



Appeal Decision

Site visit made on 9 January 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/G1630/W/23/3326270

395 Innsworth Lane, Innsworth, Gloucester, Gloucestershire, GL3 1HA

- 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 Ken Elliot against the decision of Tewkesbury Borough Council.
 - The application Ref 23/00333/FUL, dated 3 April 2023, was refused by notice dated 20 June 2023.
 - The development proposed is described as 'erection of a new dwelling and associated works.'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling and associated works at 395 Innsworth Lane, Innsworth, Gloucester, Gloucestershire, GL3 1HA in accordance with the terms of the application, Ref 23/00333/FUL, dated 3 April 2023, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published, replacing the 2022 version. The policies of the Framework that are material to this case have not fundamentally changed. I have proceeded to determine the appeal having regard to the revised Framework.

Main Issues

The main issues are the effect of the proposed development on the character and appearance of the area and impact on biodiversity, with particular regard to protected species and trees.

Reasons

Character and Appearance

3. The appeal site forms part of the rear garden of No. 395 Innsworth Lane. It comprises an area of open garden and large outbuilding, which would be demolished to make space for the proposed dwelling. The proposed development would utilise the existing access for No. 395. The appeal site is located in a predominantly residential area characterised by a mix of large, detached dwellings on large plots and more dense pairs of semi-detached dwellings. Buildings are set back from the road behind front gardens and driveways. Hedgerows bound the front of most properties, which combined

with the set back of built development, gives the area an open and verdant feeling.

4. As the proposal would not directly address a street frontage and is located at the end of the garden of No. 395, it essentially represents a back land form of development. I do not disagree with the Council that the prevailing pattern of development in the wider area is of frontage dwellings facing on to Innsworth Lane.
5. The appeal site already benefits from a large outbuilding that, due to the orientation of the existing driveway and intervening hedgerows, is not readily visible from the surroundings roads and pavements. As observed on site, there are other buildings in the rear of gardens, and therefore built development in such locations cannot be discounted as entirely uncharacteristic of the area. Due to the location of the proposal and its single storey nature the site is not readily visible from the surrounding area. In this regard, combined with existing development in nearby rear gardens, I am satisfied that the construction of a single storey dwelling would not have an adverse effect on the character and appearance of the area.
6. For the reasons set out above, the proposal would not result in a form of development which would have a harmful effect on the character and appearance of the area. Accordingly, I find no conflict with Policies SD4 and SD10 of the Gloucester, Tewkesbury and Cheltenham Joint Core Strategy (2017) (JCS) or policy CHIN1 of the Churchdown and Innsworth Neighbourhood Plan (NP) which seek, amongst other things, to ensure that developments are well related to existing buildings, respect the pattern of development and respond positively to the character of the site and its surroundings. The proposal also complies with the advice set out in paragraph 135 of the Framework that seeks developments that are sympathetic to local character.

Biodiversity and Trees

7. No ecological information or tree surveys have been submitted in support of the appeal however the appellant has noted within their submission and on the plans that three small trees would be removed to allow the dwelling to be constructed. Additionally, the proposal would be located away from boundary hedgerows to ensure their retention.
8. The Council are concerned regarding the loss of trees and the proximity of the proposed development to trees and hedgerows and the potential impact of this on protected species. The Council have not provided any evidence that the site is in a sensitive area, or that protected species are located on the site, which is located in the centre of a built-up area, surrounded by residential development. Additionally, a large outbuilding already exists on the site and is located much closer to boundary hedgerows than the proposed.
9. In terms of protected species, the proposed development would retain hedgerows and more mature trees. It would remove an existing large building and three minor trees. Remaining landscaping features would be retained. Subject to conditions requiring biodiversity enhancements and a sensitive lighting plan to be submitted I am satisfied that the proposed development, in this built-up area, would not harm protected species.

