



Appeal Decision

Site visit made on 27 August 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/H1840/W/23/3335286

Land at Cleeve Road, Middle Littleton, Easting 407639 Northing 247344

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Fahmi Shakerchi against the decision of Wychavon District Council.
 - The application Ref is W/23/01679/PIP.
 - The development proposed is permission in principle for up to 9No dwellings of which 20% affordable.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning Practice Guidance (PPG) advises that permission in principle is an alternative way of obtaining planning permission for housing-led development. The first stage establishes whether a site is suitable in-principle, whereas the second technical details consent stage is when detailed development proposals are assessed. This application relates to the first of these two stages.
3. The scope of the considerations for such applications is limited to location, land use and amount of development, and issues relevant to those matters should be considered as part of the first stage. All other matters are considered as part of the second stage if permission in principle is granted.

Main Issue

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development. In so far as is relevant to the principle of the development, this includes the effect of the proposal on the character and appearance of the area, the significance of designated heritage assets and if harm arises, whether this is outweighed by other material considerations.

Reasons

5. Policy SWDP2 of the South Worcestershire Development Plan, February 2016 (SWDP) sets out the development strategy and settlement hierarchy across the district. One of the principles the strategy is based upon is to focus most development on the urban areas, where both housing needs and accessibility to lower-cost public services are greatest. To that end, a settlement hierarchy is established indicating the likely amount of development supported by the strategy. Amongst other things, development boundaries are used to define

where infill development in rural villages would be supported. Residential development in the open countryside is strictly controlled and restricted to specific exceptions set out in the SWDP.

6. The appeal site lies outside of the development boundary at Middle Littleton. Therefore, for the purposes of the SWDP it lies within the open countryside. It is not explicitly part of the appellant's case that the proposed dwellings would fall within any of the permitted exceptions for development in the open countryside contained in the development plan. Hence, in principle the location for additional residential development at the appeal site would conflict with the development strategy outlined in policy SWDP2.
7. The appeal site comprises part of a larger agricultural field which is bounded by a low hedgerow and grass verge adjacent to Cleeve Road. Its spacious and rural character contributes positively to the setting of Middle Littleton when approaching the village along the main route in from the north. Moreover, the absence of built form allows for far reaching views across the site to the countryside beyond, which is illustrated in the photograph provided¹.
8. The introduction of up to 9 dwellings in this space would inevitably erode the rural spacious character of the land owing to the volume and presence of built form, lighting and associated activity. Moreover, it is probable that the dwellings would have residential grounds that would contain boundary treatments such as fencing, gardens with ornamental planting, domestic outbuildings, parked vehicles and areas of hardstanding. Even allowing for differences in the overall number of dwellings, cumulatively, the change in character and appearance arising from such a land use would be dramatic.
9. Furthermore, given the location of the appeal site within a larger field and adjacent to another, the development would be surrounded by open agricultural land on three sides. Consequently, there would be a notable gap between the proposal and a series of semi-detached houses fronting Cleeve Road to the south. My observations were these properties signal a definite edge to the village on the eastern side of the road. As such, rather than integrating effectively with its built and natural surroundings as generally required by policies SWDP21 and SWDP25 of the SWDP, built form at the appeal site would appear oddly adrift from Middle Littleton and would strike a discordant note in the landscape. It follows that I am not persuaded that the development would provide a positive gateway feature to Middle Littleton.
10. Furthermore, given the broadly square configuration of the appeal site, it is unlikely that up to 9 dwellings could be accommodated as frontage development along Cleeve Road. Instead, it is probable that the layout would need to be more than one plot deep. Although only illustrative, this is reinforced by the block plan provided which shows a central entrance road and turning head around which dwellings could be arranged. This would result in attributes that would have more in common with suburban development rather than the prevailing linear pattern of development evident towards the northern end of Middle Littleton. Hence, this adds to my concerns that the location of the proposal would appear incongruous with its context.
11. About 400 metres south-east of the appeal site lies the Tithe Barn, a Grade I listed building. The list entry states the structure dates from the early 14th

¹ Page 6, Appellant's Final Comments

century and was built for the Abbey of Evesham. The large barn is constructed in blue lias stone with Cotswold stone dressings and stone tile roof. It features surviving gabled entrances, wall buttresses, decorative finials over the gable ends and the walls are pitted with holes revealing where scaffolding was housed. Owned by the National Trust, they describe it as one of the finest examples of this style of building in the country².

