



Appeal Decisions

Site Visit made on 2 November 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09/12/2022

Appeal A Ref: APP/G1630/W/21/3279227

Whites Farm, Shutter Lane, Gotherington, Cheltenham GL52 9EZ

- 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 Mr A Percy of Kingsdell Properties Limited against Tewkesbury Borough Council.
 - The application Ref 21/00262/FUL, is dated 24 February 2021.
 - The development proposed is the erection of detached dwelling and garage.
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Appeal B Ref: APP/G1630/W/21/3279228

Whites Farm, Shutter Lane, Gotherington, Cheltenham GL52 9EZ

- 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 Mr A Percy of Kingsdell Properties Limited against Tewkesbury Borough Council.
 - The application Ref 20/00207/FUL, is dated 28 February 2020.
 - The development proposed is the erection of 2 dwellings.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 18 May 2022.

Decision

1. Both appeals are dismissed, and planning permission in each case is refused.

Preliminary Matters

2. Since both appeals follow the Council's failure to determine the applications within the prescribed period, there are no reasons for refusal. That said, the Council has indicated that, had it been in a position to determine the applications, planning permission would have been refused for both.
3. The Tewkesbury Borough Plan 2011-2031 (TBP) is an emerging plan but has reached an advanced stage in the examination process. Policies HER2 and RES5 are broadly consistent with the National Planning Policy Framework (the Framework) in that it seeks to ensure that new housing development is delivered in a way that is sensitive to its surroundings and preserves the setting and significance of heritage assets. Therefore, in accordance with paragraph 48 of the Framework, I afford emerging Policies HER2 and RES5 of the TBP moderate weight.

Main Issue

4. From the Council's evidence and my own observations on the site, the main issue in respect of both appeal is the effect of the proposed development on the character and appearance of the area, with particular regard to the significance of the Grade II listed building known as Whites Farm.

Reasons

5. Shutter Lane is characterised by a mix of single and two storey buildings, mainly residential in use. There is much variation in the design of buildings which have been developed over time, albeit there is a general consistency in that buildings are largely set back from the road behind front gardens bound by stone walls or mature trees and hedgerows. Whilst located close to the centre of Gotherington and leading to newer residential development, the narrow nature of Shutter Lane combined with the trees, hedgerow and stone walls gives this area a rural character. The appeal site is an area of undeveloped land behind a hedgerow that contributes positively to the rural feel of Shutter Lane. The appeal site forms part of the curtilage of White's Farm, a Grade II listed building and currently a residential dwelling.
6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for a development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
7. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. 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. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 202 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
8. White's Farm is a timber framed former farmhouse with rendered infilling, probably with origins in the 17th Century, which was historically set within open grounds. The building has been extended over time and much of its associated agricultural land has been lost to residential development. A parcel of land has been retained to the north and south of White's Farm which provides an important link to its historic use as a farmhouse and therefore contributes to its significance. Consequently, the significance/special interest of the listed building, in so far as it relates to this appeal, includes the evidential, aesthetic and historic value of a historic farmhouse that has been altered over time.
9. White's Farm, would have been prominently sited and would have derived intrinsic historic and evidential value from being experienced in a rural setting and as part of the wider agricultural landscape. The development of residential dwellings in close proximity to the listed building have somewhat diminished its rural setting and sense of independence as a historic working farmhouse.

10. I have had regard to the appellants submission that the site no longer functions as agricultural land, is a domestic garden and therefore no longer contributes to the significance of the listed building as its setting has been eroded over time. Nevertheless, the remaining parcel of land to the north assists in reinforcing the sense of independence and provides an important link to its historic use. The appeal site is therefore an important part of the building's setting and contributes positively to its significance.
11. Both proposals would introduce built development into the appeal site. Although designed to be attractive and to exhibit a rural style they would nevertheless have a modern, domestic and uniform appearance due to the fenestration, solar panels, consistent heights, and the composition of the elevations. Their residential character would also be evident in the domestic curtilages bound by close boarded fencing, parked vehicles and associated activity. In addition, the open land, which can be viewed when travelling along Shutter Lane, would be lost and replaced by built development.
12. As such, both developments would have a suburban character and would not appear convincingly as a group of buildings which evoke a farmstead context. Consequently, the rural character and experience of the site would be harmfully eroded. Furthermore, the setting of White's Farm and its status as a historic farmhouse house would be meaningfully diminished.
13. The harm that would arise would be localised and therefore the impact on the significance of the setting of the listed building would be less than substantial within the meaning of paragraph 202 of the Framework. In weighing the public benefits of the proposal against the harm identified, the appellant has suggested that the proposal is a high-quality development providing housing. I have already found harm with regard to the design of the proposed development. As such, the public benefits of the scheme are of no more than limited weight. Further public benefits associated with any increased employment and expenditure there may be arising from the proposed developments would be limited by their scale as the schemes are for a contextually small number of units. These matters would also attract limited weight.
14. I conclude that both proposed developments, due to their scale, design and location, would harm the character and appearance of the surrounding area., as well as the significance of the listed building. I find in relation to paragraph 202 of the Framework that whilst harm would be less than substantial, there are no public benefits that would outweigh that harm.
15. For the reasons above, I conclude that both proposals would be contrary to Policies SD4 and SD8 of the Joint Core Strategy (2017)(JCS) and Policies RES5 and HER2 of the TBP which seek, amongst other things, to ensure that developments are well related to existing buildings, respects the pattern of development and responds positively to the character of the site and its surroundings. The proposed developments would also be at odds with paragraph 130 of the Framework which seeks to ensure developments are visually attractive and sympathetic to local character. The appeal schemes would also be contrary to paragraph 199 of the Framework which seeks to ensure that great weight is given to a heritage asset's conservation.

Other Matters

16. Both parties acknowledge that the Council cannot demonstrate a 5-year housing land supply. The appellant has also drawn my attention to a nearby appeal¹ where the Inspector noted that housing land supply figures quoted by the Council differed. Nevertheless, both figures were below 5 years. That said, I would not be taken to the circumstances of paragraph 11 d (ii) since, and in regards to 11 d (i), the harm I have found to a designated heritage asset would provide a clear reason for refusing the development.
17. These are areas in which the appeal schemes would be acceptable and there would be some compliance with the development plan. These would however be a lack of harm in each case which, by definition, cannot be used to weigh against harm. They would accordingly be neutral in any balance.

Conclusion

18. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeals should be dismissed.

Tamsin Law

INSPECTOR

¹ APP/G1360/W/20/3256319

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/G1630/W/21/3279227	Mr A Pearcy (Kingsdell Properties Limited)
Appeal B	APP/G1630/W/21/3279228	Mr A Pearcy (Kingsdell Properties Limited)