



Appeal Decision

Site visit made on 20 February 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/G1630/W/23/3330707

Beauchamp Cottage, Two Mile Lane, Highnam, Gloucester, Gloucestershire, GL2 8AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Harris against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00503/FUL.
 - The development proposed is described as "new 5 bedroom dwelling."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of fairness and to ensure there would be no prejudice to interested parties, I have not taken the amended plans submitted by the appellant prior to the determination of the application into account. The Council did not determine the application on their basis and no consultation was carried out on them. Further, they represent a departure from the scheme as it was considered by the Council.

Main Issues

3. The main issues are;
 - Whether the appeal site is in a suitable location for new housing, having regard to access to services and facilities;
 - The effect of the proposal on biodiversity and trees;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposed development on drainage; and
 - The effect of the proposed development on highway safety.

Reasons

Location

4. Policy SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017) (JCS) controls the distribution of development in the area. Under the policy, the proposal is not within a rural service centre or service village and is subject to Policy SD10 of the JCS, which applies to residential development in other rural areas. Paragraph 4.10.5 of the JCS defines infill

- development as “the development of an under-developed plot well related to existing built development”.
5. Policy RES4 of the Tewkesbury Borough Plan 2011-2031 (2022) (TBP) sets out that new housing in other rural settlements very small-scale residential development will be acceptable in principle within and adjacent to the built-up area subject to a number of criteria.
 6. The proposal is for open market housing that would be located outside any defined development boundary and, consequently, would be within an area of open countryside.
 7. The appeal site is an area of land associated with Beauchamp Cottage, which bounds the site to the east. To the north and west is an area of woodland associated with RSPB Highnman Woods, with the A40 located to the south. Opposite the appeal site is a petrol station and associated shop. The surrounding area is characterised by sporadic development relating to the A40 and small roads which lead from it. However, there are three distinct clusters of buildings and dwellings, one at Churcham Business Park, one around St Andrews Church and another to the north and south of the A40 at Churcham Primary School. These clusters appear as groupings of buildings and appear as built-up areas. The appeal site is physically separated by open fields and woodland from these clusters. Therefore, although the site is located close to these clusters, it is not within or adjoining a built-up area.
 8. Whilst the appellant has asserted that the proposal would be adjacent to a dwelling and opposite a petrol station. Petrol stations are not uncommon features in rural locations on busy roads, such as the A40, and are not in themselves an indication that the location is a built-up area. The surrounding woodland and open fields mean that the appeal site is both visually and spatially linked with the surrounding rural landscape.
 9. As such, the proposal would not infill a gap in an existing built-up part of a village or settlement as defined by JCS Policy SD10. Furthermore, the proposal would not meet the requirement of TBP Policy RES4, as the site is clearly detached from the built-up areas within Churcham.
 10. Whilst the appeal site is located close to the clusters of Churcham, there are limited services and opportunities for employment within the immediate area. Gloucester City is located approximately three miles to the east which would provide wider opportunities for services, facilities and employment. To access services and facilities in this settlement, the occupants of the proposed dwellings would have to walk and cycle along the A40, which only has a pavement for a short section towards Gloucester. Along the road, the occupants would have to share the carriageway with vehicles, and there are stretches with no street lighting. The unlit nature of this road and the lack of footpaths would limit the prospect of future occupants of the proposed development using them to regularly access a range of services and facilities year-round. In addition, the A40, during my site visit, was very busy. The use of the road for pedestrians and cyclists would therefore be unattractive, particularly outside of daylight hours or during inclement weather.
 11. Whilst bus services operate in the area, with a bus stop being located a short walk along a pavement from the appeal site, I have not been provided with a

timetable and so cannot be certain that the routes or timings would be viable for the typical daily needs of future occupiers.

12. For the reasons above, essential services and facilities, and public transport, would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities, due to the lack of safe pedestrian and cycle routes and having limited options for alternative modes of sustainable transport.
13. Whilst I accept that the National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it also states that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It does not justify locating development in an inherently unsustainable location. Given my findings above, there would be conflict with the Framework in these respects.
14. As such, the proposal fails to accord with JCS Policies SP2 and SD10, and TBP Policy RES3 which seek, amongst other things, to limit development in the open countryside and minimise less sustainable forms of travel when accessing local services and facilities. For similar reasons the proposal would also fail to accord with the sustainability objectives of the Framework, to which I attach substantial weight.

Biodiversity and Trees

15. The site consists of a garden area which includes mature trees and is enclosed by woodland to the north and west. Consequently, the site is likely to contain a diverse range of wildlife habitats, both within the trees and hedges and in ground cover. No ecological assessment has been submitted in support of the proposal.
16. Due to the natural character of the site, it would be necessary for the proposal to be supported by a preliminary ecological appraisal. This would be necessary for the appellant to demonstrate that the proposal could prevent significant harm to biodiversity as sought by paragraph 186 of the Framework. 1
17. Although mitigation could potentially be secured, the lack of evidence does not demonstrate what this provision could be or whether it would adequately offset the potential loss of ecological habitat that would occur by the proposed clearance of minor trees.
18. The proposed development would retain many trees although the appellants submission details that a number of small trees will be removed to facilitate the construction of the dwelling. No details of these trees or an arboricultural assessment has been submitted in support of the proposal.
19. The submitted drawings detail the location of trees along with canopy areas. The plans show that the proposed dwelling along with pull off area, driveway, fencing and drainage would be close to, and in some areas, under the canopies of trees. In the absence of evidence outlining the construction methods, I cannot be certain that the proposal would not compromise the integrity and well-being of the nearby trees. Accordingly, the proposal fails to demonstrate that it would not result in harm to trees, direct and indirect, because of construction works.

