



Appeal Decision

Site visit made on 28 February 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/P0119/W/22/3310103

Highmead, Lower Tockington Road, Tockington, South Gloucestershire, BS32 4LF

- 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 B Rudrum against the decision of South Gloucestershire Council.
 - The application Ref P22/01384/O, dated 28 February 2022, was refused by notice dated 28 July 2022.
 - The development proposed is described as "Application for outline planning permission for the erection of 1no. dwelling and ancillary outbuilding to the existing dwelling."
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 1no. dwelling at Highmead, Lower Tockington Road, Tockington, South Gloucestershire, BS32 4LF in accordance with the terms of the application, Ref P22/01384/O, dated 28 February 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appellant has submitted amended plans with the appeal. Briefly, they remove the garage as it would comply with permitted development rights. This is in response to the Council's reasons for refusal and some third-party comments.
3. The Council and third parties have had the opportunity to comment on the amended plans as part of this appeal, and the Council has therefore not sought to defend the reason for refusal relating to this. As such, I do not consider that taking the amended plans into account in making my decision would prejudice any parties.
4. The appeal relates to a scheme for outline permission with access, layout and scale to be considered at this stage. All other matters have been reserved for determination at a later date. Plans providing details of any of the reserved matters have been treated as illustrative plans for the purposes of my decision.

Main Issues

5. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt;

- The effect of the proposed development on openness in the Green Belt; and
- Whether or not the proposed development would preserve or enhance the character or appearance of the Tockington Conservation Area (CA).

Reasons

Inappropriate Development

6. Tockington is washed over by the Green Belt. Policy CS34 of the South Gloucestershire Local Plan: Core Strategy adopted 2013 (CS) and Policy PSP7 of the South Gloucestershire Local Plan – Policies, Sites and Places Plan adopted 2017 (LP) require the Green Belt to be protected from inappropriate development. CS Policy CS5 regards small scale infill development within settlement boundaries of villages as an exception to inappropriate development in the Green Belt. Tockington is identified as a village in the CS.
7. Paragraph 147 of the National Planning Policy Framework (the Framework) explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 goes on to say that the construction of new buildings should be regarded as inappropriate development in the Green Belt. The closed list of exceptions to this general presumption includes limited infilling in villages.
8. There seems little doubt therefore that the appeal site is within the village. The appeal site is a rectangular shaped parcel of land bound by residential development on three sides and the rear gardens of dwellings on the fourth. Whilst most residential development has a highway frontage to the south is Orchard Cottage, which whilst is accessed via a lane, visually appears as development in a rear garden. As a proposal for a single residential dwelling and associated garage amongst and surrounded by residential development and in the context of the layout of existing development in this area, I would be content in defining the appeal scheme as being infill development that is limited.
9. The proposed development would not therefore be inappropriate development in the Green Belt. It would subsequently comply with the Framework in that regard. It would also comply with CS Policy CS5 and CS34, LP Policy PSP7 and the guidance contained within the Green Belt Supplementary Planning Document (2007) (SPD) which allow for small scale infill development within settlement boundaries.
10. Case law¹ has established that, if development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes for including land in the Green Belt. Therefore, there is no need for me to consider the effect of the proposal on openness.

Character and Appearance

11. The Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. The appeal site is located within the Tockington CA, with its boundary running along the rear boundary of

¹ Lee Valley Regional Park Authority v Epping Forest District Council [2015] EWHC 1471 (Admin)

appeal site. The significance of the CA is derived from its green which is a focal point of the village, and this spacious appearance along with the many historic houses surrounding it, is an attractive and eye catching feature of the village. Several historic houses and buildings contribute towards its enclosure. The appeal site is located on a main route towards the green and historic core of the village. The set back of the built development on this route allow for views towards the historic core, making a positive contribution to the CA.

12. The appeal site is in a predominantly residential area characterised by dwellings set back from the road with gardens/parking to the front. Although properties in the vicinity are of different design styles and construction ages, the area comprises detached and semi-detached two storey dwellings with a variety of garden widths and depths. The set back from the highway behind front gardens and parking areas, combined with the hedgerows and planting, create a spacious and verdant character.
13. The appeal site currently forms part of the rear garden of Highmead and lies behind residential properties that front Lower Tockington Road to the west, Manor Close to the east, an existing dwelling to the south and the rear garden of other properties on Lower Tockington Road to the north. The site is accessed via a driveway that slopes up to the site between two houses that front Lower Tockington Road and is currently the driveway for Highmead. The wider area comprises a mix of densities, with higher density dwellings at the core of the village and less dense dwellings further out of the village.
14. As the land is surrounded by houses and gardens, the appeal site is not easily visible from many public viewpoints. The undeveloped area behind the buildings may have been apparent from an access lane to the south prior to the construction of a new dwelling, but any views across the previous open land are now limited due to the new house. The relative lack of mature planting on the remaining open land means there is generally no appreciation of the space behind the buildings when viewed from the surrounding area. It is, therefore, only readily evident when seen through the access, from a short stretch of Lower Tockington Road, although the appeal site is partly concealed by the frontage property, Highmead, and its boundary fence. Whilst the space behind the buildings can be appreciated from here, it appears as a residential garden and has a neutral contribution to the character and appearance of the area.
15. Whilst seeking outline permission, with appearance and landscaping reserved for future consideration, the submitted drawings detail a two storey dwelling and single storey garage, which would be encircled by existing two-storey housing. It would not, therefore, be prominent in the street scene. Even when viewed from directly in front of the access, it would be partly obscured, and seen against the backdrop of the residential estate at Manor Close. The proposed development would be of a similar scale to the host dwelling, the new dwelling to the south and other dwellings that front Lower Tockington Road. There is also a wide variety in the scale and design of the surrounding buildings, so it would not be incongruous. Whilst appearance is a reserved matter the submission details a design that has taken architectural hints from nearby historic buildings and would use a palette of materials that are widely used in the area. I am therefore confident that a design of a dwelling that would not be harmful to the character of the area would be possible.