10. With regards to trees, the submitted plans detail that sufficient space within the site to provide mitigation during the construction of the dwelling. Conditions regarding tree protection plan and root protections areas would ensure that adequate detail is provided to protect trees during the construction and lifetime of the proposed development.
11. I am therefore satisfied that the proposed development would not have a harmful impact on the biodiversity or trees of the site. The proposed development would comply with JCS policies INF3 and SD9, NP policy CHIN10 and policy NAT1 of the Tewkesbury Borough Local Plan (2022) (LP) which seek, amongst other things, to ensure that developments retain hedgerows and trees and irreplaceable habitats. The proposal would also comply with paragraph 186 of the Framework which seeks to ensure that proposals conserve and enhance biodiversity.

Conditions

12. A list of conditions was provided by the Council. A plans condition is required in the interests of certainty. To protect the character and appearance of the area conditions regarding boundary treatments and finished floor levels are necessary. I consider that conditions regarding external lighting, biodiversity enhancements, tree protection, tree/hedgerow replacement and root protection areas are necessary in order to ensure that the biodiversity and environment of the area are safeguarded during construction and lifetime of the development. I consider that conditions regarding surface water drainage are necessary in order to ensure that surface water is appropriately managed for the lifetime of the development.
13. With regards to a condition relating to the submission of external materials, this is not necessary as details of the materials are provided on the plans. limiting the number of dwellings at the site. A preliminary ecological assessment is not necessary due to the location of the proposal replacing an existing large building and within a built-up area.
14. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework. A number of the Council's conditions include seemingly generic lists of the information required to be submitted and reference to other guidance. However, such is not necessary for the conditions to be precise or enforceable. I have, therefore, not included such lists so as to allow the parties to agree the relevant information and guidance against which it should be assessed for this specific site and at the time that agreement for the details is sought.

Conclusion

15. 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 be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development shall be carried out in accordance with the following approved plans: 22026 01, 22026 02 Rev PL5, 22026 03 Rev PL6, 22026 04 Rev PL5, 22026 05 Rev PL5 and SK02 REV A.
3. Prior to first occupation of the dwelling hereby permitted the boundary fences shall be installed in accordance with details that have first been approved in writing by the Local Planning Authority. The details shall include a plan indicating the positions, design, materials and type of boundary treatment to be erected.
4. No work shall start on the construction of the building hereby permitted until details of floor slab levels of the new building relative to the existing dwelling at the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the new building shall be constructed in accordance with the approved slab levels.
5. No works above slab level shall take place until a plan indicating the location of ecological enhancement features have been submitted to and approved in writing by the Local Planning Authority. The enhancements shall be installed in accordance with the approved details prior to the first occupation of the dwelling hereby permitted.
6. No external lighting shall be installed until a lighting strategy scheme detailing location and specification of the lighting supported by contouring plans demonstrating any light spill into adjacent habitats has first been submitted to and approved in writing by the Local Planning Authority. Any lighting installed shall be in accordance with the approved details and thereafter maintained.
7. Prior to the first occupation of the development hereby permitted, full details of the replacement trees/hedgerows for those removed and additional tree/hedgerow planting and landscaping to the site shall be submitted to and approved in writing by the Local Planning Authority. All planting and works shall be carried out in accordance with the approved details in the first planting season following the completion or first use of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. If any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased these shall be replaced in the next planting season with others of similar size and species.
8. No development including demolition, site clearance, materials delivery or erection of site buildings, shall start on the site until measures to protect trees/hedgerows on and adjacent to the site have been installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The approved tree protection measures shall remain in place until the completion of development.

9. Where excavations or surface treatments are proposed within the root protection areas (RPA) of retained trees and hedgerows, full details shall be submitted to and approved in writing by the Local Planning Authority before any development starts. Details shall include the proposed locations of excavations and/or surface treatments, proposed methods and specifications of excavations and/or surface treatments and any post excavation remedial works. All excavations or surface treatments shall be carried out in accordance with the approved details.
10. Prior to the construction of the on-site drainage systems, a detailed surface water drainage scheme, including a maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling hereby permitted, unless some other phasing is agreed in writing with the Local Planning Authority. Once approved, the development shall be completed, maintained and managed in accordance with the approved details.