20. Accordingly, the proposal would be contrary to JCS Policies SD9 and INF3 and TBP Policies NAT1 and NAT3 which seek, amongst other things, to ensure that developments conserve, restore and enhance biodiversity and contribute to the protection and enhancement of green infrastructure.

Character and Appearance

21. The appeal site is located within an area of open countryside characterised by sporadic built form with some clusters of development. The appeal site forms part of the curtilage associated with Beauchamp Cottage and lies opposite a petrol station. The appeal site lies some distance from other built form, with mature woodland located to its north and west.
22. The site itself presents as an area of garden associated with Beauchamp Cottage. There is a significant extent of mature hedgerow along the site frontage that screens it when views are taken from the A40 which runs along the front of the site. Consequently, open views of the countryside are not currently available, and the garden does not present itself as a gap in this context. The proposal would introduce a dwelling at the site, which would be seen in the relation to Beauchamp Cottage and also in the context of the wider pattern of sporadic development along the A40.
23. There are several dwellings in the wider area, and although there is a wide variety in their designs, heights and scales, generally they are large dwellings set in large plots and finished with red brick or render.
24. The proposed dwelling would be tall and deep, however there is a wide variety of development scales and designs along the A40. Whilst the proposal would be taller than most dwellings, it would be set back from the highway, and set further back the adjoining Beauchamp Cottage which would reduce its appearance in the street scene. When travelling along the A40 from the west, due to the set back of the proposed dwelling, the existing mature woodland would screen views of the dwelling. Beauchamp Cottage, being set forward of the proposal, would screen views when travelling from the east. The use of matching materials and design element that echo Beauchamp Cottage would aid in assimilating the proposal into the street scene.
25. For the reasons set out above, the proposed development would not harm the character and appearance of the immediate and wider area. Accordingly, I find no conflict with JCS Policies SD4, SD6, TBP Policies LAN2 and RES5, and Policy H2 of the Highnam Parish Neighbourhood Plan (2017) (NP) which seek, amongst other things, to ensure that development respects the pattern of development and responds positively to the character of the site and its surroundings. The proposed development would also comply with Paragraph 135 of the Framework which seek to ensure development is sympathetic to local character.

Drainage

26. The Council are concerned that adequate information in relation to drainage has not been provided, although no concern relating to existing drainage or surface water problems have been raised. The submitted drawings details potential locations for soakaways and treatment plants along with the use of permeable paving.

27. The proposed development would increase the extent of hardstanding within the appeal site. However, having regard to the submitted plans, the area of garden to be relatively modest in terms of the overall appeal site. Therefore, considering the scale of the development, and notwithstanding the lack of detailed drainage information, I am satisfied that an adequate means of surface water drainage could be secured by condition.
28. Subject to an appropriate condition, the proposal would be in accordance with the Framework in so far as the development could be made safe for its lifetime without increasing flood risk elsewhere. Consequently, the proposal would accord with JCS Policy INF2 and TBP Policy ENV2 which seeks to ensure that developments incorporate sustainable drainage systems. The proposal would also accord with

Highway Safety

29. At the time of my visit the A40, which the site would be accessed from, was busy with traffic passing regularly. The road has a 50-mph speed limit. I appreciate my site visit provided only a snapshot of highway conditions. Nevertheless, based on my observations, it would be reasonable to conclude that levels of traffic would increase at peak hours when traffic is at its heaviest.
30. The proposed development would create a new access on to the A40. The Council are concerned regarding the lack of detail pertaining to visibility, vehicle speeds, parking and turning. The A40 is a heavily trafficked and relatively straight road with no on street parking. As such, vehicles exiting the proposed access would have good visibility of any oncoming traffic. Additionally, the plans clearly demonstrate that there is sufficient space in front of the proposed dwelling to park and turn vehicles so that they can access and egress the site in a forward gear.
31. Whilst some detailed information has not been provided with the submission, this could be conditioned, were I minded to allow the appeal. However, as I am dismissing the appeal on other issues, I have not pursued this matter further.
32. For the reasons set out above I consider that the proposed development would not be detrimental to highway safety. Accordingly, I find no conflict with JCS Policy INF1 or TBP Policy TRAC9 which seek, amongst other things, to ensure that highway safety is not compromised. The proposal also complies with paragraph 115 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

33. The Council cannot demonstrate the supply of housing sites required by the Framework. I am therefore taken to paragraph 11 of the Framework. The most important policies are deemed to be out of date. As the erection of a single dwelling, the proposal would make a very limited contribution to any housing undersupply. The scale of the scheme would accordingly limit its associated socio-economic benefits. I have found that the proposal would not be located in a suitable location for housing and would have a harmful effect on biodiversity and trees. I ascribe significant weight to these harms which would be long lasting. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and

demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

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

Tamsin Law

INSPECTOR