16. Dwellings located behind frontage development are a feature of the area immediately surrounding the appeal site, including the new dwelling immediately adjoining the site and a number of properties on Upper Tockington Road. The location of the proposed dwelling would be very similar to the positioning of the new adjoining dwelling. The proposal would not, therefore, be out of character with the pattern of development in the immediate locality.
17. The proposed development would be of a comparable scale to nearby development, would have a limited visual appearance on the street scene and would not impact on the views from Lower Tockington Road towards the historic core of the village. The proposed development would result in a neutral impact on the character of the CA. Consequently, the proposal would maintain the area's sense of spaciousness, and would not result in harm to the identified heritage asset.
18. Accordingly, the proposal would preserve the CA and would satisfy policies CS Policies CS1 and CS9 of the South Gloucestershire Local Plan Core Strategy (2013) (CS), LP Policy PSP17 which seek amongst other things, high quality design that conserves, respects and enhances the significance of heritage assets and local distinctiveness. The appeal scheme would also comply with paragraph 199 of the Framework which seeks to protect heritage assets.

Other Matters

19. I have had regard to concern raised by local residents with regards to highway safety and the living conditions of neighbouring occupiers. The access to the appeal site would be located on a slight bend in the road and opposite a junction. Whilst there is a bend in the road vehicles utilising the proposed access would have good visibility and the net increase in use of the access by a single dwelling would not have a harmful impact on highway safety.
20. With regards to the living condition of neighbouring occupiers the Council's submission notes that the proposed dwelling would be located in excess of 20 metres from the rear of elevations of neighbouring dwellings. The dwelling would, therefore, be sufficiently distant to avoid any harmful overlooking. Whilst the appearance of the dwelling is a reserved matter the submitted plans demonstrate that a dwelling can be located on the site, with minimal windows in the north and southern elevations therefore not directly overlooking neighbouring properties and gardens. Access to the dwelling would be via the driveway between the frontage dwellings, but traffic would not pass very close to windows serving habitable accommodation. In view of the number of properties that already use this access, there would not be a significant increase in disturbance for occupants.

Conditions

21. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding the footprint of the proposed development is necessary in order to safeguard the character and appearance of the area. The condition regarding windows is necessary in order to safeguard the living conditions of nearby residents. Conditions regarding details of the access and construction management plan are necessary in order to ensure that there are no harmful effects on highway safety during the construction and lifetime of the development. Landscaping and biodiversity conditions are necessary in order to

ensure the proposed landscaping and biodiversity mitigation and enhancement are completed and maintained.

22. I have given careful consideration to the inclusion of the condition removing permitted development rights, having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, the proposed development, whilst currently not having a harmful impact, if extended or further development were to be undertaken could impact on the character and appearance of the area and living conditions of nearby residents. As such, I consider the condition to be necessary.
23. I have altered the wording of some conditions in order to ensure they comply with the PPG. I note the appellant has viewed the conditions and agreed to their use.

Conclusion

24. The appeal scheme would accord with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise. The appeal should therefore, subject to the conditions in the schedule below, be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

1. Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby approved shall be carried out in accordance with the following approved plans solely where they relate to the matters approving details of access, layout and scale: Site Location Plan, GI-311-22a (submitted with the appeal detailing one garage), GI-311-26c, GI-311-28b (submitted with the appeal detailing one garage), GI-311-30b
5. The footprint of the proposed house should not exceed 130 square metres; and the ridge height of the proposed building should not exceed 7 metres above ground level. The footprint of the proposed garage should not exceed 36 square metres; and the ridge height of the proposed garage should not exceed 3 metres above ground level.
6. The details of the appearance of the building to be submitted at reserved matters shall not include any first floor windows in either the north or south elevations of the building; and no first floor windows shall be inserted at any time in the north or south elevation of the building.
7. Notwithstanding the details shown on the approved plans, no above ground construction shall take place until details of the construction of the access have been submitted to and approved in writing by the Local Planning Authority. The details shall include: consolidated material (not loose stone or gravel); and surface water drainage to prevent water spilling across the public highway. The approved details shall be completed prior to the first occupation of the development.
8. The landscaping details submitted as a reserved matter shall include: a detailed planting plan specifying the location, species, stock size, planting centres and quantities of all proposed tree and structure planting including locally indigenous native species; and details of all proposed boundary and hard landscape surface treatments, including proposed levels and any soil retention/retaining walls that may be required.
9. The development shall be carried out in accordance with the Mitigation Measures provided in the Preliminary Ecological Appraisal (Abricon, February

2022) including the sensitive timing of vegetation removal and mitigation during construction to safeguard wildlife using the site.

10. Prior to installation, the location and specification of all proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the approved details and shall be maintained thereafter.
11. Prior to occupation of the dwelling hereby approved, an Ecological Enhancement Plan showing the location and specifications of enhancements detailed within the Preliminary Ecological Appraisal (Abricon, February 2022) shall be submitted to and approved in writing by the Local Planning Authority. This includes, but is not limited to, native flowering planting, bat and bird boxes. All ecological enhancements shall be installed in accordance with the approved details prior to occupation and shall be maintained thereafter.
12. Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, AA, B, C, D, E, F, G and H), or any minor operations as specified in Part 2 (Class A), other than such development or operations indicated on the plans hereby approved, shall be carried out without the prior written consent of the Local Planning Authority.
13. The hours of working on site during the period of construction shall be restricted to 0730 - 1800 on Mondays to Fridays and 0800 - 1300 on Saturdays; and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.