12. The significance and special interest of the listed building derive from several factors. Firstly, its architectural and aesthetic value as a fine and longstanding example of a tithe barn. Historic value comes from its past agricultural use and what that reveals about medieval social and economic society. Its impressive size and architectural quality tell a story about the wealth and power of Evesham Abbey, and the way rents and tithes were collected. Hence, it has a close association with the church and surrounding agricultural land. Consequently, where the wider rural setting of the Tithe Barn allows for an appreciation of its size and close connection with the land and agriculture, it contributes positively to its overall significance.
13. I have a statutory duty³ to have special regard to the desirability of preserving the listed building, its setting or any features of special architectural or historic interest which it possesses. The setting of a heritage asset is defined in the National Planning Policy Framework (the Framework) as the surroundings in which a heritage asset is experienced.
14. My observations of the view from Cleeve Road adjacent to the appeal site were that it allows for a clear perspective of the impressive size and architecture of the Tithe Barn on the approach to the village. The appeal site lies in the foreground and its open and rural qualities both facilitate the view and contribute towards the open rural surroundings of the listed building and the way it is experienced. Extracts of historic mapping⁴ provided suggest that the rural and open perspective to the north-west of the listed building, that includes the appeal site, is a longstanding one. As such, the qualities of the appeal site make a positive contribution to the setting of the listed building, and thereby reinforce its significance.
15. I have already found that owing to the location, land use and amount of development, the proposal would adversely undermine the rural qualities of the appeal site. The presence of built form and domestic activity in the foreground would be highly likely to interfere with and detract from views of the listed building from the adjacent section of Cleeve Road. Such an alteration to the wider setting of the listed building would weaken the present ability to appreciate its significance as a designated heritage asset.
16. Consequently, the proposals would have an unsympathetic effect which would fail to preserve the special interest of the setting of the Grade I listed tithe barn. Conflict would therefore arise with the expectations of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
17. In terms of the Framework, the proposals would result in less than substantial harm to the significance of the Tithe Barn. Paragraph 208 of the Framework

² Letter dated 2.10.23

³ Section 66, Planning (Listed Buildings and Conservation Areas) Act 1990

⁴ OS extracts contained in Appellant's Final Comments

states that in these circumstances, this harm should be weighed against the public benefits of the proposal.

18. The principal public benefit would be the provision of up to 9 additional dwellings to the overall housing supply. They would be located within a reasonable distance of facilities at Middle Littleton. This benefit accrues additional weight given the considerable shortfall⁵ in the Council's ability to provide a 5 year supply of housing land, thereby signalling unmet need. The proposals would also provide 20% affordable housing which constitutes an important public benefit. There would be economic benefits derived from the construction of the dwellings and the likely future activity of residents. Hence, cumulatively, these public benefits attract significant favourable weight.
19. However, paragraph 205 of the Framework states that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Furthermore, the more important the asset, the greater the weight should be. In this case, the proposals would harm a Grade I listed building, denoting its exceptional heritage interest.
20. Overall, I find that the sum of the public benefits would not be sufficient to outweigh the harm identified and would therefore, result in unjustified harm to a designated heritage asset. Accordingly, the proposals would conflict with national policy to safeguard the historic environment contained in the Framework. Furthermore, the development would conflict with policies SWDP6 and SWDP24 of the SWDP which, amongst other things, seek to conserve and enhance designated heritage assets.
21. My attention is drawn to an appeal decision⁶ which concerned another site off Cleeve Road. In that case, the Inspector found that the site did not make a positive contribution to the setting and thus the significance and special interest of the Tithe Barn. Based on the information before me, that case concerned a triangular area of land lying behind housing fronting Cleeve Road some distance to the south of the appeal site and related to an outline scheme for three houses.
22. The Inspector in that appeal decision⁷ refers to the site being sandwiched between much more recent residential development to the north, south and west. She found that this was a notable element that defined the immediate context of the appeal site in that case. This distinguishes the context of that site from the case before me, which in contrast is more open with an absence of immediate built form.
23. Moreover, it is a factor that would influence the ability of the respective sites to contribute positively towards the setting of the Tithe Barn. Indeed, the Inspector recognised⁸ that remaining farmland to the north and northwest of the Tithe Barn is integral to an understanding and appreciation of its significance, by providing an historic context. As described earlier, I consider that the appeal site forms part of remaining farmland that allows for a deeper understanding of the significance of the Tithe Barn. On that basis, there are

⁵ Section 2, Appellant's Final Comments

⁶ Appeal reference APP/H1840/A/14/2219167

⁷ Paragraph 18

⁸ Paragraph 17

clear differences with the circumstances of the appeal decision highlighted. Given those, it carries very little weight in favour of the proposal.

24. Reference is made to the absence of specific environmental designations that relate to the appeal site. Nevertheless, it does not follow that on that basis it possesses no qualities worthy of protection. For the reasons already set out, I have found otherwise.
25. My attention is also drawn to the historic evolution of the settlement. The appellant contends that this has not exclusively comprised linear road frontage development but has included clusters and backland development. Be that as it may, the examples highlighted⁹ all lie a considerable distance south of the appeal site. It is not convincingly explained how this is a matter that would address the harm I have identified that would arise from a lack of effective integration with the built and natural surroundings.
26. Accordingly, having regard to the location, land use and amount of development, I find that the proposal would be contrary to the development strategy in policy SWDP2 of the SWDP. In addition, it would fail to conserve the significance of the Tithe Barn and would be adversely out of keeping with the rural approach to the village. Therefore, it would also conflict with policies SWDP6, SWDP21, SWDP24 and SWDP25 of the SWDP.

Other Matters

27. Reference is also made to policy SWDP23 in the refusal reason on the Council's decision notice. The policy seeks to safeguard the special qualities of the Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty respectively. However, the appeal site does not lie in a designated national landscape, and the Council acknowledges¹⁰ that there would be no adverse impact in this respect. I concur.

Planning balance and conclusion

28. The Council does not dispute that it cannot demonstrate a 5-year supply of deliverable housing sites. The evidence before me indicates that it has 2.65 years supply. In these circumstances, footnote 8 of paragraph 11 of the Framework confirms that the presumption in favour of sustainable development in paragraph 11d) is engaged. This means that permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
29. Footnote 7 to paragraph 11 stipulates that the policies in the Framework relating to the protection of designated heritage assets are capable of providing a clear reason for refusing the proposal. Having undertaken the heritage balancing exercise set out in paragraph 208 of the Framework, I have found that the proposal would adversely affect the significance of the Tithe Barn, a designated heritage asset. As such, the balance in paragraph 11d)(ii) is not engaged and the presumption in favour of sustainable development would not apply in this instance.

⁹ Map on page 11, Appellant's Final Comments

¹⁰ Paragraph 4.9, Council's Statement of Case

30. Planning law requires that applications for permission in principle be determined in accordance with the development plan unless material considerations indicate otherwise.
31. The public benefits described earlier in my determination are also relevant in this respect. In summary, the proposal would provide up to 9 additional dwellings, 20% of which would be affordable, thereby boosting the overall supply of housing in an area where there is unmet need. In addition, some economic benefits would arise from the development. Overall, these benefits attract significant positive weight.
32. Balanced against that is the harm that would arise from the conflict with the development strategy in the development plan. In view of the shortfall in housing supply, it is appropriate that this conflict attracts reduced weight. Nevertheless, the location of the development would result in harm to the rural character and appearance of the site which would also adversely affect the setting of a Grade I listed building. The SWDP policies that seek to secure high quality design and protect the historic environment are broadly consistent with corresponding national policy in the Framework. Accordingly, the conflict with those development plan policies attracts full weight.
33. Overall, I do not find that material considerations, including taking account of benefits and provisions of the Framework, would justify taking a decision other than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR