



Appeal Decision

Site visit made on 26 March 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 April 2024

Appeal Ref: APP/G1630/W/23/3330860

Land off Olde Lane, Toddington, Cheltenham, Gloucestershire, GL54 5DQ

- 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 Leckhampton Estate Investments against the decision of Tewkesbury Borough Council.
 - The application Ref is 22/00524/FUL.
 - The development proposed is erection of 1no. self-build dwelling and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Cotswolds Area of Outstanding Natural Beauty (AONB) designation is now named 'National Landscape'. I have therefore used this term where relevant in my decision. However, the legal and planning policy status of the designation is unchanged and so I am satisfied that no party would be prejudiced because of this change.

Main Issues

3. The main issues are:
 - whether the proposal would accord with the spatial strategy of the Development Plan for the distribution of housing.
 - the effect of the proposal on the character and appearance of the area, including the Cotswolds National Landscape, and
 - the effect of the proposal on designated heritage assets.

Reasons

Spatial Strategy

4. Policies SP1 and SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS), adopted December 2017, set the overall strategy for the distribution of development in the Borough, taking into account the availability of services and facilities as well as landscape and environmental considerations. Toddington is identified as a Service Village where some new housing is permitted. However, the site is not allocated, and so JCS Policy SD10 applies to the proposal. Relevant to this appeal, it only permits housing consisting of infilling within the built-up area of the village.

5. Infilling is defined in JCS Paragraph 4.10.5 as the development of an under-developed plot, well related to existing built development. The site consists of an open paddock. It is outside of the identified settlement boundary for the village, although Policy SD10 does not necessarily require development to be located within these boundaries. Furthermore, the site was assumed to be part of the settlement in the Tewkesbury Borough Landscape and Visual Sensitivity Study (November 2014), which informed the production of the JCS.
6. The proposal would not extend out as far as the row of dwellings along the opposite side of Olde Lane. Even so, there is little development on the north side of Olde Lane beyond that fronting Church Lane, other than small agricultural-type buildings. The proposed dwelling would be positioned broadly in line with the edge of an adjacent garden to the rear. Nevertheless, the site and land abutting it to the north and west, including the neighbouring garden, is characterised by an essential absence of built form.
7. For these reasons, I consider that the site is not well related to existing built development. Furthermore, I have little evidence that it constitutes previously developed land and so it is not 'under-developed'. As such, the proposal does not comply with JCS Paragraph 4.10.5 or amount to infilling within the built-up area of the village. Consequently, it would not accord with the spatial strategy of the Development Plan for the distribution of housing, thus conflicting with JCS Policy SD10 and, it follows, JCS policies SP1 and SP2.
8. Conflict is also alleged with Policies RES3 and RES4 of the Tewkesbury Borough Local Plan (TBLP), adopted June 2022. However, these policies are permissively worded rather than identifying development that should not be permitted. Furthermore, Policy RES4 relates to proposals adjacent to settlements not within the settlement hierarchy, and so does not apply to Toddington. As such, I find no conflict with TBLP policies RES3 and RES4. TBLP Policy RES5 relates to matters that I will consider under the main issue of character and appearance.

Character and Appearance

9. The site constitutes green, open land which provides a sense of transition between Toddington and the wider countryside. The proposal seeks to divide the paddock and to erect a single storey dwelling. It would have a horizontal form and a flat, green roof, together with attractive Cotswold stone external facing materials. Although Olde Lane is signposted as a private drive, it serves a number of dwellings, and the proposal has been designed to be discrete when seen from the lane and in the wider landscape. The Landscape Context Report (LCR) and amendment finds only limited adverse visual effects, and 'not significant' landscape effects. Additional landscaping would also ameliorate the impact of the proposal.
10. Even so, the new built form would be of appreciable size and footprint. In addition, the proposed terrace and garden, together with the frontage hard surfacing, vehicular entrances, and parking and storage areas, would all extend residential use into the countryside along the largely undeveloped northern edge of Olde Lane. As such, including when seen from LCR Viewpoints 1 and 2, the proposal would have an intrusive, urbanising form that would undermine the attractive appearance of the site and would harm the natural beauty of the National Landscape hereabouts.

11. Furthermore, the proposed dwelling would have a tandem orientation and position, roughly parallel with properties on Church Lane. This would not reflect the prevailing pattern of development, whereby dwellings front Church Lane or Olde Lane in a linear row. For these reasons, the proposal would appear incongruous and harmfully out of place.
12. Accordingly, the proposal would harm the character and appearance of the area, including the Cotswolds National Landscape. It would therefore conflict with TBLP policies RES5 and LAN2, JCS policies SD4, SD6, SD7 and SD10, and the Cotswolds AONB Management Plan (AONBMP). Amongst other things, these require respect for local distinctiveness including the settlement pattern and layout. They also require protection of the landscape character including by avoiding unacceptable intrusion into the countryside, maintaining a sense of transition to it, and conserving the National Landscape.
13. For the same reasons, the proposal would also conflict with the aim of the National Planning Policy Framework (the Framework) that the intrinsic character and beauty of the countryside is recognised. I also give great weight to the natural beauty of the National Landscape and its conservation as required by the Framework, and with which the proposal would also conflict. However, for the reasons I have already given, I find no conflict with TBLP Policy RES4.

Heritage Assets

14. The site is close to a wealth of heritage assets. Abutting the paddock is the Grade II Registered Park of Toddington Manor. Some way to the north of the site is the Grade I listed gothic country house of the same name, which dates from the early 1800s. Nearby is the Victorian Grade I listed Church of St Andrew. The early C17 ruins of Toddington House (Grade II* listed and a scheduled ancient monument), and the c1800 Corner Cottage (Grade II listed) are also nearby.
15. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that I have special regard to the desirability of preserving the listed buildings and their settings, or any features of special architectural or historic interest. Relevant to this appeal, the significance of the built designated heritage assets is their age and attractive historic architectural appearance. The significance of the Registered Park is its special historic interest as part of the wider Toddington Estate.
16. Views of the Church of St Andrew from Olde Lane would at one time have been obstructed by a large kitchen garden, glasshouses and other structures within the parkland. These buildings have now been demolished and modern housing has been built along Church Lane. Nevertheless, views of both the tall spire of the Church and the scaffolding-covered tower of Toddington Manor are now obtainable from the appeal site. Furthermore, the appeal site once formed part of the historic parkland.
17. Regardless of the degree of access available to Olde Lane, it is common ground that the views towards the Church spire and Toddington Manor tower from the lane should be maintained. The attractive, undeveloped appeal site contributes positively to the rural context of the spire, tower and the Registered Park, as part of the wider character of the area.

18. The height of the dwelling has been kept low to allow views of the spire and tower to remain. Even so, for the reasons I have already given, the proposal would have a deleterious effect on the attractive appearance of the site. For the same reasons, the urbanising effects of the proposal would also harm the way in which the spire and tower are experienced when seen from Olde Lane and its surroundings. Similarly, and by subdividing and further disconnecting the site from the Registered Park it would detract from the historic special interest of the parkland.
19. In the future, it is possible that tall, solid fencing or dense hedgerow could result in the loss of views of the heritage assets. It is also possible that tents or caravans for holidaymakers could be sited on the land. Conditions attached to planning permission could prevent such actions. However, the site is already surrounded by post-and-rail fencing and, in the absence of the proposal, I see little reason why further boundary treatments would be considered necessary. Use of the site by tents or caravans is unlikely to result in the same degree of permanent harm as the proposal. Consequently, these fallbacks do not justify the granting of planning permission.
20. Corner Cottage and the ruins of Toddington House are not visible from the site and their settings would not be affected by the proposal. Nevertheless, for the reasons given above, I conclude that the proposal would have a harmful effect on the setting of the designated heritage assets of the Church of St Andrew and Toddington Manor, both the house and its Registered Park. It would therefore conflict with s66 of the Act. It would also conflict with TBLP Policies HER2 and HER3, JCS policy SD8 and AONBMP Policy CE6, which make clear that designated heritage assets will be conserved, and that development will not be permitted where it adversely affects their settings.
21. I give great weight to the preservation of the designated heritage assets as required by the Framework. In the language of the Framework, the harm to them would be less than substantial. Accordingly, as required by the Framework, I will weigh the harm to the assets against the public benefits of the proposal below.

Other Considerations

22. The Framework seeks to significantly boost the supply of homes, and small sites such as this can contribute to meeting housing requirements. Furthermore, the Council is required by the Self-Build and Custom Housebuilding Act 2015 to grant sufficient permissions to meet the demand for self-build housing in the Borough. As a self-build dwelling, this is therefore a benefit of the proposal. However, in contrast to the Dunsfold case¹, only a single unit is proposed. As such, I give limited positive weight to the additional supply of housing generated by the proposal, including as a self-built unit.
23. Future occupiers of the proposal would make a positive social and economic contribution to the area. It would also have other economic benefits, for example to local businesses and the building industry. The proposal would make more efficient use of land, on a site that could be delivered quickly. It would be built to high environmental standards. However, these benefits would be limited because of the small size of the proposal, as a single dwelling. I also

¹ APP/R3650/W/22/3300262

give limited positive weight to the modest ecological benefits such as bat tubes, bird boxes and a hedgehog home.

24. Examples of appeal decisions have been provided to me relating to sites where, despite conflict with Development Plan policies, no harm was found to be caused because of their good access to services and facilities. However, these relate to sites in another Council area, under a different planning policy context. As such, they do not change my overall findings, including in respect of the harm caused.
25. Consequently, I conclude that the public benefits of the proposal are not of sufficient weight to outweigh the less-than-substantial harm to the designated heritage assets. Nor do these benefits outweigh the overall harm resulting from the proposal that I have identified above.
26. The Council accepts that it cannot currently demonstrate an adequate supply of housing land. However, in considering Framework Paragraph 11(d)(i) footnote 7 and my findings above, the policies in the Framework that protect areas and assets of particular importance, namely the National Landscape and the designated heritage assets, provide clear reasons for refusing the proposal. Accordingly, paragraph 11(d) of the Framework is not engaged.

Planning Balance and Conclusion

27. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case, including the Framework, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR