellings and accesses along the road on nearby lanes. Although extending further along the road, a similar context of residential development with fields beyond would be retained.
27. The appeal site is located within a Landscape Protection Zone (LPZ). This seeks to protect the visual amenity of the river environment and distinct landscape associated with the rivers within the Borough. The site though is on low lying land and in any distant views would be seen with other properties in the wider area rather than in isolation.
28. While the above factors would ensure that the harm would be moderate, the proposed development would harm the character and appearance of the area. The scheme would fail to accord with saved Policy LND3 of the Tewkesbury Borough Local Plan to 2011, Policies SD4 and SD6 of the JCS and Policies RES4, RES5, LAN2 of the Emerging Plan. These, in part, require proposals to respect and protect the character of the site, the landscape for its own intrinsic beauty as well as complimenting and integrating with the form of the settlement.

Other Matters

29. My attention has been drawn to other proposals granted planning permission by the Council a comparable distance from services and within the LPZ. Although not considerably so, Holborn Farm is closer to the A38 and the journey from the appeal site would involve traversing more of the narrow lane. This and the Todpool Cottage proposal involved replacing existing buildings that would have had their own traffic movements associated with them. They also have properties either side.
30. The Cotswold Farm (Part Parcel 6295) site is adjacent to the A38 and therefore much closer to transport links. The minutes of the committee meeting relating to the Little Holborn site indicate the proposal was recommended for refusal by officers for similar reasons to the appeal scheme.
31. Other than Holborn Farm these permissions pre-dated the JCS and I do not have full details of the policies and other considerations relevant at that time. Therefore, I cannot be sure these are directly comparable to the scheme before me.
32. The proposed development would preserve the significance of the setting of the Grade II listed Cyder Press Farmhouse as it is visually separate from the site

and its setting already includes occasional residential development of varying designs.

33. The Design and Access Statement refers to the property being for family occupation. However, the details before me indicate that the proposal would be for an independent dwelling.

Planning Balance

34. While the level is disputed, the Council acknowledge they are unable to demonstrate a 5-year supply of housing land. If I were to agree with the appellant regarding the extent of the shortfall, given the scale of the scheme, the contribution towards housing supply attracts small weight.
35. There would be benefits linked to the construction period and occupation of the dwellings giving support to local services and facilities including those in other villages and settlements. As construction benefits would be short term, and the scale of the scheme, the weight I give each of these, and biodiversity enhancements is small. Although said to be a self-build dwelling, there is no mechanism before me to secure the dwelling as such and I give this little weight.
36. The proposal would conflict with the housing strategy of the JCS and the Emerging Plan. However, given there is an existing housing shortfall, and that the Emerging Plan is yet to be adopted, I give the conflict with these policies moderate weight.
37. The site would not be in an accessible location and would result in a heavy reliance on private vehicles. It would run contrary to the aim to provide sustainable patterns of growth. These aims and policies align with those of the Framework and attracts significant weight.
38. The proposal would conflict with policies of the development plan that relate to character and appearance. These are generally consistent with the aims of the Framework. For the reasons given above, the harm, and the weight I give to the conflict with these policies would be moderate.
39. The proposal would conflict with the development plan as a whole.
40. The lack of a 5-year housing supply means that paragraph 11d) of the Framework applies. The scheme would align with the aims of the Framework to significantly boost the supply of housing and that small and medium-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. Using the figures suggested by the appellant, the contribution towards housing supply and mix attracts small weight as the scheme is for 1 dwelling.
41. The economic and social benefits from the build and occupation would align with the Framework where it states development in one village may support services in others. However, as with the suggested biodiversity enhancements that align with the aim of the Framework to improve biodiversity, these attract limited weight due to the size of the scheme. Without a mechanism to secure the property as self-build, I give this little weight. Even if I was to consider the site to be previously developed land, the weight this attracts is minimal.

- 42. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, the scheme would be contrary to the Framework where it seeks to actively manage patterns of growth and ensure safe and suitable access to the site can be achieved for all users. I give this significant weight.
- 43. The scheme would be contrary to the Framework where it aims to ensure developments are sympathetic to local character and recognises the intrinsic character and beauty of the countryside. This harm, and weight attracted by it, would be moderate.
- 44. A lack of harm from other issues such as living conditions, flooding and highway safety are neutral factors and do not weigh in favour of the scheme.
- 45. Having considered the above factors, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 46. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 47. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

Conclusion

- 48. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR