



Appeal Decision

Site visit made on 8 November 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/G1630/W/22/3302403

Land at Court Farm, Tewkesbury Road, Twigworth GL2 9PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Gorman against the decision of Tewkesbury Borough Council.
 - The application Ref 21/00644/OUT, dated 11 May 2021, was refused by notice dated 7 January 2022.
 - The development proposed is outline application with all matters reserved for 4no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.
3. The Council cite the pre-submission version of the Tewkesbury Borough Local Plan 2011-2031 (Local Plan) in the reasons for refusal. Since the application was refused, the Local Plan has been adopted by the Council on 8 June 2022. Therefore, full weight can now be given to the relevant policies of the Local Plan. The adopted Local Plan has also replaced the Saved Policies of the Tewkesbury Borough Local Plan to 2011 (adopted March 2006).
4. Policy HEN2 of the Local Plan has been cited in the third reason for refusal. The Council have clarified that the reference to HEN2 is a typo. The correct policy that should have been cited is Policy HER2 of the Local Plan. I have determined the appeal on this basis.
5. The appeal site and its surrounds are currently being used for the storage and repair of motorhomes, the sale of motorhomes and cars, and as a caravan/camping site. The parties are currently in dispute regarding the lawfulness of these operations. I note that the appeal site and its surrounds are subject to current pending Certificate of Lawfulness of Existing Use applications which are undetermined by the Council. As the lawfulness of the existing use of the site is in dispute, I have determined this appeal on the basis of the lawful use of the appeal site, which is as agricultural land.

Main Issues

6. The main issues are:

- whether the site is a suitable location for the proposed development, having regard to the development strategy for the area;
- the effect upon the character and appearance of the area; and
- whether the proposed development would preserve the setting of the nearby Grade II listed buildings.

Reasons

Suitable Location

7. The appeal site relates to a parcel of agricultural land. It lies to the north east of the settlement boundary associated with Twigworth, the main built up part of which lies to the south west of the appeal site.
8. As a result, the site lies outside of the defined settlement boundary of Twigworth. It would not be immediately adjacent to the settlement boundary. It is not allocated for housing and the proposal would not fall within any of the exceptions set out by the development plan to enable new development in the open countryside. It would not be supported by any other policies. Notably, it would not fall under the definition of an infill site, as set out in the development plan.
9. It is acknowledged that the site is in a fairly sustainable location, where access to a range of services and facilities would be achievable by means other than the private car. I also note that the strategic allocation to the south of Twigworth, which is currently being built out, is expected to provide a local centre and a primary school, and the associated benefits this would bring. However, despite the sustainability credentials of the site, the site remains classed as open countryside.
10. Therefore, by virtue of its location outside of any defined settlement boundary, the appeal site would not be a suitable location for the proposal, having regard to the development strategy for the area. Consequently, it would conflict with Policies SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Joint Core Strategy) (adopted December 2017) which sets out the appropriate locations for residential development and guides development to the most sustainable and accessible locations. It would also be contrary to Policy RES3 of the Local Plan, which only supports new housing outside settlement boundaries in certain circumstances, none of which would apply to the appeal proposal. The proposal would also conflict with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan 2011-2031 (NDP), which supports housing development where it would be within or immediately adjacent to Twigworth's settlement boundary, neither of which would be applicable to the proposal.

Character and Appearance

11. The appeal site lies immediately adjacent to Tewkesbury Road, the A38, which runs through the village of Twigworth. It is bounded by existing mature vegetation along the highway frontage. Notwithstanding the current unlawful use of the appeal site and its surrounds, the character of the existing built development along Tewkesbury Road is varied. It includes the Norton Garden Centre, which lies opposite the site, as well as other residential properties positioned either side of the A38, in a linear, albeit slightly sporadic, manner. I

also note the other planning consents that have been granted in the area, which the appellant has drawn to my attention, although some of these have yet to be implemented.

12. Although matters relating to access, scale, layout, appearance, and landscaping have yet to be fixed, the illustrative elevations and layout show four, two storey detached properties, positioned in a linear form fronting the A38. Vehicular access is indicatively shown to be from the existing access off the A38 into Court Farm, with an internal access road running along the rear of the properties.
13. It is considered that due to the existing variation in the area, including other residential properties, the introduction of residential development on the appeal site would not harm the character and appearance of the area. Based on the illustrative plans submitted, there is no reason to suggest that an appropriate scheme in terms of access, scale, appearance and layout could not be secured at reserved matters stage. Suitable landscaping could be secured at the reserved matters stage to help to reinforce the delineation between the site and the surrounding fields. Thus, a small residential scheme of up to 4 dwellings would be in keeping with the prevailing pattern of development along Tewkesbury Road.
14. Consequently, the proposal would not harm the character and appearance of the area. The proposal would be in accordance with Policies SD4 and SD6 of the Joint Core Strategy and Policy RES5 of the Local Plan. In combination, these policies seek, amongst other things, to ensure new development would respond positively to and respect the character of the site and its surroundings, and for development to protect landscape character for its own intrinsic beauty. These policies also support development where it is well related to existing buildings within the settlement and where an edge of settlement site is proposed, respects the form of the settlement and its landscape setting, not appearing as an unacceptable intrusion into the countryside and retaining a sense of transition between the settlement and open countryside. It would also be in accordance with Policy E2 of the NDP which states that development in the open countryside shall protect the landscape from harm from intrusive development.
15. It would also be in accordance with the principles set out in Chapter 12 of the National Planning Policy Framework (the Framework) (2021) which states that development should be sympathetic to local character. It would also accord with the principles set out in Chapter 15 of the Framework which states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and by recognising the intrinsic character and beauty of the countryside.

Listed Buildings

16. There are two Grade II listed buildings approximately 50 metres away from the appeal site, Court Farmhouse and the barn immediately northeast of Court Farm. There are also a number of other curtilage outbuildings associated with Court Farm.
17. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural

or historic interest which it possesses when dealing with planning applications. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.

18. Both the listed farmhouse and the listed barn have been subject to various alterations over the years, as noted by the Council's conservation officer, including the conversion of some of the curtilage outbuildings to holiday lets. Residential development has been approved along Tewkesbury Road, directly opposite the listed buildings. All of the above has changed the former agricultural setting of both Court Farm and its associated listed barn. Therefore, despite the historic connections, and notwithstanding the current unauthorised uses on the appeal site, the setting of the listed buildings are now best experienced from their enclosed farmyard setting. The appeal site is also physically separated from the listed buildings by the existing vehicular access.
19. There would be a degree of intervisibility between the appeal site and the listed buildings, most notably Court Farmhouse. Whilst at this stage a full assessment of the effect of the scheme on the setting of the listed buildings cannot be carried out, it is considered that a small scale, modern housing scheme would not be incongruous to the setting of the listed buildings. Therefore, any visual or physical relationship between the proposal and the heritage assets would be acceptable. Whilst the proposal would result in some degree of perceptible change to the setting of the listed buildings, and the wider context in which they are experienced, it would not be of a magnitude to constitute harm.
20. Therefore, it is considered that the setting of both Court Farmhouse and the barn to the northeast of Court Farm would be preserved. It would meet the requirements of Section 66 of the Act. The proposal would be in accordance with Policy SD8 of the Joint Core Strategy and Policy HER2 of the Local Plan. In combination, these policies seek that development within the setting of listed buildings are expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings. Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance and for their contribution to local character. It would also be in accordance with the principles set out in Section 16 of the Framework, which requires great weight to be given to heritage assets' conservation, including their setting.

Other Matters

21. At the time that the decision was made, the Council were unable to demonstrate a five-year supply of housing. The Council in their appeal statement have included an up-to-date assessment of housing land supply. This identifies that the Council is now able to demonstrate 5.9 years of housing land supply. Whilst the appellant has questioned the housing supply figure, they have not provided sufficient evidence to prove that the Council are still unable to demonstrate a five-year supply of housing. Consequently, the presumption in favour of sustainable development contained in paragraph 11(d) of the Framework is no longer engaged.
22. I note the findings of the other appeal decisions, within which it was found the Council were unable to demonstrate a five-year supply of deliverable housing

sites. However, in both of these cases, the lack of a five-year housing land supply was an agreed matter between the main parties.

23. The Government's objective is nevertheless to significantly boost the supply of homes. The proposal would provide 4 dwellings that could help to support local services and facilities. Moreover, it would generate some modest economic benefits through the creation of employment and the purchasing of materials and furnishings. However, these benefits would not be sufficient to outweigh the conflict with the development strategy for the area identified above.
24. The appellant has also expressed concerns regarding the extended length of time taken to make the decision. Whilst this must have caused the appellant some frustration, this does not materially affect my consideration of the planning merits of the appeal proposal.

Conclusion

25. I have found that the proposal would not harm the character and appearance of the area, nor would it harm the setting of the nearby Grade II Listed Buildings. However, by virtue of its location outside of any defined settlement boundary, the appeal site would not be a suitable location for the proposal, having regard to the development strategy for the area. In failing to comply with Policies SP2 and SD10 of the Joint Core Strategy, Policy RES3 of the Local Plan and Policy H2 of the NDP, the proposal cannot be said to comply with the development plan taken as a whole. There are insufficient material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR