



Appeal Decision

Site visit made on 13 September 2022

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/G1630/W/22/3296358

Land at Heather Chase, Cleeve Hill, Southam, Cheltenham GL52 3QE

- 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 David Montague against the decision of Tewkesbury Borough Council.
 - The application Ref 21/01540/FUL, dated 23 December 2021, was refused by notice dated 3 March 2022.
 - The development proposed is the erection of dwelling, detached garage and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the refusal of planning permission, the Council has adopted The Tewkesbury Borough Local Plan (June 2022) (the Local Plan). The emerging policies referred to by the Council are therefore now adopted policies. The appellant has been provided with the opportunity to comment on this and I have considered these now adopted policies when making my decision.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for new residential development, having regard to local planning policy,
 - the effect of the proposal on the character and appearance of the Cotswolds Area of Outstanding Natural Beauty (AONB), and
 - the effect of the proposal on the living conditions of the occupiers of Heather Chase, with particular regard to overlooking.

Reasons

Location

4. The site occupies part of the garden area associated with the adjacent dwelling, Heather Chase. There is direct access to the site from a rear access lane, Ashleigh Lane, which also serves a number of other residential properties. The site is enclosed along this lane by an existing timber fence and the ground levels drop to the west towards the existing dwelling. Notwithstanding the presence of dwellings, from the rear lane there is a distinct sense of rurality,

with dispersed buildings and a significant amount of vegetation, including trees.

5. Newly adopted policy RES4 of the Local Plan establishes that residential development will be acceptable within and adjacent to the built-up area of rural settlements where stated criteria are met. The crux of the issue before me is whether or not the appeal site can be legitimately described as being adjacent to the built-up area of a rural settlement, as is contended by the appellant.
6. I observed that there was a roughly linear pattern of development extending along the B4632. However, in my view, the village of Cleeve Hill was located some distance to the north of the appeal site and centred around Post Office and Stockwell Lanes. Moving southwards along the B4632 from this location, the development becomes more sporadic. This results in a more open appearance and not one which is characteristic of a village location. I am of the opinion that the appeal site forms part of an arrangement of dwellings between Cleeve Hill and Southam, but that it does not lie within either village. As such, while the Council accepts that the development can be considered to comprise infill, it does not lie within or adjacent to the built-up area of a settlement.
7. This is consistent with the reasoned justification to policy RES4, insofar as it states that the Council will consider the built-up area of the settlement to be its continuous built form, excluding groups of dispersed buildings which are clearly detached from the continuous built-up area of the settlement. This view is also consistent with the appeal decision¹ in regard to a nearby site, to which my attention has been drawn.
8. Accordingly, I find that the site is not a suitable location for new residential development, having regard to local planning policy. Thus, the scheme conflicts with policies SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (the Core Strategy), as well as policy RES4 of the Local Plan (2022). Together, and amongst other things, these policies seek to ensure that residential development is distributed within settlements where there is good access to services, and away from rural areas.

Character and appearance

9. The appeal site lies within the Cotswold AONB and is identified as being within the Escarpment: Coopers Hill to Wincombe (2D) character type. The key characteristics of this character type include the description that despite the proximity to large urban centres, settlement on the escarpment slopes is sparse and limited to scattered linear settlements bordering the many roads that link Cheltenham to villages on the High Wold, and Oxford further to the east.
10. As I have identified above, the development within the vicinity of the site is generally linear in form, arranged along the B4632 and comprises predominantly sizeable dwellings within generously proportioned gardens. There is some departure from this arrangement, particularly along roads that are positioned behind the B4632, however there is a predominant sense of openness at the location. This is reinforced by the presence of large gardens and a spacious arrangement to the buildings that are present.

¹ APP/G1630/W/20/3257703

11. The proposed development would result in the construction of a substantial building within what is currently a large, expansive garden area. The scheme would also involve a substantial amount of engineering works in order to accommodate the dwelling at this location. Consequently, the scheme would erode the pleasant, rural aspect of the site due to the introduction of what would appear as a more intensive form of development.
12. While I appreciate that public views of the development would be limited, in that there would be little or no opportunity to view the development from the B road, close proximity views of the site would be possible from Ashleigh Lane to the rear. In these views, the scheme would in my view appear as an unsympathetic addition to the landscape, by consolidating what is a relaxed arrangement of dwellings. In this respect it would depart from the scattered linear development in the area and thus would fail to conserve the special qualities of the AONB at this location.
13. Reference is made by the appellant to a Landscape Visual Impact Assessment (LVIA) that has been produced in respect of a proposed development on a nearby site. However, this document has not been provided. Furthermore, despite that site being nearby, each site would have its own characteristics and in the absence of evidence convincing me otherwise, I am not persuaded that the conclusions of that LVIA apply to the appeal site. Moreover, that mature trees along the site boundaries would be retained and that new landscaping would be introduced does not convince me that the effect of the proposal would be acceptable.
14. Accordingly, I find that the proposal would be harmful to the character and appearance of the Cotswolds Area of Outstanding Natural Beauty, in conflict with policies SD6 and SD7 of the Core Strategy, insofar as they seek to ensure that development protects landscape character and development within the AONB conserves its landscape and scenic beauty. The scheme would also conflict with the landscape protection aims of the Framework, in particular paragraph 176, which requires that great weight should be given to conserving and enhancing the landscape in Areas of Outstanding Natural Beauty.

Living conditions

15. The side elevation of the proposed dwelling would face the existing dwelling of Heather Chase, and its garden. To this elevation is a first-floor side window, together with ground-floor bi-fold doors which allow access from the interior of the proposed dwelling to a raised patio area.
16. While the first-floor bedroom window is secondary to a further dormer window, it would nonetheless afford views over the surrounding landscape from an elevated position and thus is likely to be a well-used window and this would result also in views over the garden area of Heather Chase. However, I note that the appellant suggests that the window could be omitted or subject to treatment. As such, the effect of this window could be dealt with via planning condition.
17. However, the scheme also includes the raised patio area which at the finished floor level of the dwelling, would sit substantially above the level of the garden of the neighbouring property. I note the appellants comments that the boundary would be formed from trees and hedging, nonetheless there is no guarantee that planting along the boundary would be maintained. The

proposed post and rail fence would offer little in the way of screening. There would be considerable potential for users of the patio area to look over the adjoining garden area. Furthermore, users of the garden would be very much aware of anyone using the patio, diminishing the attractiveness of the garden.

18. Accordingly, I find that the proposal would result in an unacceptable impact on the living conditions of the occupiers of Heather Chase, with particular regard to overlooking. Thus, the proposal is contrary to policies SD4 and SD14 of the Core Strategy, insofar as they seek to ensure that development takes account of privacy and does not cause unacceptable harm to the amenity of neighbouring occupants.

Other Matters

19. At the time the application was determined the Council was unable to demonstrate a five-years supply of deliverable housing sites. The Council states that it is now able to demonstrate the appropriate five-year supply, albeit that this is contested by the appellant. However, the presumption in favour of sustainable development is disengaged where policies referred to in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Footnote 7 of paragraph 11 outlines that this includes policies in respect of an Area of Outstanding Natural Beauty. As I have found conflict with policies of the Framework in this respect, the presumption in favour of sustainable development does not apply.
20. I note that the dwelling is intended to be occupied by the appellant, who would vacate Heather Chase. There would thus be social benefits to the appellant, as well as a small contribution to the delivery of housing. However, the scale of any benefits that would result from the scheme is not sufficient to outweigh the harm that I have identified.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR